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13 **UNITED STATES DISTRICT COURT**
14 **NORTHERN DISTRICT OF CALIFORNIA**
15 **(San Francisco Division)**

16 TWITTER, INC.,

17 Plaintiff,

18 v.

19 KEN PAXTON,

20 in his official capacity as Attorney

21 General of Texas,

22 Defendant.

Case No. **3:21-cv-01644**

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

1 Plaintiff Twitter, Inc. (“Twitter”) for its Complaint against Ken Paxton, in his official
2 capacity as Attorney General of Texas (“AG Paxton”), hereby alleges as follows:

3 **INTRODUCTION**

4 1. This is an action for declaratory and injunctive relief. Twitter seeks to stop AG
5 Paxton from unlawfully abusing his authority as the highest law-enforcement officer of the State
6 of Texas to intimidate, harass, and target Twitter in retaliation for Twitter’s exercise of its First
7 Amendment rights. The rights of free speech and of the press afforded Twitter under the First
8 Amendment of the U.S. Constitution include the right to make decisions about what content to
9 disseminate through its platform. This right specifically includes the discretion to remove or
10 otherwise restrict access to Tweets, profiles, or other content posted to Twitter. AG Paxton may
11 not compel Twitter to publish such content over its objection, and he may not penalize Twitter for
12 exercising its right to exclude such content from its platform.

13 2. Twitter operates an online platform where users can share short messages
14 (“Tweets”) and other content. Twitter’s hundreds of millions of users send hundreds of millions
15 of Tweets each day. To protect the health and safety of the people who use its platform, as well
16 as the integrity of the site, Twitter has established content moderation policies and procedures.
17 Pursuant to these policies and procedures, Twitter must frequently make difficult real-time
18 decisions regarding whether to remove or otherwise restrict content. In particular, in the months
19 surrounding the January 6, 2021 attack on the United States Capitol, Twitter decided to suspend
20 or restrict numerous accounts for violating its policies against glorifying or inciting violence, and
21 against manipulating or interfering in elections or other civic processes. Among the users whose
22 accounts were permanently suspended in the immediate aftermath of the deadly attack was
23 President Donald Trump.

24 3. AG Paxton has long disagreed with Twitter’s content moderation decisions, and
25 made that displeasure widely known. But this disagreement turned to official action against the
26 company after Twitter suspended President Trump’s account on January 8, 2021. Just five days
27 later, on January 13, 2021, AG Paxton issued a civil investigative demand (“CID”) to Twitter
28 seeking volumes of highly confidential documents concerning Twitter’s internal content

1 moderation processes—the public disclosure of which would undermine their effectiveness, and
2 compromise Twitter’s ability to effectively and efficiently moderate content on its platform.
3 Twitter sought for weeks to reach an agreement with AG Paxton that would put reasonable limits
4 on the scope of this demand, but to no avail. Instead, AG Paxton made clear that he will use the
5 full weight of his office, including his expansive investigatory powers, to retaliate against Twitter
6 for having made editorial decisions with which he disagrees. Now Twitter, already targeted
7 because of its protected activity, is left with the untenable choice to turn over highly sensitive
8 documents or else face legal sanction.

9 4. The First Amendment prohibits such acts. Any “[o]fficial reprisal for protected
10 speech” runs afoul of the Constitution because it “threatens to inhibit exercise of the protected
11 right.” *Hartman v. Moore*, 547 U.S. 250, 256 (2006) (internal quotation marks omitted).
12 Accordingly, there is “a longstanding, clearly established right . . . to be free from retaliation in
13 the form of threatened legal sanctions and other similar means of coercion, persuasion, and
14 intimidation.” *Sampson v. Cty. of Los Angeles by & through Los Angeles Cty. Dep’t of Children*
15 *& Family Servs.*, 974 F.3d 1012, 1020 (9th Cir. 2020). As set forth in this Complaint, AG Paxton’s
16 retaliatory investigation and intrusive CID are precisely the sort of “threatened legal sanctions,”
17 “coercion,” and “intimidation” forbidden by the First Amendment. The investigation and CID
18 unlawfully intrude on Twitter’s internal editorial processes and burden its protected activity, and
19 do so solely because Twitter exercised its First Amendment rights in a way disagreeable to AG
20 Paxton. This retaliatory conduct violates the Constitution.

21 5. For these and other reasons discussed below, Twitter respectfully requests that this
22 Court declare the CID and Defendant’s investigatory efforts unlawful, and enjoin AG Paxton from
23 initiating any action to enforce the CID issued on January 13, 2021, or otherwise pursuing the
24 investigation of Twitter’s internal decisionmaking processes that AG Paxton announced on
25 January 13, 2021.

26 JURISDICTION AND VENUE

27 6. This Court has jurisdiction under 28 U.S.C. § 1331 because this action arises under
28 the First and Fourteenth Amendments to the U.S. Constitution and 42 U.S.C. § 1983.

1 7. This Court is authorized to award the requested declaratory and injunctive relief
2 under the Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202, and by its general legal and
3 equitable powers.

4 8. This Court has personal jurisdiction over Defendant under Federal Rule of Criminal
5 Procedure 4(k)(1)(A) and California Civil Procedure Code § 410.10. The claim in this case arises
6 from multiple actions that AG Paxton purposefully directed toward the Northern District of
7 California with the intent of causing injury in, and changing behavior in, the Northern District of
8 California, *see* Paragraphs 23-29, 41-57 *infra*, including transmitting the CID to Twitter in the
9 Northern District of California, where the company’s headquarters are located. The CID and
10 retaliatory investigation have already forced and will continue to force Twitter to incur financial
11 costs and divert employee time in the Northern District of California to comply with the CID. In
12 addition, the purpose of the CID and retaliatory investigation is to punish Twitter for, and to
13 compel Twitter to change, editorial decisions regarding platform content that were and are
14 supervised and directed by employees in the Northern District of California.

15 9. AG Paxton also consented, and waived any objection, to jurisdiction and venue in
16 the Northern District of California by agreeing to the Twitter User Agreement, which provides that
17 “All disputes related to these Terms or the Services” will be litigated “solely in the federal or state
18 courts located in San Francisco County, California, United States.” The Texas Attorney General’s
19 Office has had authorization and use over a Twitter account since 2009, which has been used to
20 post Tweets as recently as March 6, 2021. AG Paxton has separately held a Twitter account since
21 2009, currently operated under the display name “Attorney General Ken Paxton,” which he
22 regularly uses to comment on political issues. He used that account to announce that he would
23 “fight” Twitter with “all I’ve got” after Twitter permanently suspended President Trump’s account,
24 and the account has been used to post Tweets as recently as March 8, 2021. The CID and
25 retaliatory investigation relate to Twitter’s Terms and Services.

26 10. Venue is also proper in this district pursuant to 28 U.S.C. § 1391(b)(2). A
27 substantial part of the events giving rise to this claim occurred in the Northern District of
28 California. This is where AG Paxton directed and served the retaliatory CID, and his threatening

1 Tweets and press statements, and it is where Twitter engaged in the targeted protected First
2 Amendment activity. The harm Twitter will suffer as a result of AG Paxton’s actions has and will
3 continue to be felt in the Northern District of California.

4 **PARTIES**

5 11. Twitter is a Delaware corporation with its principal place of business at 1355
6 Market Street, San Francisco, CA. Twitter operates a global platform for self-expression and
7 communication, with the mission of giving everyone the power to create and share ideas and
8 information instantly. Twitter’s more than 190 million daily active users use the platform to
9 connect with others, express ideas, and discover new information. Hundreds of millions of short
10 messages are posted on Twitter every day. Twitter provides these services at no charge to its users.

11 12. Ken Paxton is the Attorney General of the State of Texas. He is sued in his official
12 capacity. He is the chief law enforcement officer of the State of Texas.

13 **FACTS**

14 **A. Twitter’s Platform and Services**

15 13. Twitter operates an Internet communications platform that allows hundreds of
16 millions of people around the world to share views and track current events.

17 14. People engage on Twitter’s platform by, among other things, reading and posting
18 “Tweets,” short messages limited to 280 characters. The brevity of the messages and the ability
19 to react instantaneously to political, cultural, and social events have made Twitter one of the
20 world’s most popular online platforms. Twitter aims to serve the public conversation by providing
21 a platform, open to a broad variety of voices. Twitter is also committed to protecting the health
22 and safety of its users and fostering an environment for “safe, inclusive, and authentic
23 conversations.” Healthy Conversations, Twitter <https://tinyurl.com/mcs28acx>.

24 15. Twitter achieves that goal through content moderation policies, practices, and
25 techniques that, among other things, are designed to minimize the reach of harmful or misleading
26 information—especially when intended to disrupt civic processes or cause offline harm. *Id.*

27 16. Twitter actively enforces its content moderation policies. To “limit behaviors that
28 discourage others from expressing themselves or place them at a risk of harm,” in 2019, Twitter

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