

QUINN EMANUEL URQUHART & SULLIVAN, LLP

Alex Spiro (*pro hac vice to be filed*)

51 Madison Avenue, 22nd Floor

New York, New York 10010

Telephone: (212) 849-7364

Fax: (212) 849-7100

Email: alexspiro@quinnemanuel.com

Derek L. Shaffer (CA Bar No. 212746)

1300 I Street NW, Suite 900

Washington, DC 20005

Telephone: (202) 538-8123

Fax: (202) 538-8100

Email: derekshaffer@quinnemanuel.com

Kyle K. Batter (CA Bar No. 301803)

555 Twin Dolphin Drive, 5th Floor

Redwood Shores, California 94065

Telephone: (650) 801-5000

Facsimile: (650) 801-5100

Email: kylebatter@quinnemanuel.com

Attorneys for Plaintiff Tesla, Inc.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

TESLA, INC.,

Plaintiff,

vs.

ALAMEDA COUNTY, CALIFORNIA;

Defendant.

Case Number: 4:20-cv-03186

**COMPLAINT FOR INJUNCTIVE AND
DECLARATORY RELIEF**

NATURE OF THE ACTION

1
2 1. As COVID-19 loomed, local officials scrambled to implement myriad measures
3 protecting the Californians in their jurisdictions. The State stepped in to ensure California's
4 response was clear, uniform, and coordinated using state-wide regulations. On some issues, that
5 meant establishing baseline policies, and on others, it meant choosing *the* policy across the state.

6 2. The Governor's March 20, 2020 stay-at-home order sought to balance the need to
7 protect Californians from infection against the need to maintain Californians' access to vital
8 supplies and services. In so doing, the Governor chose *the* policy on one issue: businesses
9 classified by the federal government as "critical infrastructure" are essential to Californians and
10 are allowed to continue operating as part of California's coordinated response to COVID-19.

11 3. The Order was clear on this point: "I order that Californians working in these 16
12 critical infrastructure sectors may continue their work because of the importance of these sectors
13 to Californians' health and well-being." This purpose was to "establish consistency" and that
14 "the supply chain must continue, and Californians must have access to such necessities as food,
15 prescriptions, and health care." This was not a state-level baseline inviting county innovation
16 above and beyond a minimum; this is an order that certain essential businesses shall be permitted
17 to remain open statewide to provide essential goods and services to all Californians.

18 4. Nevertheless, Alameda County decided that—notwithstanding the clear language
19 and statewide logic of the Governor's order on this point—it would insist that its prior (and
20 subsequent) conflicting pronouncements controlled over the state-wide order. Alameda County
21 thus arrogated to itself the power to force *closure* of businesses that the state government had
22 ordered could remain *open* because they are federally-defined "critical infrastructure" serving
23 vital security, safety, or economic needs of Californians.

24
25
26
27
28

1 5. Inexplicably, Alameda County proceeded to direct its shutdown at Tesla, even as
2 Alameda County has simultaneously maintained and publicized a FAQ that expressly describes
3 essential businesses in terms that encompass Tesla’s Fremont Facility:¹

4 **My business installs distributed solar, storage, and/or electric vehicle charging**
5 **systems – can it continue to operate?**

6 Yes, this is permissible construction activity and must comply with the Construction
7 Project Safety Protocols in Appendix B of the Order. **Businesses may also operate to**
8 **manufacture distributed energy resource components**, like solar panels.

9 6. What is more, the County has asserted that violations of its orders carry criminal
10 penalties, even though it lacks statutory or other legal authority to do so. Thus, Alameda County
11 has not only created a legal quagmire by wrongly declaring that its own orders trump the state-
12 level orders, it has threatened jail time and significant fines for businesses and individuals that do
13 not comply, even where they are clearly authorized by the State Order to continue critical
14 infrastructure activities.

15 7. To be clear, Alameda County is not using the “existing authority of local health
16 officers” to supplement a baseline set by the State, issuing policies “more restrictive than” or “in
17 addition to” that baseline, as referenced in a May 4, 2020 Order. The County is making rules
18 that directly contradict and undermine the policy announced by the Governor in his Orders.

19 8. Alameda County’s power-grab not only defies the Governor’s Order, but offends
20 the federal and California constitutions. *First*, the County’s order violates the Due Process
21 Clause of the Fourteenth Amendment because it fails to give reasonable notice to persons of
22 ordinary intelligence of what is forbidden under the law. By prohibiting what the Governor’s
23 Order expressly permits, the County’s Order puts businesses deemed critical to the nation’s
24 wellbeing by the federal and state governments between a rock and a hard place—unable to
25 discern what the applicable law permits, under threat of criminal prosecution. This is precisely
26 the dilemma the Due Process Clause’s requirement of fair notice seeks to avoid, particularly

27
28 ¹ <https://covid-19.acgov.org/index.page>.

1 where, as here, there is no procedure for Plaintiff even to challenge the County's determination
2 that it is not an essential business that may continue operations under the County's Order.

3 9. **Second**, the County's Order discriminates against identically situated parties
4 without any rational basis and thereby violates the Fourteenth Amendment's Equal Protection
5 Clause. Even as at least one neighboring county is allowing car manufacturing to resume,
6 Alameda County continues to insist—in violation of the Governor's Order and against reason—
7 that what is permitted in a neighboring county will endanger the public health if permitted to also
8 occur within Alameda County borders. Furthermore, even as Alameda County itself declares
9 businesses like Tesla essential, it somehow simultaneously insists, without rational explanation,
10 that Tesla is to remain shut down

11 10. **Third**, a county may only “make and enforce within its limits . . . ordinances and
12 regulations not in conflict with general laws.” Calif. Const., art. XI, § 7. By purporting to
13 override an express order of the Governor of California, Alameda County has far exceeded its
14 ambit under the California Constitution. In sum, the County's Orders threaten not only to close
15 businesses supplying critical infrastructure, thereby violating multiple federal and state
16 constitutional principles, but also to jail people pursuant to criminal statutes that simply do not
17 apply here. To that extent, the County's Orders should be declared void and without legal effect.

18 **THE PARTIES**

19 11. Plaintiff Tesla, Inc., is a corporation organized under the laws of Delaware, with
20 its principal place of business in California.

21 12. Defendant Alameda County, California, is a local government entity organized
22 under the Constitution and laws of the State of California.

23 **JURISDICTION AND VENUE**

24 13. The Court has subject matter jurisdiction over the claims asserted in this action
25 pursuant to 28 U.S.C. § 1331 (federal question) because this action involves interpretation of the
26 Due Process and Equal Protection Clauses of the Fourteenth Amendment to the U.S.

1 Constitution (U.S. Const. amend. XIV) and because the action seeks to prevent Defendants from
2 interfering with federal rights.

3 14. Jurisdiction is also appropriate in this Court pursuant to 28 U.S.C. § 1343(a)(3)–
4 (4) to redress the deprivation, under color of any State law, statute, ordinance, regulation, custom
5 or usage, of any right, privilege, or immunity secured by the Constitution, and to secure equitable
6 or other relief under any Act of Congress providing for the protection of civil rights.

7 15. This Court has supplemental jurisdiction over Plaintiff’s state law claim pursuant
8 to 28 U.S.C. § 1367(a) because Plaintiff’s state claim is so related to its federal claims that they
9 form part of the same case or controversy under Article III of the United States Constitution.

10 16. Venue is properly vested in this Court pursuant to 28 U.S.C. § 1391 because all
11 defendants reside in this district and most of the conduct that underlies this action occurred in the
12 Northern District of California.

13 17. There is a present and actual controversy between the parties.

14 18. The relief requested is authorized pursuant to 28 U.S.C. §§ 2201 and 2202
15 (declaratory judgment), 28 U.S.C. § 1651(a) (injunctive relief), and 42 U.S.C. § 1988 (right to
16 costs, including attorneys’ fees).

17 **SUBSTANTIVE ALLEGATIONS**

18 **I. THE GOVERNOR’S STAY-AT-HOME ORDER**

19 19. On March 4, 2020, California Governor Gavin Newsom declared a state of
20 emergency to exist in California in light of the COVID-19 pandemic.

21 20. Subsequently, on March 19, 2020, Governor Newsom signed Executive Order
22 N-33-20 (the “**Governor’s Order**”). The Governor’s Order directs all residents “to immediately
23 heed the current State public health directives,” including an order of the state public health
24 officer reprinted in the Governor’s Order.

25 21. The Governor’s Order “order[ed] all individuals living in the State of California
26 to stay home or at their place of residence except as needed to maintain continuity of operations
27 of the federal critical infrastructure sector as outlined at <https://www.cisa.gov/identifying->
28

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.