

Ninth Circuit affirms dismissal of securities class action against Tesla

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On January 26, 2021, the Ninth Circuit issued a decision affirming the dismissal of civil securities law claims filed against Tesla and Elon Musk regarding statements that they made in 2017 regarding Tesla's ability to produce 5,000 cars per week. The decision confirms that aspirational claims, even those that incorporate assumptions based on present facts, are eligible for protection under the PSLRA safe harbor for forward-looking statements, so long as they are accompanied by meaningful cautionary language. The decision also reiterates that internal business disagreements—here, statements by factory personnel to Musk suggesting that the production goal was unreasonable—do not on their own suffice to establish scienter. The court concluded that even if some Tesla employees did not believe that the production goal was reasonable, the plaintiffs had failed to plead facts indicating that Musk shared their views.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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