



Tort Trends

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Nuclear Tesla Verdict & the “Full Self-Driving” Hustle

By *Michael Alkaraki*

No 9000 computer has ever made a mistake, or distorted information. We are all, by any practical definition of the word, foolproof and incapable of error.

– HAL 9000, 2001: A Space Odyssey

On August 1, 2025, a Southern District of Florida jury found that Tesla, Inc. placed its 2019 Model S on the market with a defect that proximately caused the death of a twenty-two-year-old woman and severe injuries to another, awarding \$329,000,000 in damages including \$200,000,000 in punitive damages assessed against the company for particularly egregious misconduct.¹ *Benavides v. Tesla, Inc.*, No. 1:2021cv21940, referred to colloquially as the “first Tesla verdict,” came after the company declined a \$60,000,000 settlement demand in a case implicating the interplay between Tesla’s claimed “autopilot” function and human operation.² Plaintiffs alleged, among other things, that Tesla marketed its Autopilot in a manner that lulled users into a false sense of security, with the defendant operator of the vehicle in question believing falsely that, “[i]f the car saw something in front of it, it would provide a warning and apply the brakes.”³

Years prior, on April 25, 2019, the defendant driver/operator took his eyes off the road, reaching toward the driver side floorboard to retrieve his dropped cellphone as his Model S blew through a stop sign before striking the victims’ SUV.⁴ Commenting on the verdict, the plaintiffs’ lawyer, Brett Schreiber, stated, “Tesla designed Autopilot only for controlled-access highways yet deliberately chose not to restrict drivers from using it elsewhere, alongside Elon Musk telling the world Autopilot drove better than humans.”⁵ Tesla, in its own statement, insisted that “[T]he evidence has always shown that this driver was solely at fault because he was speeding, with his foot on the accelerator—which overrode Autopilot—as he rummaged for his dropped phone without his eyes on the road,” and that “To be clear, no car in 2019, and none today, would have prevented this crash.”⁶

Tesla’s statement overlooks the “mixed autonomy” challenges characterized by the “third space” or “hybrid space” between the operator and advanced driver assistance system, from which emerges a wide range of new dynamic phenomena central to the plaintiff’s case. “Tesla has falsely suggested in social media posts that its cars are autonomous, potentially misleading and endangering drivers, according to a warning from the National Highway Traffic Safety Administration.”⁷ “The [NHTSA] warned Tesla that its online posts may mislead drivers into thinking its cars are robotaxis,” and “[t]he agency is investigating possible safety defects in Tesla’s [Full Self-Driving] option, a *partially* automated driving system.”⁸ (emphasis added). Confusion and false promises/marketing have plagued the “autonomous” vehicle industry since its inception.

In 2018, a 49-year-old pedestrian Elaine Herzberg died when she was struck by an autonomous Volvo XC90 sport utility vehicle in Tempe, Arizona, in an occurrence that has been reported as “the world’s first pedestrian killed by a self-driving car.”⁹ The vehicle was being used by Uber’s “Advanced Technologies Group” that Uber staffed with recruits from Carnegie Mellon’s robotics department to develop a driverless taxi service by 2022.¹⁰ At the time, Uber had invested hundreds of millions of dollars into the program to address the “existential threat” that co-founder and then-CEO Travis Kalanick considered the company to be facing if it did not emerge at least “tied for first” in the robotaxi race.¹¹

Mrs. Herzberg was not the first person killed by an autonomous vehicle. In June of 2016, Joshua Brown, a tech industry entrepreneur and Tesla enthusiast, died after his Tesla Model S autopilot sensors failed to distinguish a white tractor-trailer from the bright sky and the automated driving system “attempted to drive full speed under the trailer.”¹² According to the National Highway Transportation Safety Administration, between June 2021 and May 2022, automobile manufacturers reported 392 crashes, including 6 fatalities, involving “Level 2 Advanced Driver Assistance Systems,” meaning those systems which provide “continuous assistance with both acceleration/braking and steering, while driver remains fully engaged and attentive.”¹³ Tesla vehicles operating on autopilot accounted for 273 of crashes and all but one of the fatalities.¹⁴

According to *Tesla Deaths*, an online “record of Tesla accidents that involved a driver, occupant, cyclist, motorcyclist, or pedestrian death, whether or not the Tesla or its driver were at fault,” available at www.tesladeaths.com, there have been 65 Tesla Autopilot deaths including 2 fatalities involving the use of the FSD option.¹⁵ On September 5, 2025, *Electrek*, a news and commentary site that tracks, analyzes and breaks news on the transition from fossil-fuel transport to electric transport,¹⁶ reported “Tesla changes meaning of ‘Full Self-Driving,’ gives up on promise of autonomy,” noting that after almost a decade and nearly 300,000 FSD packages each running upwards of \$15,000 sold, “the promise of [Full Self-Driving Capability] has yet to be fulfilled, and Tesla has already confirmed that all vehicles produced between 2016 and 2023 don’t have the proper hardware to deliver self-driving as promised.”¹⁷

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1. Kolodny, Lora, Tesla must pay portion of \$239 million in damages after fatal Autopilot crash, jury says, *CNBC*, August 1, 2025, www.cnbc.com/2025/08/01/tesla-must-pay-329-million-in-damages-in-fatal-autopilot-case.html.
2. Scarcella, Mike, Tesla rejected \$60 million settlement before losing \$243 million Autopilot verdict, *Reuters*, August 25, 2025, www.reuters.com/legal/litigation/tesla-rejected-60-million-settlement-before-losing-243-million-autopilot-verdict-2025-08-25/.
3. Muller, Joann, Tesla Autopilot verdict sends a chill across the industry, *Axios*, August 6, 2025, www.axios.com/2025/08/06/tesla-autopilot-verdict-safety.
4. Reuters, Tesla ordered by Florida jury to pay \$329 million in Autopilot crash, *CNN*, August 1, 2025, www.cnn.com/2025/08/01/business/tesla-autopilot-crash-lawsuit.
5. *Id.*
6. Kolodny, Lora, Tesla must pay portion of \$239 million in damages after fatal Autopilot crash, jury says, *CNBC*, August 1, 2025, www.cnbc.com/2025/08/01/tesla-must-pay-329-million-in-damages-in-fatal-autopilot-case.html.
7. Kolodny, Lora, Tesla’s social media posts falsely implied that its cars are robotaxis, NHTSA warns, *CNBC*, November 8, 2024, www.cnbc.com/2024/11/08/tesla-social-media-posts-falsely-say-cars-are-robotaxis-nhtsa-warns.html.
8. *Id.*
9. Smiley, Lauren, “I’m the ‘Operator’”: The Aftermath of a Self-Driving Tragedy, *Wired*, March 8, 2022, www.wired.com/story/uber-self-driving-car-fatal-crash/.
10. 1 *Id.*
11. Carson, Biz, Travis Kalanick on Uber’s bet on self-driving cars: “I Can’t be Wrong,” *Business Insider*, August 18, 2016, www.businessinsider.com/travis-kalanick-interview-on-self-driving-cars-future-driver-jobs-2016-8.
12. Yadron, Danny & Tynan, Dan, Tesla driver dies in first fatal crash while using autopilot mode, *The Guardian*, June 30, 2016, theguardian.com/technology/2016/jun/30/tesla-autopilot-death-self-driving-car-elon-musk.
13. National Highway Traffic Safety Administration, Summary Report: Standing General Order on Crash Reporting for Level 2 Advanced Driver Assistance Systems, June 2022, www.nhtsa.gov/sites/nhtsa.gov/files/2022-06/ADAS-L2-SGO-Report-June-2022.pdf
14. Boudette, Neal E., Metz, Cade & Ewing, Jack, Tesla Autopilot and Other Driver-Assist Systems Linked to Hundreds of Crashes, *The New York Times*, June 15, 2022, nytimes.com/2022/06/15/business/self-driving-car-nhtsa-crash-data.html.
15. *Tesla Deaths*, www.TeslaDeaths.com.
16. Electrek, About, <https://electrek.co/about/>.
17. Lambert, Fred, Tesla changes meaning of “Full Self-Driving”, gives up on promise of autonomy, *Electrek*, September 5, 2025, <https://electrek.co/2025/09/05/tesla-changes-meaning-full-self-driving-give-up-promise-autonomy/>; O’Hare, Ben, Tesla Reveals How Many Buyers Have Bought FSD, *InsideEVs*, January 3, 2023, <https://insideevs.com/news/629094/tesla-how-many-buy-fsd/>.

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