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Ex-Worker To Pay \$400K To End Tesla 'Saboteur' Feud

By **Linda Chiem**

Law360 (December 1, 2020, 7:13 PM EST) -- A former Tesla employee who leaked confidential information about the electric automaker's alleged production problems has agreed to pay \$400,000 to settle Tesla's "saboteur" lawsuit in Nevada federal court, closing out a contentious case involving mudslinging on both sides.

U.S. District Judge Miranda M. Du signed off on a stipulated settlement that Martin Tripp and Tesla Inc. filed with the court Monday, putting to bed the automaker's trade secrets suit against the former lead process technician at its factory in Sparks, Nevada, who then countersued Tesla for defamation and false light invasion of privacy.

Under the terms of the settlement, Tripp will pay Tesla \$400,000, an amount that's separate from the \$25,000 sanction the court had previously ordered him to pay Tesla.

Tripp also does not contest Tesla's contentions that he violated the Defend Trade Secrets Act, the Nevada Uniform Trade Secrets Act and the Nevada Computer Crimes Law and breached his employee agreement with Tesla, according to the court filing. Tripp will take nothing on his counterclaim against Tesla and further acknowledges that his counterclaims were funded by Tesla short-seller Cable Car Capital LLC. San Francisco-based Cable Car Capital is a registered investment adviser and general partner to The Funicular Fund LP.

Both sides agreed to destroy confidential information in their possession related to case in accordance to the court's earlier protective order, and Tripp will destroy any documents he acquired through his work at Tesla, according to the filing.

The deal would close out a more than two-year-old feud that escalated from an employment and trade secrets dispute to a mudslinging battle that purportedly included threats of **physical violence and harassment**, according to court documents. Both sides have agreed to muzzle the public attacks.

"The parties will not publicly disparage each other (including any witness associated with this case) in any way," the parties said in Monday's joint filing. "Specifically, Tripp shall be enjoined from contacting, harassing or disparaging Tesla or any of its former or current executives or employees; Tripp shall be enjoined from discussing his employment at Tesla; and Tripp shall be enjoined from entering any Tesla property at any time."

The settlement comes months after **Judge Du ruled** on the **parties' dueling motions** for partial summary judgment in September, clearing a path for Tesla to pursue potential punitive damages and advancing Tesla's claim that Tripp's "unauthorized use of company data" violated the Nevada Computer Crime Law.

Tesla **accused Tripp** of stealing confidential data, manipulating it, then giving it to Business Insider reporter Linette Lopez to print what Tesla said were misleading articles the day before and after its annual shareholder meeting in June 2018. But Tripp claimed he blew the whistle on production problems and "unnerving" practices at the factory only to be maliciously labeled a "saboteur" as part of a character assassination campaign waged by Tesla and its CEO Elon Musk, according to court documents.

In the September decision, Tesla scored summary judgment on **Tripp's counterclaims** for defamation and false light. Judge Du found that Tripp intentionally inserted himself into the public debate surrounding Model 3 production and couldn't prove that Tesla's statements about him were made with actual malice. Moreover, Tesla's statements about him weren't false, the judge said.

"In sum, Tripp became a limited-purpose public figure by June 17, 2018, because he achieved a certain level of 'notoriety based on [his] role in a particular public issue,' specifically, Tesla's issues in ramping up Model 3 production, its more particular outgrowth that is this case, and Tripp's public dispute with Musk," Judge Du said in the ruling. That raised the bar for Tripp to claim actual malice in his defamation claims.

However, the judge had agreed with Tripp that it was too much of a stretch for Tesla to assert a whopping **claim for \$168 million** in market capitalization damages. In fact, the company's stock-price dips — a decline of 20 cents and 78 cents that lasted less than a day — weren't even statistically significant, and Tesla recovered quickly so it didn't suffer any losses at all, Judge Du had said.

Tesla representatives and Tripp, who is representing himself after **parting ways** with his attorneys in August, did not immediately respond to requests for comment on Tuesday.

Tesla is represented by Alex Spiro, Michael T. Lifrak, Jeanine M. Zalduendo and Aubrey Jones of Quinn Emanuel Urquhart & Sullivan LLP and Rory T. Kay of McDonald Carano LLP.

Tripp is representing himself.

The case is Tesla Inc. v. Tripp, case number 3:18-cv-00296, in the U.S. District Court for the District of Nevada.

--Editing by Brian Baresch.

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