

COURT FINDS THAT TESLA AND ELON MUSK KNEW THAT THEIR CARS WERE KILLING OWNERS AND COVERED IT UP

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Judge finds evidence that Tesla, Musk knew about Autopilot defect

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By Hyunjoo Jin and Dan Levine

(Reuters) -A Florida judge found "reasonable evidence" that Tesla Chief Executive Elon Musk and other managers knew the automaker's vehicles had a defective Autopilot system but still allowed the cars to be driven unsafely, according to a ruling.

Judge Reid Scott, in the Circuit Court for Palm Beach County, ruled last week that the plaintiff in a lawsuit over a fatal crash could proceed to trial and bring punitive damages claims against Tesla for intentional misconduct and gross negligence. The order has not been previously reported.

The ruling is a setback for Tesla after the company won two product liability trials in California earlier this year over the Autopilot driver assistant system. A Tesla spokesperson could not immediately be reached for comment on Tuesday.

The Florida lawsuit arose out of a 2019 crash north of Miami in which owner Stephen Banner's Model 3 drove under the trailer of an 18-wheeler big rig truck that had turned onto the road, shearing off the Tesla's roof and killing Banner. A trial set for October was delayed, and has not been rescheduled.

Bryant Walker Smith, a University of South Carolina law professor, called the judge's summary of the evidence significant because it suggests "alarming inconsistencies" between what Tesla knew internally, and what it was saying in its marketing.

"This opinion opens the door for a public trial in which the judge seems inclined to admit a lot of testimony and other evidence that could be pretty awkward for Tesla and its CEO," Smith said. "And now the result of that trial could be a verdict with punitive damages."

The Florida judge found evidence that Tesla "engaged in a marketing strategy that painted the products as autonomous" and that Musk's public statements about the technology "had a

significant effect on the belief about the capabilities of the products."

Scott also found that the plaintiff, Banner's wife, should be able to argue to jurors that Tesla's warnings in its manuals and "clickwrap" agreement were inadequate.

The judge said the accident is "eerily similar" to a 2016 fatal crash involving Joshua Brown in which the Autopilot system failed to detect crossing trucks, leading vehicles to go underneath a tractor trailer at high speeds.

"It would be reasonable to conclude that the Defendant Tesla through its CEO and engineers was acutely aware of the problem with the 'Autopilot' failing to detect cross traffic," the judge wrote.

Banner's attorney, Lake "Trey" Lytal III, said they are "extremely proud of this result based in the evidence of punitive conduct."

The judge also cited a 2016 video showing a Tesla vehicle driving without human intervention as a way to market Autopilot. The beginning of the video shows a disclaimer which says the person in the driver's seat is only there for legal reasons. "The car is driving itself," it said.

That video shows scenarios "not dissimilar" than what Banner encountered, the judge wrote.

"Absent from this video is any indication that the video is aspirational or that this technology doesn't currently exist in the market," he wrote.

(Reporting by Dan Levine; Editing by Richard Chang and Stephen Coates)

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