

MICHAEL F. RAM (SBN 104805)
**MORGAN & MORGAN COMPLEX
 LITIGATION GROUP**
 711 Van Ness Avenue, Suite 500
 San Francisco, CA 94102
 Telephone: (415) 358-6913
 Facsimile: (415) 358-6923
mram@ForThePeople.com

JOHN A. YANCHUNIS
(Pro Hac Vice application forthcoming)
 JEAN SUTTON MARTIN
(Pro Hac Vice application forthcoming)
 PATRICK A. BARTHLE II
(Pro Hac Vice application forthcoming)
**MORGAN & MORGAN COMPLEX
 LITIGATION GROUP**
 201 N. Franklin Street, 7th Floor
 Tampa, Florida 33602
 Telephone: (813) 559-4908
 Facsimile: (813) 222-4795
jyanchunis@forthepeople.com
jeanmartin@ForThePeople.com
pbarthle@ForThePeople.com

Attorneys for Plaintiff and the Proposed Class

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

LAUREN PRICE, individually and on behalf
 of all other similarly situated,

Plaintiff,

v.

TWITTER, INC., a corporation,

Defendant.

Case No.

CLASS ACTION COMPLAINT

CLASS ACTION FOR

**(1) BREACH OF CONTRACT;
 (2) BREACH OF IMPLIED CONTRACT;
 (3) VIOLATION OF UCL, CAL BUS. &
 PROF. CODE §§ 17200, ET. SEQ., and
 (4) UNJUST ENRICHMENT**

DEMAND FOR JURY TRIAL

CLASS ACTION COMPLAINT

Plaintiff Lauren Price, individually and on behalf of all others similarly situated, files this Class Action Complaint against defendant Twitter, Inc. (“Twitter” or “Defendant”), and in support states the following.

INTRODUCTION

1. Twitter operates an online communication service through its website, www.twitter.com, and through text messaging and mobile applications. The service allows registered users to communicate with one another by posting “tweets,” or short messages currently limited to 280 characters or less, with which other users may interact through a “like,” reply, or “retweet.”

2. In order to follow other accounts, or post, like, and retweet tweets, users must register for a Twitter account.

3. This lawsuit concerns Twitter’s surreptitious and undisclosed use of Plaintiff’s and Class Members’ telephone numbers and email addresses (hereinafter “Personal Information”) for advertising and marketing purposes, and, ultimately, its own unjust enrichment.

4. Twitter solicited and collected Plaintiff’s and Class Members’ telephone numbers and email addresses under the guise that they were to be used for various account security related functions, including two-factor authentication, account recovery, and account re-authentication, as further described below.

5. In reality, Twitter was also using this Personal Information of Plaintiff and Class Members to line its own pockets—specifically, it utilized the provided telephone numbers and email addresses in its “Tailored Audiences” and “Partner Audiences” marketing products, thereby permitting advertisers to target specific groups of Twitter users by matching the telephone numbers and email addresses that Twitter collected to the advertisers’ existing (or purchased) lists of telephone numbers and email addresses.

6. On May 25, 2022, the Attorney General by the Federal Trade Commission (“FTC” or “Commission”) filed a complaint concerning this conduct and likewise announced that Twitter will pay a \$150 million fine to settle the allegations. *See United States of America v. Twitter, Inc.*,

Case No. 3:22-cv-3070. ECF. No. 1 (N.D. Cal.) (“2022 FTC Complaint”); Federal Trade Comm. *Twitter to pay \$150 million penalty for allegedly breaking its privacy promises – again* (May 25, 2022), available at <https://www.ftc.gov/business-guidance/blog/2022/05/twitter-pay-150-million-penalty-allegedly-breaking-its-privacy-promises-again>.

7. This case seeks vindication and recompense on behalf of the individual consumers whose personal information was connivingly collected and deployed.

THE PARTIES

8. Plaintiff Lauren Price is an adult domiciled in Maryland and has an active Twitter account and had an active account during the entire Class Period.

9. Plaintiff Lauren Price is a Twitter user who between May 2013 and September 2019 provided her telephone numbers and/or email addresses (hereinafter “Personal Information”) to Twitter regarding two-factor authentication, account recovery, and/or account re-authentication. She brings claims on behalf of other similarly-situated Twitter users in the United States (the “Class” defined in Paragraph 73, hereinafter the members of the Class are referred to as “Class Members”) arising from Twitter’s knowing, unauthorized, and undisclosed use of their Personal Information for advertising and/or marketing purposes.

12. Twitter is a Delaware corporation with its principal place of business at 1355 Market Street, Suite 900, San Francisco, California, 94103. Twitter transacts or has transacted business in this District and throughout the United States. At all times material to this Complaint, Twitter has operated its online communication service through its website, www.twitter.com, and through its mobile applications.

JURISDICTION AND VENUE

13. This Court has personal jurisdiction over Defendant because Twitter’s principal place of business is in California. Additionally, Defendant is subject to specific personal jurisdiction in this State because a substantial part of the events and conduct giving rise to Plaintiff’s and Class members’ claims occurred in this State, including Google servers in California receiving the intercepted communications and data at issue, and because of how employees of Google in California reuse the communications and data collected.

1 14. This Court has subject matter jurisdiction over this entire action pursuant to the Class
2 Action Fairness Act (“CAFA”), 28 U.S.C. § 1332(d), because this is a class action in which the
3 amount in controversy exceeds \$5,000,000, and at least one Class member is a citizen of a state
4 other than California or Delaware.

5 15. Venue is proper in this District because a substantial portion of the events and actions
6 giving rise to the claims in this matter took place in this judicial District. Furthermore, Twitter is
7 headquartered in this District and subject to personal jurisdiction in this District.

8 **FACTUAL ALLEGATIONS CONCERNING TWITTER**

9 **I. Twitter’s History of Privacy Violations & Its Agreement with the FTC**

10 16. Twitter’s violation of consumers’ privacy rights is not new – it has been persistent
11 and pervasive for at least a decade.

12 17. In 2011, the FTC charged Twitter with engaging in deceptive acts or practices in
13 violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), for its failures to provide reasonable
14 security measures to prevent unauthorized access to nonpublic user information and to honor the
15 privacy choices exercised by Twitter users. *See, In re Twitter, Inc.*, C-4316, 151 F.T.C. 162 (Mar.
16 11, 2011) (Administrative Complaint) at ¶¶ 13-17.¹

17 18. Specifically, the Administrative Complaint asserted that Twitter had engaged in
18 deceptive acts or practices by misrepresenting that users could control who had access to their tweets
19 through a “protected account” or could send private “direct messages” that could only be viewed
20 by the recipient when, in fact, Twitter lacked reasonable safeguards to ensure those choices were
21 honored, such as restricting employee access to nonpublic user information based on a person’s job
22 requirements. *See* Administrative Complaint at ¶¶ 6, 11-12.

23 19. The Administrative Complaint also alleged that Twitter had misrepresented the
24 controls it implemented to keep user accounts secure, when, in fact, Twitter lacked reasonable
25 safeguards to limit or prevent unauthorized access to nonpublic user information, such as secure
26

27 ¹ The 2011 Administrative Complaint is also available at:
28 <https://www.ftc.gov/sites/default/files/documents/cases/2011/03/110311twittercmpt.pdf> (last
visited May 27, 2022).

password requirements and other administrative, technical, or physical safeguards. *See* Administrative Complaint at ¶¶ 10-12.

20. Twitter entered a consent settlement to resolve the Commission’s Administrative Complaint for alleged violations of Section 5(a) of the FTC Act which was memorialized in a 2011 order issued by the FTC. *See In re Twitter, Inc.*, C-4316, 151 F.T.C. 162 (Mar. 11, 2011) (Decision and Order) (“Commission Order” or “2011 Order”).² The Commission Order became final in March 2011 and remains in effect. *See* Commission Order, Provision VIII.

21. Provision I of the Commission Order, in relevant part, states:

IT IS ORDERED that respondent, directly or through any corporation, subsidiary, division, website, or other device, in connection with the offering of any product or service, in or affecting commerce, **shall not misrepresent in any manner, expressly or by implication, the extent to which respondent maintains and protects the security, privacy, confidentiality, or integrity of any nonpublic consumer information**, including, but not limited to, misrepresentations related to its security measures to: (a) prevent unauthorized access to nonpublic consumer information; or (b) honor the privacy choices exercised by users.

See Commission Order, Provision I (emphasis added). The Commission Order required Twitter to refrain from such misrepresentations for a period of 20 years from the date of the Order (at least March 2, 2031). *See* Commission Order, Provision VIII.

22. Importantly, the Commission Order defines “nonpublic consumer information” as, in relevant part, “an individual consumer’s: (a) email address... [and] (c) mobile telephone number[.]” *See* Commission Order, Definition 3.

II. Twitter Misrepresented the Purposes for Which it Collected Plaintiff’s and Class Members’ Telephone Numbers and Email Addresses

23. Twitter’s platform is widely used. As of September 2019, Twitter had more than 330 million monthly active users worldwide, which included journalists, celebrities, commercial brands, and government officials.

² The 2011 Commission Order is also available at: <https://www.ftc.gov/sites/default/files/documents/cases/2011/03/110311twitterdo.pdf> (last visited May 27, 2022).

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.