THE MONITOR

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$137 MILLION JURY VERDICT FOR TESLA EX-CONTRACTOR IN RACE BIAS SUIT

A federal jury has awarded $137 million to a former contract elevator operator who worked at Tesla's Fremont facility prior to his 2016 resignation. Following a mere four hours of deliberation, the jury awarded ex-contractor Owen Diaz $6.9 million in emotional distress damages and $130 million in punitive damages.

Among a litany of other shocking allegations that would precipitate one of the largest awards in a racial harassment case in the history of the United States, Diaz testified at trial that he was subjected to routine racial vitriol and graffiti, including use of the "n-word" by Tesla employees and workplace drawings of swastikas and nooses. Diaz, a former Tesla contractor who was directly paid by two staffing agencies rather than Tesla itself, cited Tesla's "progressive…facade" in "papering over its regressive, demeaning treatment of African-American employees."

The sizeable verdict marks yet another crippling display of endemic discrimination blighting the U.S. workforce. It is also, perhaps, a shot across the bow to employers who are slow to take a comprehensive and prophylactic response to complaints of harassment of discrimination—including by contractors, who enjoy a number of federal and state anti-harassment and anti-discrimination protections.

If you have been illegally victimized by your employer or another person in the workplace, please contact us for a free consultation and case evaluation. You may telephone us at (619) 230-0063 or e-mail us at contactus@johnsonfistel.com.

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TIME TO REVIEW YOUR ESTATE, ASSET PROTECTION, INSURANCE, AND FINANCIAL PLANS?

As reflected in recent articles in The Monitor, over the past year, Johnson Fistel added estate planning and asset protection services to meet the needs of its clients. Toward that end, the firm has been providing powerful legal tools like wills and trusts to help clients plan for their future and mitigate tax obligations. But estate planning is only part of the bigger picture. A proper estate plan often incorporates vital and comprehensive insurance coverage to protect family and business owned assets.

Well planned estates include insurance plans that not only protect against untimely death and unforeseen life situations, but also include tax planning and asset protection for future generations. Life insurance policies have changed dramatically in recent years. Medical events like strokes, heart attacks, cancer, and the growing need for long-term care can have a huge impact on people's lives - and modern insurance policies are written to take all of these unfortunate events into consideration. If you've purchased life insurance more than 5 years ago - you may not have these provisions in your policy.

To continue to meet the diverse needs of its clients, Johnson Fistel's managing partner, Frank Johnson, took the necessary courses to pass the California Life, Accident, and Health exam and recently obtained his insurance license in California to help clients fulfill their estate planning needs. The firm has also associated with experienced financial and insurance planners that can provide a no-cost, no-obligation review of your current situation and discuss ways to save money, reduce taxes, and make your estate and financial planning more effective and efficient. For business owners, the firm can help with proper business protection and succession planning, retaining key employees and other tax advantaged programs..

In addition, most financial plans include guaranteed, tax efficient vehicles to protect against market downturns. The firm's professionals can discuss such investments that offer guaranteed principle protection, tax deferred growth of the principle, and market participation if the market appreciates. Of course, each person's personal situation is unique and the firm treats them accordingly.

The firm's experienced professionals (both legal and financial) can create a customized plan for each individual's personal situation. From simple insurance planning to the most elaborate and complex estate plan, the firm has experienced professionals to help your needs. If you have any questions about estate planning, asset protection, or insurance needs, please contact us for a complimentary initial consultation and estate plan review.

SECURITIES FRAUD INVESTIGATIONS AND CLASS ACTION LAWSUITS SERVE A PUBLIC BENEFIT

Some have questioned the benefit of investigations Johnson Fistel pursues for the benefit of shareholders when share prices plummet shortly after insiders cause publicly traded companies to disclose bad news, even when insiders engaged in insider selling just before announcing bad news. Recently, the *Motley Fool* published an article titled *What's With All These Lawsuits* on this subject which is misleading and factually incorrect.

The overriding theme of the article is that when law firms issue press releases announcing investigations into possible violations of securities laws, it really is not as bad as it sounds and it's just law firms trying to make a quick buck. The author of the article is not a lawyer and the content of the ariticle demonstrates that he does not really understand federal class actions filed pursuant to the Private Securities Litigation Reform Act of 1995 (PSLRA). Here are some points that the author ignores or gets wrong.

1. The news of a class action lawsuit almost always occurs *after* the stock has already plummeted following (a) an investigation by the SEC, (b) the company's issuance of a restatement whereby the company admits that its prior financial statements are inaccurate and cannot be relied upon, and/or (c) public revelations that correct allegedly false misstatements made by the company often times when insiders were selling their own personally held shares for a profit at a time when the stock price was artificially high and sometimes when the insiders were causing the company to buy back its own shares to further artificially inflate the stock price.

2. The article states: "It's too easy for lawyers to argue that there's fraud behind every event that causes the stock price to drop." This statement is not accurate. The allegations in the securities fraud class action complaints are subjected to the highest level of scrutiny after Congress passed the PSLRA. Unlike every other lawsuit for fraud, the lawyers are not entitled to conduct discovery into the wrongdoing until a federal judge finds sufficient allegations of fraud alleged with particularity and denies the defendants' motion to dismiss the case. Thus, the lawyers usually have to rely upon insiders who are willing to blow the whistle on the wrongdoing.

3. The article further states: "The biggest problem with securities class actions is that most of the time, any payouts come from the company itself." This statement is also not accurate. The overwhelming majority of the payouts comes from insurance companies; the company and the insiders who personally profit at the expense of the class almost always pay nothing beyond the insurance deductible.

4. The article further states: "The law firms that file these suits tend to take significant percentages of any victory in contingency fees." Again, this statement is not accurate. The law firms *only* get paid if they recover something for the *benefit* of the class and never get a majority of the class recovery. The law firms generally apply for a portion of the class recovery ranging from 13-33%. And the law firms *only* get paid after notice is given to the class, class members have an opportunity to scrutinize the settlement terms, class members are afforded an opportunity to object to the settlement or the fees paid to the lawyers, and a federal judge finds that the fees are fair, adequate, and reasonable in light of the benefit the lawyers have conferred upon the class.

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Class actions serve a public purpose and are critical to maintaining honesty in the securities markets. As one court recognized nearly two decades ago: "To open the newspaper today is to receive a daily dose of scandal, from Adelphia to Enron and beyond." *Small v. Fritz*, 30 Cal.4th 167, 181 (2003). Fraud continues unabated. "Corruption, embezzlement, fraud, these are all characteristics which exist everywhere. It is regrettably the way human nature functions, whether we like it or not." Alan Greenspan.

Congress enacted federal securities laws to (1) penalize officers and directors who make false and misleading statements about the financial condition of their company and (2) provide a remedy to injured investors. Investors who purchase stock at artificially-inflated prices face devastating consequences when the truth is inevitably revealed and the stock price plummets. It's no exaggeration to say that some investors could even lose their life savings. The attorneys at Johnson Fistel are experienced in investigating and bringing class action lawsuits on behalf of and for the benefit of defrauded investors.

CALIFORNIA PRIVATE RETIREMENT PLANS

One of the best ways to keep assets available for retirement in California is the statutorily authorized **Private Retirement Plan ("PRP")**, which is **entirely exempt from judgments** and bankruptcy if properly drafted and used for retirement purposes. Under California law, non-qualified retirement savings plans may be protected if certain requirements are satisfied. According to case law, PRPs must be carefully drafted and maintained to make sure they are in compliance with California's strict rules and regulations, but they are also highly flexible and can include contributions that substantially exceed the limits under traditional qualified plans. Because they are not qualified, there are no tax deductions is available for PRP contributions, but that can be beneficial because PRPs are not subject to the limits and heavy restrictions under ERISA and IRS codes. The exemption from judgments and creditors for amounts in these plans may be highly valuable in a wide variety of circumstances, including high net worth individuals and high-risk professionals. PRPs can also be used in addition to or in combination with qualified plans.

PRP distributions are also exempt from creditors and judgments, so all of the funds in a PRP are protected both while in the plan and when distributed after retirement. And as long as the funds can be traced as a distribution from the PRP, anything that is purchased with those funds is similarly protected.

Advantages of the California PRP

- California PRPs are exempt from creditor claims and judgments.
- All assets in the PRP are protected from lawsuits and judgment (even in bankruptcy).
- All post-retirement distributions from a PRP, including anything purchased with those distributions, are protected.
- No maximum limit on contributions.
- No requirement for covering all employees of sponsoring company.
- No annual IRS filings or state/federal disclosures.
- A PRP can be used solely or in addition to a qualified plan.
- PRP assets can include a variety of assets that are not protected in a qualified plan, including real estate, vehicles, interests in a business, etc.

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- Traditional retirement assets such as investment accounts or related funds can be maintained at any financial institution and can be self-managed.

PRP Warning - A PRP must be operated **strictly for retirement purposes** and not to defraud creditors or to intentionally avoid the payment of debts or judgments. PRPs must be formed and funded before the assets in the PRP are threatened by litigation or foreclosure. Misuse of the PRP may disqualify its exemption under California law.

SEC WHISTLEBLOWER ACTIONS/AWARDS

On September 24, 2021, the Securities and Exchange Commission ("SEC") announced an approximately $36 million award to a whistleblower whose information led to successful enforcement actions by the SEC and another federal agency. This award comes less than two weeks after the SEC awarded another whistleblower $110 million—the agency's second largest whistleblower award ever—and brings the total amount awarded under the whistleblower program to over $500 million in 2021. To date, the SEC has awarded approximately $1.1 billion to 214 individuals since issuing the first award in 2012.

Under the SEC's whistleblower program, individuals who provide the SEC with original, timely, and credible information that leads to a successful enforcement action may be eligible for an award ranging from 10-30% of the money collected from the enforcement action if the monetary sanctions exceed $1 million. Moreover, individuals who provide critical information to other federal agencies may be eligible for a separate related action award so long as they are eligible for an SEC whistleblower award.

While the SEC is required by law to keep the identity of whistleblowers confidential and not disclose information that could lead to revealing their identity, it is important to hire an experienced law firm that knows how to protect your rights and represent your best interests if you are considering providing the SEC with valuable whistleblower information. Johnson Fistel LLP has a track record of successfully exposing federal securities laws violations and dishonest corporate executives and directors, all while maintaining complete client confidentiality.

WHAT IS A Q-TIP TRUST

Trusts serve as the foundation of effective, integrated estate plans, and can help preserve and keep your assets from going through the probate process when you pass. Without the protection of a good trust, your accumulated wealth and family's future are on shaky ground.

There are many different kinds of trusts, including revocable, irrevocable, and other more targeted, strategic trusts. A QTIP trust, which is short for **Q**ualified **T**erminable **I**nterest **P**roperty trust, is an excellent option for married couples where one spouse has concerns about the future of their surviving spouse and assets after they pass away. A QTIP is also useful for people who are remarried and have children from a previous marriage. A QTIP essentially allows the creator of the trust to protect their surviving spouse **and** the future disposition of their assets after the surviving spouse passes away. A QTIP trust can offer peace of mind that your spouse will be taken care of if anything happens to you, and the financial reassurance that your assets and legacy will ultimately be passed to your children or other designated loved ones.

QTIP Trust

A QTIP trust allows one spouse to provide income and security for their surviving spouse, while passing the underlying assets to their children or to the beneficiaries of their choice without concern that those assets will be diverted after they pass away.

QTIP trusts are similar to Marital trusts, but there are some very important differences. While marital trusts also hold assets belonging to the deceased spouse, the surviving spouse has much more control over those assets and can pass them to the beneficiary of their choice. Under a QTIP trust, the deceased spouse's assets provide income for the surviving spouse, but the surviving spouse can not change the wishes of the deceased spouse with regard to the final allocation of those assets.

How QTIPs Work

A QTIP trust is irrevocable, meaning that assets transferred into the trust usually can't be reversed without significant complications. Assets may be transferred to a QTIP immediately upon creation, or they can be delayed and transferred after the creator of the trust passes away. The creator will need to select a trustee to manage the trust, and the remainder beneficiaries who will receive the assets after the surviving spouse passes away. The surviving spouse is considered to be a lifetime beneficiary, as they're able to draw on trust income during their lifetime.

QTIP and Surviving Spouses

While the surviving spouse is restricted from accessing the underlying assets in a QTIP, they still benefit from the income it generates. The assets that can be held by a QTIP trust may include properties, investments, accounts, pensions, annuities and distributions from retirement plans. The surviving spouse can collect the income the property generates, but the property goes to the remainder beneficiaries.

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QTIP Tax Treatment

QTIP assets qualify for the marital deduction, meaning all assets in the QTIP are excluded from estate tax purposes. Upon the death of the surviving spouse, the QTIP assets are passed to the remainder beneficiaries. At this point, assets held in the trust would be included in the surviving spouse's estate for tax purposes, and any estate tax obligation owed when the surviving spouse passes away will be passed on to the remainder beneficiaries.

QTIP Trust Advantages

A QTIP is generally the preferred option if you have children from a previous relationship. A QTIP allows you to protect your current spouse while ensuring that your children inherit your assets. A QTIP might also be appealing if your current spouse has poor spending habits or significant amounts of debt.

The Take Away

QTIPs might be the best option for estate planning purposes if you're married and have children from a previous marriage, or if you're concerned about what might happen to your spouse after you die. QTIPs provide asset protection, tax advantages, and reassurance that your loved ones will be provided for.

The Estate Planning and Asset Protection group at Johnson Fistel is here to help you make the best decisions for your family's financial protection peace of mind. Reviewing your financial needs and plans with our team of seasoned experts can help you decide if a QTIP trust is right for you.

Upcoming Lead Plaintiff Deadlines

Johnson Fistel is investigating many potential cases arising under the federal securities laws. If you would like more information, or if you wish to participate in an action, please contact us as soon as possible to ensure that your rights are fully protected. Listed on this page are matters that the firm is investigating and the applicable deadlines for filing a motion with the court to be appointed as a "lead plaintiff" under the Private Securities Litigation Reform Act of 1995.

Company	Deadline
Spectrum Pharmaceuticals, Inc.	11/01/2021
Loan Deport, Inc.	11/08/2021
Longeveron Inc.	11/12/2021
The Honest Company	11/15/2021
Waterdrop Inc.	11/15/2021
The Boston Beer Company, Inc.	11/15/2021
PolarityTE, Inc.	11/23/2021
Hyzon Motors Inc.	11/29/2021
Nano-X Imaging Ltd.	12/06/2021
Eargo, Inc.	12/06/2021
Vipshop Holdings Ltd.	12/13/2021
InnovAge Holding Corp.	12/13/2021
Lightning eMotors, Inc.	12/15/2021
Gaotu Techedu Inc.	12/20/2021

Portfolio Monitor

Johnson Fistel recognizes that there are inherent risks when investing in the stock market. But the risks that an investor assumes do not, and should not, include the risk that the company or its officers and directors will make false and misleading statements to artificially inflate the company's stock price or sell their own stock based on insider information.

Our Portfolio Monitor is designed to alert institutional and individual investors when one of their investments may be affected by securities fraud, corporate waste, or other wrongdoing. Our Portfolio Monitor is available to both U.S. and foreign investors. There are no minimum portfolio requirements or costs to participate.

In-House Monitoring

Confidential Data Protection

Complimentary Service

For more information call 619.230.0063
Click the link to learn more:
https://www.JohnsonFistel.com/stockmonitor-free-portfolio-monitoring/

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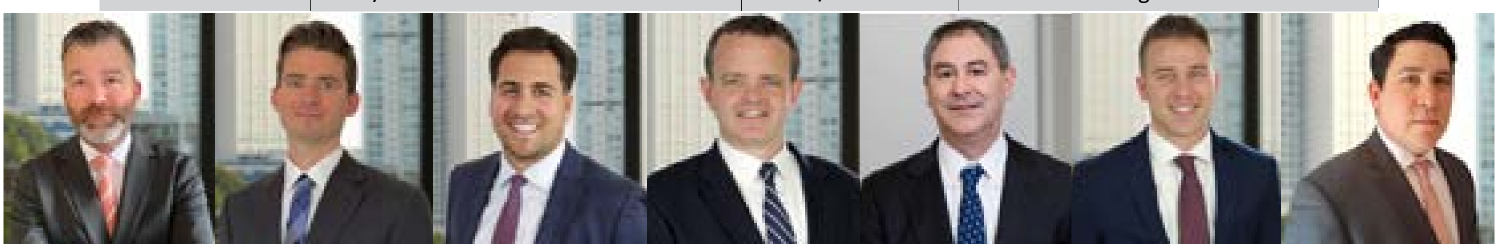

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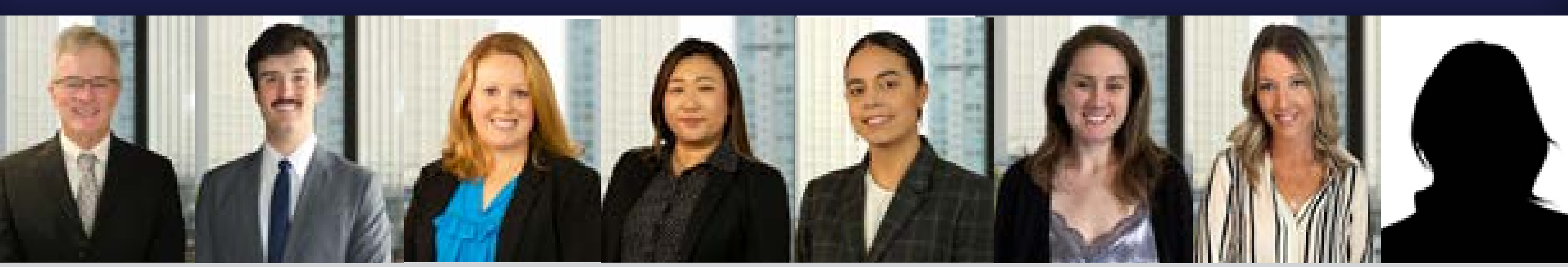

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