

Tesla faces record race bias verdict



A jury has ordered Tesla, the electric car maker, to pay a contract worker \$137 million for the race discrimination and harassment he suffered at the hands of Tesla employees. It is believed to be the largest verdict in U.S. history for an individual claiming race discrimination.

The case serves as a warning for organizations that use independent contractors to perform work, either directly or through a third party: Title VII of the Civil Rights Act of 1964 isn't the only anti-discrimination law they need to worry about. The contract worker sued under Section 1981 of the Civil Rights Act of 1866. That federal law forbids discrimination in contracts. Title VII only covers employees — and it caps jury awards depending on the size of the employer. Section 1981, on the other hand, has no such cap.

Recent case: Owen, who is Black, signed on with a staffing agency to work at Tesla's auto plant in California as an elevator operator. He would later tell a jury that Tesla employees frequently called him the "n-word," graffitied swastikas and racial slurs on lavatory walls, left caricatures of Black people around the factory, and told him to go back to Africa.

He testified he complained to Tesla management, but nothing changed. After 11 months, Owen quit.

He then sued under Section 1981, enacted following the Civil War to forbid race discrimination in Reconstruction-era contracting. While the case is likely to be appealed, the jury awarded Owen \$130 million in punitive damages, plus \$7 million in compensatory damages. (Diaz v. Tesla, ND CA, 2021)

Final note: With employees, Tesla uses arbitration agreements to keep cases out of federal court. It has fared

better in arbitration than it did in *Diaz v. Tesla*. One exception: An arbitrator recently awarded \$1 million to a Black employee who sued for similar racist conduct.

In addition, a pending class-action suit filed on behalf of Black employees challenges Tesla's mandatory arbitration requirement.