



Delaware Supreme Court Rejects Total Rescission of Musk Pay



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On December 19, 2025, the [Delaware Supreme Court](#) overturned the rescission of Elon Musk's 2018 Tesla compensation grant and instead awarded nominal damages and substantially reduced attorneys' fees. The case stemmed from a stockholder challenge to performance based equity awards approved by both the Tesla board of directors and stockholders that granted Musk stock options upon achieving certain aspirational stock price and operational targets. The derivative lawsuit alleged breaches of fiduciary duty, unjust enrichment and waste; specifically that Musk, acting as a controlling stockholder, compelled the board of directors to approve excessive compensation.

After a trial in 2022, the Court of Chancery concluded that Musk was a controlling stockholder despite holding only 21.9% of the Tesla voting power, in part because Musk was found to have exercised "transaction-specific control over the 2018 Grant" through Musk's "considerable power in the boardroom by virtue of his high-status roles and managerial supremacy." Applying the entire fairness standard, the Court of Chancery concluded that Tesla's directors failed to prove that the awards were fair to Tesla and its stockholders and ordered rescission of the compensation grant. The Court of Chancery also found Tesla's disclosures to its stockholders misleading. Following this, Tesla revised disclosures and obtained a second stockholder vote ratifying the original award, together with approval to reincorporate Tesla in Texas. Tesla then filed a motion seeking reinstatement of the grant. The Chancery Court did not alter its original judgment, which ordered rescission of the grant and \$345 million in attorney's fees, in part because the court found the proxy statement for the subsequent stockholder proposal to be materially misleading.

On appeal the Delaware Supreme Court addressed only the remedy and declined to evaluate liability or Musk's status as a controlling stockholder. The Court held that total rescission was inequitable because all parties must be restored to the *status quo ante*. Since Musk had already fully performed under the 2018 compensation grant over several years, the Court of Chancery's decision would have left him uncompensated for these efforts, despite the fact that per the Delaware Supreme Court, equitable rescission is a viable remedy only if "the court can restore all of the challenged transaction's parties to the *status quo ante* (i.e., the position they occupied before the transaction)."

The Delaware Supreme Court also found that the Court of Chancery erred in placing burden of proof on the defendants, stating that it was the plaintiff's burden to prove whether equitable rescission was an appropriate remedy and whether the parties could be placed in the same position, especially given that rescission was the only remedy sought by the plaintiffs.

The Court also determined that Musk's existing equity holdings could not restore him to the *status quo ante* because the stock, and the increase in its value during his tenure, was not consideration for the services under the 2018 compensation plan. The Court awarded one dollar in nominal damages and recalculated attorneys' fees based on *quantum meruit*, decreasing the fee from \$345 million to approximately \$54.5 million.

The decision underscores the limits of rescission as a remedy in executive compensation disputes where performance has already occurred and cannot be unwound. It also signals continued scrutiny of large attorneys' fee awards.

The decision also leaves unresolved broader questions about controlling stockholders and fiduciary liability in similar cases. Notably, the decision did not address Musk's status as a controlling stockholder. In addition, the Court declined to comment on the Tesla board's process in approving Musk's equity awards, the adequacy of disclosure to stockholders or whether approval by Tesla's stockholders was fully informed. Similarly, the Delaware Supreme Court decision did not weigh in on the adequacy of the second Tesla stockholder vote seeking to ratify the original award.