

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON

DARLIN GRAY, individually and on behalf of  
all others similarly situated,

*Plaintiff,*

v.

TWITTER, INC.,

*Defendant.*

No. 2:20-cv-1389

CLASS ACTION COMPLAINT

JURY DEMAND

Plaintiff, individually and on behalf of all others similarly situated, alleges the following based upon personal knowledge as to Plaintiff and Plaintiff's own acts, and upon information and belief as to all other allegations, based on investigation of counsel. This investigation included, *inter alia*, a review of public statements and disclosure materials prepared by Defendant; review of Federal Trade Commission filings; FOIA requests to FTC; media reports; interviews; social media; and other information concerning Defendant. The investigation of the facts pertaining to this case is continuing. Plaintiff believes that substantial evidentiary support will exist for the allegations set forth herein after a reasonable opportunity for discovery.

**I. INTRODUCTION**

1. Privacy is a 21st century civil rights issue that affects everyone who interacts on digital platforms.

2. Behemoth providers of ubiquitous digital platforms make promises of privacy when they solicit users. Too often, those promises are not kept.

1           3.       Many powerful actors who violate individuals' civil rights, including privacy rights,  
2 thereafter contest whether any damages resulted from their wrongful conduct.

3           4.       Those powerful companies disregard their promises to users about privacy because  
4 of strong financial incentives. Using and trading in private user data can be extraordinarily lucrative  
5 for those companies which do so.

6           5.       Yet those same companies routinely contend that, despite the degree to which they  
7 profit from refusing to honor the privacy choices exercised by users, there is no comparable,  
8 measurable financial harm to those whose rights they violate.

9           6.       Privacy violators also often contend that the harm to an individual is *de minimus*,  
10 thereby making it prohibitively expensive for an individual to protect her privacy rights.

11          7.       As with other civil rights violations, legislation has begun to address this issue.

12          8.       As with other civil rights violations, legislatures have established statutory  
13 violations, and set a specific amount of statutory damages, together with an award of attorneys'  
14 fees and the costs of suit.

15          9.       Washington state has done exactly this, in order to ensure judicial recourse to  
16 protect the civil right in privacy of users' phone numbers and other records against improper  
17 procurement and use.

18          10.      This suit seeks statutory damages together with attorneys' fees, other costs of  
19 litigation, and prejudgment interest, resulting from the acts of Defendant Twitter, Inc.  
20 ("Twitter") which engaged in the unauthorized procurement of telephone records of Plaintiff and  
21 the Class in violation of RCW 9.26A.140.

22          11.      Plaintiff is entitled to bring this private action to enforce RCW 9.26A.140 by virtue  
23 of that statute and by virtue of RCW 9A.82.010 and 9A.82.100.

## 24                               II. JURISDICTION AND VENUE

25          12.      This Court has subject matter jurisdiction over the claims pursuant to 28 U.S.C.  
26 § 1332(d)(2) because the amount in controversy exceeds \$5,000,000 exclusive of interest and costs  
27

1 and all members of the putative class of plaintiffs are citizens of a State different from Defendant  
2 Twitter, Inc. (“Twitter”).

3 13. This Court has personal jurisdiction over Twitter because it has purposefully  
4 directed its activities at this State and this judicial district, including by opening and maintaining  
5 and office and employees in this State and judicial district.

6 14. Twitter has also consummated a transaction with at least one resident of the State  
7 and judicial district, including Plaintiff.

8 15. This Court has personal jurisdiction over Twitter because it has performed acts by  
9 which it purposefully avails itself of the privilege of conducting activities in this State and judicial  
10 district, thereby invoking the benefits and protections of the laws of this State.

11 16. This Court has personal jurisdiction over Twitter because the claim arises out of or  
12 relates to Twitter’s forum-related activities.

13 17. This Court has personal jurisdiction over Twitter because the exercise of  
14 jurisdiction over Twitter as to the allegations of this Complaint comport with fair play and  
15 substantial justice.

16 18. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(2) and (3) because a  
17 substantial part of the events or omissions giving rise to the claim occurred in this State and judicial  
18 district and because Twitter is subject to personal jurisdiction in this State and judicial district.

### 19 **III. PARTIES**

20 19. Plaintiff Darlin Gray (“Gray”) is a Twitter user with the username @darlinggray.

21 20. Plaintiff Gray is now, and at all times relevant to this Complaint has been, a  
22 Washington resident.

23 21. Twitter is a Delaware Corporation with a principal place of business in San  
24 Francisco, California.

25 22. Twitter is a for-profit company.

26 23. Twitter acts at all times for financial gain.

#### IV. FACTS

##### A. Twitter Is A Telecommunications Company.

24. Under Washington law, “[t]elecommunications’ is the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means. As used in this definition, ‘information’ means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols.” RCW 80.04.010(27); *see also* RCW 9.26A.100 (“‘Telecommunications’ shall have the same meaning as that contained in RCW 80.04.010 and includes telecommunications service that originates, terminates, or both originates and terminates in this state”).

25. Under Washington law, “[t]elecommunications company’ includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, and every city or town owning, operating or managing any facilities used to provide telecommunications for hire, sale, or resale to the general public within this state.” RCW 80.04.010(28); *see also* (“‘Telecommunications company’ shall have the same meaning as that contained in RCW 80.04.010”).

26. Twitter transmits knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols by wire, radio, optical cable, electromagnetic, or other similar means.

27. Twitter provide telecommunications for hire, sale, or resale to the general public within this state, at least by virtue of its provision, for money, of advertising to Twitter users.<sup>1</sup>

28. Twitter is a telecommunications company.

29. Twitter provides telecommunications service that either originates, or terminates, or both originates and terminates in the state of Washington.

30. Telephone numbers are “telephone records” as defined in RCW 9.26A.140, inasmuch as they comprise “information retained by a telecommunications company that relates

---

<sup>1</sup> *See* <https://business.twitter.com/en/help/ads-policies/campaign-considerations/about-eligibility-for-twitter-ads.html> (last accessed September 20, 2020).

1 to the telephone number dialed by the customer or the incoming number or call directed to a  
2 customer, or other data related to such calls typically contained on a customer telephone bill such  
3 as the time the call started and ended, the duration of the call, the time of day the call was made,  
4 and any charges applied.” RCW 9.26A.140.

5 31. Telephone numbers are telephone records which pertain to the person whose  
6 telephone number it is.

7 32. Each telephone number is a telephone record which pertains to at least the user  
8 associated with that telephone number.

9 33. A telephone record may pertain to a person other than the person who pays for the  
10 telephone service associated with that number.

11 34. For example, in so-called “friends and family” type plans, one person might be  
12 contractually responsible for paying the invoicing for multiple telephone numbers, where all but  
13 one of the telephone numbers pertains to other persons.

14 35. In that type of arrangement, a telephone number constitutes a record that pertains  
15 to a user who is not the financially responsible subscriber.

16 **B. Twitter’s Unlawful Procurement Of Telephone Records.**

17 36. Twitter procured a telephone record which pertains to Gray.

18 37. Specifically, Twitter procured Gray’s telephone number from Gray.

19 38. Twitter did so with fraudulent, deceptive, or false means.

20 39. Those means included assurances to Gray that Gray could designate the uses to  
21 which the telephone number was put, thereby maintaining control over the use of the telephone  
22 number by Twitter, through functions made available on Twitter’s user-facing systems.

23 40. In making these representations, Twitter falsely assured Gray that it would honor  
24 the privacy choices exercised by her, a user.

25 41. Gray provided her telephone number, a telephone record which pertains to her, to  
26 Twitter.

# 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.