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27 **UNITED STATES DISTRICT COURT**  
28 **NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

29 Peter Gianakopoulos, Jamisha Pryor, Henry  
30 Yeh, Sheila Garcia, Alyssa Schaffer, and Jeffery  
31 Robinson, individually and on behalf of all  
32 others similarly situated,

33 Plaintiffs,

34 v.

35 Twitter, Inc.,

36 Defendant.

CASE NO.: 3:22-cv-04674

**CLASS ACTION COMPLAINT for:**

- 37 **I. Breach of Contract**
- 38 **II. Breach of Implied Contract**
- 39 **III. Violations of Cal. Business and Professions Code § 17200, et seq.**
- 40 **IV. Unjust Enrichment**

**DEMAND FOR JURY TRIAL**

41 Plaintiffs Peter Gianakopoulos, Jamisha Pryor, Henry Yeh, Sheila Garcia, Alyssa Schaffer,  
42 and Jeffery Robinson, individually and on behalf of all others similarly situated, file this Class  
43 Action Complaint against defendant Twitter, Inc. (“Twitter” or “Defendant”), and in support state

1 the following.

2 **INTRODUCTION**

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

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

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

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

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

23 6. On May 25, 2022, the Attorney General by the Federal Trade Commission (“FTC”  
24 or “Commission”) filed a complaint concerning this conduct and likewise announced that Twitter  
25 will pay a \$150 million fine to settle the allegations. *See United States of America v. Twitter, Inc.*,  
26 Case No. 3:22-cv-3070, ECF. No. 1 (N.D. Cal.) (“2022 FTC Complaint”); Federal Trade Comm.  
27 *Twitter to pay \$150 million penalty for allegedly breaking its privacy promises – again* (May 25,  
28

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 Twitter connivingly collected and deployed.

**THE PARTIES**

8. Plaintiff Peter Gianakopoulos is an adult domiciled in River Grove, Illinois. He has an active Twitter account and had an active Twitter account during the entire Class Period.

9. Plaintiff Jamisha Pryor is an adult domiciled in Yuba City, California. She has an active Twitter account and had an active Twitter account during the entire Class Period.

10. Plaintiff Henry Yeh is an adult domiciled in South San Francisco, California. He has an active Twitter account and had an active Twitter account during the entire Class Period.

11. Plaintiff Sheila Garcia is an adult domiciled in Hemet, California. She has an active Twitter account and had an active Twitter account during the entire Class Period.

12. Plaintiff Alyssa Schaffer is an adult domiciled in Valencia, California. She has an active Twitter account and had an active Twitter account since December 2013.

13. Plaintiff Jeffery Robinson is an adult domiciled in Temecula, California. He has an active Twitter account and had an active Twitter account during the entire Class Period.

14. Plaintiffs are Twitter users who between May 2013 and September 2019 provided their telephone numbers and/or email addresses (hereinafter “Personal Information”) to Twitter regarding two-factor authentication, account recovery, and/or account re-authentication. They bring claims on behalf of themselves and other similarly-situated Twitter users in the United States (the “Class” defined herein, 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.

15. 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 County and throughout the State of California and the United States. At all times

1 material to this Complaint, Twitter has operated its online communication service through its  
2 website, [www.twitter.com](http://www.twitter.com), and through its mobile applications.

3 **JURISDICTION AND VENUE**

4 16. This Court has personal jurisdiction over Defendant because Twitter’s principal  
5 place of business is in California. Additionally, Defendant is subject to specific personal  
6 jurisdiction in this State because a substantial part of the events and conduct giving rise to  
7 Plaintiffs’ and Class members’ claims occurred in this State.

8 17. Defendant conducts substantial business in the State of California and this District.  
9 Defendant has sufficient minimum contacts with and/or otherwise intentionally avails itself of the  
10 markets in the State of California and this District, and has sufficient contacts with the State of  
11 California and this District such that it is fair and just for Defendant to adjudicate this dispute here  
12 in this District and in the State of California.

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

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

20 **DIVISIONAL ASSIGNMENT**

21 20. Pursuant to Local Rule 3-5, the Divisional Assignment for this matter is appropriate  
22 in the San Francisco Division, as that is where Defendant maintains its principal place of business  
23 and those actions giving rise to the claims in the case are associated with San Francisco.

24 **FACTUAL ALLEGATIONS CONCERNING TWITTER**

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

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

28

1           22. In 2011, the FTC charged Twitter with engaging in deceptive acts or practices in  
2 violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), for its failures to provide reasonable  
3 security measures to prevent unauthorized access to nonpublic user information and to honor the  
4 privacy choices exercised by Twitter users. *See, In re Twitter, Inc.*, C-4316, 151 F.T.C. 162 (Mar.  
5 11, 2011) (“Administrative Complaint”) ¶¶ 13-17.<sup>1</sup>

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

12           24. The Administrative Complaint also alleged that Twitter had misrepresented the  
13 controls it implemented to keep user accounts secure, when, in fact, Twitter lacked reasonable  
14 safeguards to limit or prevent unauthorized access to nonpublic user information, such as secure  
15 password requirements and other administrative, technical, or physical safeguards. *See*  
16 Administrative Complaint ¶¶ 10-12.

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

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

23           **IT IS ORDERED that respondent**, directly or through any corporation, subsidiary,  
24           division, website, or other device, in connection with the offering of any product or  
25           service, in or affecting commerce, **shall not misrepresent in any manner, expressly**  
                  **or by implication, the extent to which respondent maintains and protects the**

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

28           <sup>2</sup> 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).

1 **security, privacy, confidentiality, or integrity of any nonpublic consumer**  
2 **information**, including, but not limited to, **misrepresentations related to its security**  
3 **measures to:** (a) prevent unauthorized access to nonpublic consumer information; or  
(b) **honor the privacy choices exercised by users.**

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

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

10 **II. Twitter Misrepresented the Purposes for Which it Collected Plaintiffs’ and Class**  
11 **members’ Telephone Numbers and Email Addresses**

12 28. Twitter’s platform is widely used. As of September 2019, Twitter had more than  
13 330 million monthly active users worldwide, which included journalists, celebrities, commercial  
14 brands, and government officials.

15 29. Commercial entities regularly use Twitter to advertise to consumers. Indeed,  
16 Twitter’s core business model monetizes user information by using it for advertising. In fact, of  
17 the \$3.4 billion in revenue that Twitter earned in 2019, \$2.99 billion flowed from advertising.

18 30. Twitter primarily allows companies to advertise on its service through “Promoted  
19 Products,” which can take one of three forms: (1) Promoted Tweets, which appear within a user’s  
20 timeline, search results, or profile pages, similar to an ordinary tweet; (2) Promoted Accounts,  
21 which typically appear in the same format and place as other recommended accounts; and (3)  
22 Promoted Trends, which appear at the top of the list of trending topics for an entire day.

23 31. Twitter offers various services that advertisers can use to reach their existing  
24 marketing lists on Twitter, including “Tailored Audiences” and “Partner Audiences.” Tailored  
25 Audiences allows advertisers to target specific groups of Twitter users by matching the telephone  
26 numbers and email addresses that Twitter collects to the advertisers’ existing lists of telephone  
27 numbers and email addresses. Partner Audiences allows advertisers to import marketing lists from  
28 data brokers like Acxiom and Datalogix to match against the telephone numbers and email addresses

1 collected by Twitter. Twitter has provided advertisers the ability to match against lists of email  
2 addresses since January 2014 and against lists of telephone numbers since September 2014.

3 32. Twitter has prompted users to provide a telephone number or email address for the  
4 express purpose of securing or authenticating their Twitter accounts. However, through at least  
5 September 2019, Twitter also used this information to serve targeted advertising and further its own  
6 business interests through its Tailored Audiences and Partner Audiences services. For example,  
7 from at least May 2013 until at least September 2019, Twitter collected telephone numbers and  
8 email addresses from users specifically for purposes of allowing users to enable two-factor  
9 authentication, to assist with account recovery (e.g., to provide access to accounts when users have  
10 forgotten their passwords), and to re-authenticate users (e.g., to re-enable full access to an account  
11 after Twitter has detected suspicious or malicious activity). From at least May 2013 through at least  
12 September 2019, Twitter did not disclose, or did not disclose adequately, that it used these telephone  
13 numbers and email addresses to target advertisements to those users through its Tailored Audiences  
14 and Partner Audiences services.

15 33. As noted above, the 2011 Commission Order, among other things, prohibited  
16 Twitter from misrepresenting the extent to which Twitter maintains and protects the security,  
17 privacy, confidentiality, or integrity of any nonpublic consumer information.

18 34. Yet, from at least May 2013 until at least September 2019, Twitter misrepresented  
19 to users of its online communication service the extent to which it maintained and protected the  
20 security and privacy of their Personal Information. Specifically, while Twitter represented to users  
21 that it collected their telephone numbers and email addresses to secure their accounts, Twitter  
22 failed to disclose that it also used Personal Information to aid advertisers in reaching their preferred  
23 audiences. Twitter's misrepresentations violate the FTC Act and the 2011 Order, which  
24 specifically prohibited the company from making misrepresentations regarding the security of  
25 nonpublic consumer information like the Personal Information.

26 35. According to the 2022 FTC Complaint, more than 140 million Twitter users provided  
27 email addresses or telephone numbers to Twitter based on Twitter's deceptive statements that their  
28 information would be used for specific purposes related to account security. Twitter knew or should

1 have known that its conduct violated the 2011 Order, which prohibits misrepresentations concerning  
 2 how Twitter maintains email addresses and telephone numbers collected from users.

3 36. Technology companies like Twitter recognize the monetary value of users’  
 4 personal information. Companies have gone so far as to create applications where users explicitly  
 5 provide information in exchange for monetary benefits.<sup>3</sup>

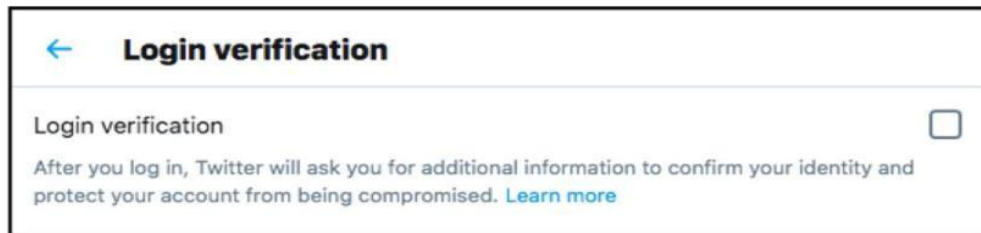
6 37. Through its deceptive information collection techniques and misrepresentations,  
 7 Twitter is unjustly enriching itself at the cost of consumer choice, when the consumer would  
 8 otherwise have the ability to choose whether and how they would monetize their own data.

9 **A. Twitter’s Deceptive Collection of Personal Information for Two-Factor**  
 10 **Authentication**

11 38. Since May 2013, Twitter has allowed users to log into Twitter with two-factor  
 12 authentication using their telephone numbers. Users who enable this security feature log into their  
 13 Twitter accounts with their usernames, passwords, and a code texted to their telephone numbers  
 14 whenever they log in from a new or unrecognized device.

15 39. Twitter prompts users to enable two-factor authentication through notices on their  
 16 timelines and after users reset their passwords. Twitter also encourages users to turn on two-factor  
 17 authentication in tweets from Twitter-operated accounts, Help Center documentation, and blog  
 18 posts.

19 40. To enable two-factor authentication, Twitter users must navigate to an account  
 20 settings page. After clicking on “Security,” users see a screen similar to the one depicted below:



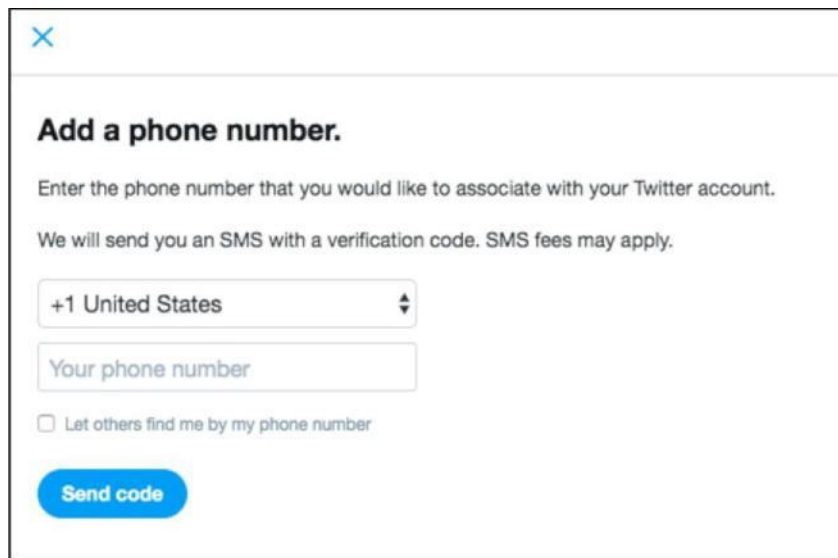
21  
 22  
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 24  
 25 <sup>3</sup> Kari Paul, *Facebook launches app that will pay users for their data*, The Guardian (June 11,  
 26 2019), [https://www.theguardian.com/technology/2019/jun/11/facebook-user-data-app-privacy-  
 27 study](https://www.theguardian.com/technology/2019/jun/11/facebook-user-data-app-privacy-study) (last visited May 27, 2022); Saheli Roy Choudhury and Ryan Browne, *Facebook pays teens  
 28 to install an app that could collect all kinds of data*, CNBC (Jan. 30, 2019),  
[https://www.cnbc.com/2019/01/29/facebook-paying-users-to-install-app-to-collect-data-  
 techcrunch.html](https://www.cnbc.com/2019/01/29/facebook-paying-users-to-install-app-to-collect-data-techcrunch.html) (last visited May 27, 2022); Jay Peters, *Facebook will now pay you for your voice  
 recordings*, The Verge (Feb. 20, 2020),  
[https://www.theverge.com/2020/2/20/21145584/facebook-pay-record-voice-speech-recognition-  
 viewpoints-pronunciations-app](https://www.theverge.com/2020/2/20/21145584/facebook-pay-record-voice-speech-recognition-viewpoints-pronunciations-app) (last visited May 27, 2022).



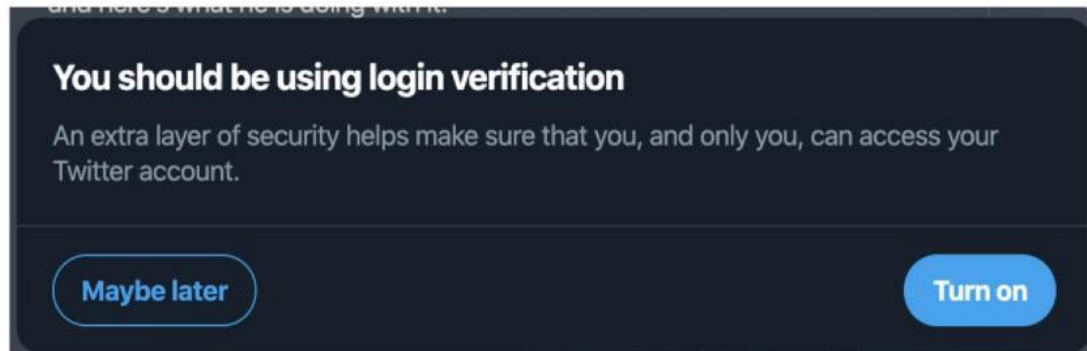
1           41.     When users click on the “Learn more” link, they see a webpage that says, “How to  
2 use two-factor authentication.” This page states, in relevant part:

3           Two-factor authentication is an extra layer of security for your Twitter account.  
4           Instead of only entering a password to log in, you’ll also enter a code or use a  
5           security key. This additional step helps make sure that you, and only you, can  
6           access your account.

7           42.     After clicking on the “Login Verification” checkbox above, users see additional  
8 instructions about how to enable two-factor authentication. The last screen in the user flow related  
9 to two-factor authentication using a telephone number is similar to the one depicted below



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18           43.     Since at least September 2018, Twitter has prompted users to enable two-factor  
19 authentication directly on users’ timelines through a prompt similar to the screen depicted below:



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25           44.     According to the 2022 FTC Complaint, until September 2019, Twitter did not  
26 disclose at any point in the two-factor authentication pathway or in any of the associated links  
27 described above that it was using the telephone numbers users provided for two-factor  
28 authentication to target advertisements to those users.

1           45.     According to the 2022 FTC Complaint, from May 2013, approximately two million  
2 users provided a telephone number to enable two-factor authentication.

3           46.     The fact that Twitter used the telephone numbers provided for two-factor  
4 authentication for advertising would be material to users when deciding whether to provide a  
5 telephone number for two-factor authentication.

6           **B.     Twitter’s Deceptive Collection of Personal Information for Account Recovery**

7           47.     In June 2015, Twitter began prompting users to add a telephone number to their  
8 Twitter accounts as a safeguard in the event of a lost password. Then, in April 2018, Twitter also  
9 began prompting users to add an email address.

10          48.     Since June 2015, if users do not have a telephone number associated with their  
11 accounts, Twitter may prompt the users to add a telephone number through a message similar to  
12 the one depicted below:



19          49.     Similarly, since April 2018, if a user does not have an email address associated with  
20 their account, Twitter may prompt the user to add an email address through a message similar to the  
21 one depicted below:



1 50. Through September 2019, Twitter did not disclose at any point in the account  
2 recovery pathway or any of the messages described above that it was using the telephone numbers  
3 or email addresses users provided for account recovery to target advertisements to those users.

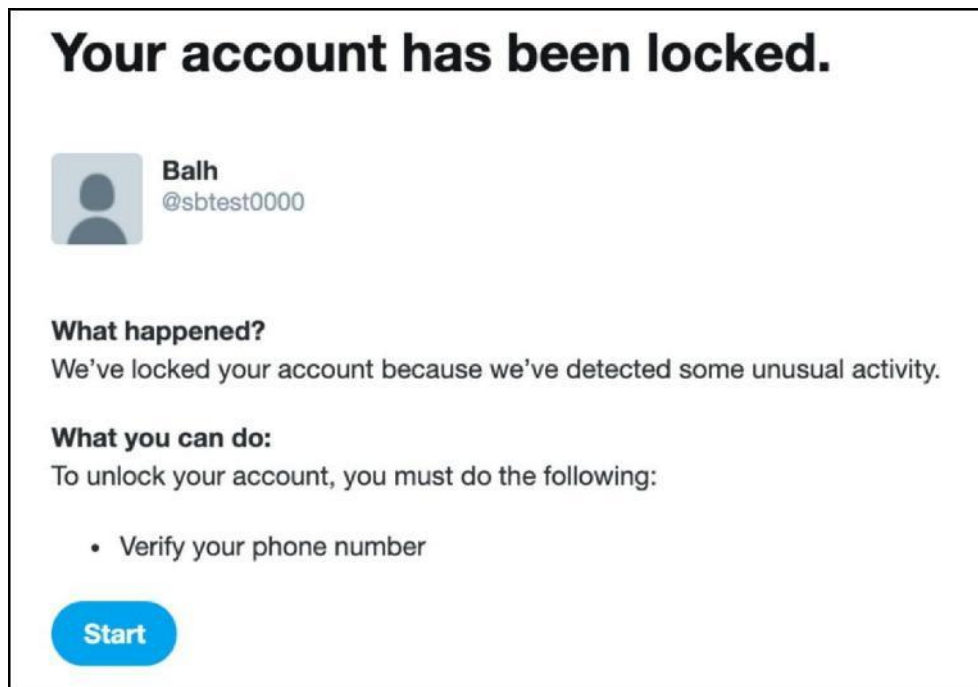
4 51. According to the 2022 FTC Complaint, from June 2015, approximately 37 million  
5 users provided a telephone number or email address for account recovery purposes.

6 52. The fact that Twitter used the telephone numbers and email addresses provided by  
7 users for the purpose of safeguarding their accounts for advertising would be material to users  
8 when deciding whether to provide their information for account recovery purposes.

9 **C. Twitter’s Deceptive Collection of Personal Information for Re-Authentication**

10 53. In December 2013, Twitter began requiring users to provide a telephone number or  
11 email address for re-authentication (e.g., to re-enable full access to an account after Twitter has  
12 detected suspicious or malicious activity).

13 54. If Twitter detects suspicious or malicious activity on a user’s account, or suspects  
14 that the account may belong to a previously-banned user, Twitter may require the user to re-  
15 authenticate by providing a telephone number through a prompt similar to the one depicted below:



27 55. If users click the “Start” button pictured above, they are instructed to enter a  
28 telephone number through a prompt similar to the one depicted below:

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**Add a phone number.**

Enter the phone number you'd like to associate with your Twitter account.

You'll get a verification code sent here (SMS fees may apply).

+1 United States

Your phone number

Let others find you by your phone number

Send code

56. Similarly, Twitter may require users to provide an email address to re-enable full access to their accounts with a prompt similar to the one depicted below:

**Please verify your email address.**

Enter an email address that you would like to associate with your Twitter account.

Your email address

Let others find you by your email address

Send email

57. Through September 2019, Twitter did not disclose at any point in the re-authentication pathway described above that it was using the telephone numbers or email addresses users provided for re-authentication to target advertisements to those users.

1           58.     According to the 2022 FTC Complaint, from September 2014, approximately 104  
2 million users provided a telephone number or email address in response to a prompt for re-  
3 authentication.

4           59.     The fact that Twitter used the telephone numbers and email addresses provided for  
5 re-authentication for advertising would be material to users when deciding whether to provide their  
6 information in response to a prompt for re-authentication.

7     **III.    Twitter Misrepresented that it Processed Personal Data in Accordance with the EU-  
8           U.S. and Swiss-U.S. Privacy Shield Frameworks**

9           60.     The European Union and Switzerland have each established regulatory regimes to  
10 protect individuals’ right to privacy with respect to the processing of their personal data. Both  
11 privacy regimes generally prohibit businesses from transferring personal data to third party  
12 countries unless the recipient jurisdiction’s laws are deemed to adequately protect personal data.

13           61.     To ensure adequate privacy protections for commercial data transfers, the  
14 International Trade Administration of the U.S. Department of Commerce (“Commerce”)  
15 coordinated with the European Commission and the Swiss Administration to craft the EU-U.S.  
16 and Swiss-U.S. Privacy Shield Frameworks (“Privacy Shield” or “Frameworks”). The  
17 Frameworks are materially identical.

18           62.     To rely on the Privacy Shield for data transfers, a company needed to self-certify  
19 and annually affirm to Commerce that it complied with the Privacy Shield Principles (the  
20 “Principles”). Of note, Principle 5(a) provided that “[a]n organization may not process personal  
21 information in a way that is incompatible with the purposes for which it has been collected or  
22 subsequently authorized by the individual.” The Frameworks defined “processing” to include “any  
23 operation or set of operations which is performed upon personal data, whether or not by automated  
24 means” and includes, among other things, “collection,” “storage,” and “use” of personal  
25 information.

26           63.     Companies under the enforcement jurisdiction of the FTC, as well as the U.S.  
27 Department of Transportation, were eligible to join the EU-U.S. and Swiss-U.S. Privacy Shield  
28 Frameworks. A company under the FTC’s jurisdiction that self-certified to the Privacy Shield

1 Principles, but failed to comply with the Privacy Shield, may be subject to an enforcement action  
2 based on the FTC’s deception authority under Section 5 of the FTC Act.

3 64. Commerce maintains a public website, <https://www.privacyshield.gov>, where it  
4 posts the names of companies that have self-certified to the Privacy Shield. The listing of  
5 companies, found at <https://www.privacyshield.gov/list>, indicates whether the company’s self-  
6 certification is current.

7 65. On November 16, 2016, Twitter self-certified its participation in the Privacy Shield.  
8 Twitter has reaffirmed its participation in the Privacy Shield to Commerce each year thereafter.

9 66. As described above, through at least September 2019, Twitter deceptively used  
10 Personal Information collected for specific security-related purposes for advertising.

11 67. Twitter’s use of such Personal Information for advertising purposes was not  
12 compatible with the purposes for which the Information was collected, and Twitter did not obtain  
13 subsequent authorization from any individual to use such Information for advertising.

14 68. As a company under the jurisdiction of the FTC, Twitter’s failure to comply with  
15 the Privacy Shield, is a violation of Section 5 of the FTC Act.

16 **IV. Twitter Violated Its Privacy Policy and Cal. Bus. & Prof. Code § 22576**

17 69. Pursuant to its Terms of Service, Twitter’s Privacy Policy  
18 (<https://www.twitter.com/privacy>) describes “how we handle the information you provide to us  
19 when you use our Services. You understand that through your use of the Services you consent to  
20 the collection and use (as set forth in the Privacy Policy) of this information . . .”<sup>4</sup>

21 70. Twitter’s Privacy Policy—as set out at <https://twitter.com/en/privacy>—repeatedly  
22 touts how it respects its users’ privacy, and does not disclose users’ information without their  
23 consent.

24 71. For example, it states:

25  
26 <sup>4</sup> Twitter Terms of Service, effective May 25, 2018, at § 2, *available at*  
27 [https://twitter.com/en/tos/previous/version\\_13](https://twitter.com/en/tos/previous/version_13). Prior versions of the Terms of Service are virtually  
28 identical in this respect. *See, e.g.*, Twitter Terms of Service, effective June 25, 2012, at § 2,  
*available at* [https://twitter.com/en/tos/previous/version\\_7](https://twitter.com/en/tos/previous/version_7) (“Any information that you provide to  
Twitter is subject to our Privacy Policy, which governs our collection and use of your information.  
You understand that through your use of the Services you consent to the collection and use (as set  
forth in the Privacy Policy) of this information . . .”).

- “We believe you should always know what data we collect from you and how we use it, and that you should have meaningful control over both. We want to empower you to make the best decisions about the information that you share with us.”

Privacy Policy, p. 1.

- “We give you control through your settings to limit the data we collect from you and how we use it, and to control things like account security, marketing preferences, apps that can access your account, and address book contacts you’ve uploaded to Twitter. You can also download information you have shared on Twitter.” Privacy Policy, p. 2.

72. Most notably, § 3.1 of the Privacy Policy promises that:

**We share or disclose your personal data with your consent or at your direction,** such as when you authorize a third-party web client or application to access your account or when you direct us to share your feedback with a business. . . .

Subject to your settings, we also provide certain third parties with personal data to help us offer or operate our services. You can learn more about these partnerships in our Help Center, and **you can control whether Twitter shares your personal data in this way by using the “Allow additional information sharing with business partners” option in your Personalization and Data settings.** (This setting does not control sharing described elsewhere in our Privacy Policy, such as when we share data with our service providers, or through partnerships other than as described in our Help Center.)

73. As described herein, Twitter did not abide by its Privacy Policy in that Plaintiffs and Class members did not “know what data” Twitter “collect[ed] from [them] and how [Twitter] use[d] it,” nor did Plaintiffs and Class members “have meaningful control over both”; Twitter did not give its users “control through your settings to limit the data we collect from you and how we use it”; and most importantly Twitter did “share or disclose [users’] personal data” without their “consent or at [their] direction;” all contrary to the Privacy Policy.

74. Importantly, Cal. Bus. & Prof. Code § 22576 prohibits an “operator of a commercial Web site or online service that collects personally identifiable information through the Web site or online service from individual consumers who use or visit the commercial Web site or online service” from “knowingly and willfully” or “negligently and materially” failing “to comply with” the “provisions of its posted privacy policy.”

1           75. Here, Twitter either “knowingly and willfully” or “negligently and materially”  
2 failed “to comply with” the “provisions of its posted privacy policy,” in violation of Cal. Bus. &  
3 Prof. Code § 22576.

4 **V. Tolling of the Statute of Limitations**

5           76. Any applicable statutes of limitations have been tolled under (1) the fraudulent  
6 concealment doctrine, based on Twitter’s knowing and active concealment and denial of the facts  
7 alleged herein and (2) the delayed discovery doctrine, as Plaintiffs did not and could not reasonably  
8 have discovered Twitter’s conduct alleged herein until shortly before the Complaint was filed.

9           77. Twitter never disclosed, or adequately disclosed, that it would use the collected  
10 Personal Information of Plaintiffs and Class members for advertising purposes.

11 **CLASS ACTION ALLEGATIONS**

12           78. Plaintiffs seek relief on behalf of themselves and as representatives of all others  
13 who are similarly situated. Pursuant to Fed. R. Civ. P. Rule 23(a), (b)(2), (b)(3) and (c)(4),  
14 Plaintiffs seek certification of a nationwide class defined as follows:

15           All individuals residing in the United States who between May 2013 and September  
16 2019 provided his or her telephone number(s) and/or email address(es) (“Personal  
17 Information”) to Twitter for purposes of two-factor authentication, account  
recovery, and/or account re-authentication (the “Nationwide Class”).

18           79. Excluded from the Class are the following individuals and/or entities: Defendant  
19 and Defendant’s parents, subsidiaries, affiliates, officers and directors, and any entity in which  
20 Defendant has a controlling interest; all individuals who make a timely election to be excluded  
21 from this proceeding using the correct protocol for opting out; any and all federal, state or local  
22 governments, including but not limited to their departments, agencies, divisions, bureaus, boards,  
23 sections, groups, counsels and/or subdivisions; and all judges assigned to hear any aspect of this  
24 litigation, as well as their immediate family members and staff.

25           80. Plaintiffs reserve the right to modify or amend the definition of the proposed Class  
26 before the Court determines whether certification is appropriate.

27           81. The proposed Class meets the criteria for certification under Rule 23(a), (b)(2),  
28 (b)(3) and (c)(4).



1           82.     **Ascertainability:** Membership of the Class is defined based on objective criteria  
2 and individual members will be identifiable from Twitter’s records, including from Twitter’s  
3 massive data storage, consumer accounts, and enterprise services. Based on information readily  
4 accessible to it, Twitter can identify members of the Class who were victims of Twitter’s  
5 impermissible collection and use of the Personal Information as alleged herein.

6           83.     **Numerosity:** The Class consists of millions of individuals. Specifically, as noted  
7 above, according to the 2022 FTC Complaint, from May 2013, approximately two million users  
8 provided a telephone number to enable two-factor authentication; from June 2015, approximately  
9 37 million users provided a telephone number or email address for account recovery purposes; and  
10 from September 2014, approximately 104 million users provided a telephone number or email  
11 address in response to a prompt for re-authentication. Accordingly, members of the Class are so  
12 numerous that joinder of all members is impracticable. Class members may be identified from  
13 Defendant’s records, including from Twitter’s consumer accounts and enterprise services.

14           84.     **Predominant Common Questions:** Common questions of law and fact exist as to  
15 all members of the Class and predominate over any questions affecting solely individual members  
16 of the Class. Common questions for the Class include, but are not limited to, the following:

- 17           a.     Whether, during the class period, Twitter disclosed, or adequately disclosed,  
18                 the purposes for which it was collecting and using the Personal Information;
- 19           b.     Whether, during the class period, Twitter used the collected Personal  
20                 Information for purposes other than for two-factor authentication, account  
21                 recovery, and/or account re-authentication, and, specifically whether Twitter  
22                 used the Personal Information for marketing and/or advertising purposes;
- 23           c.     Whether Twitter’s practice of collecting and utilizing the Personal  
24                 Information violated the 2011 Commission Order and/or the FTC Act;
- 25           d.     Whether Twitter’s practice of collecting and utilizing the Personal  
26                 Information violated state and federal privacy laws;
- 27           e.     Whether Twitter’s practice of collecting and utilizing the Personal  
28                 Information violated tort laws;

- 1 f. Whether Twitter has been unjustly enriched by its practice of collecting
- 2 and utilizing the Personal Information;
- 3 g. Whether Plaintiffs and Class members are entitled to declaratory and/or
- 4 injunctive relief to enjoin the unlawful conduct alleged herein; and
- 5 h. Whether Plaintiffs and Class members have sustained damages as a result
- 6 of Twitter’s conduct and if so, what is the appropriate measure of damages
- 7 or restitution.

8 85. **Typicality:** Plaintiffs’ claims are typical of the claims of other Class members, as  
9 all members of the Class were uniformly affected by Twitter’s wrongful conduct in violation of  
10 law as complained of herein.

11 86. **Adequacy of Representation:** Plaintiffs will fairly and adequately protect the  
12 interests of the members of the Class and have retained counsel that is competent and experienced  
13 in class action litigation, including nationwide class actions and privacy violations. Plaintiffs and  
14 their counsel have no interest that is in conflict with, or otherwise antagonistic to the interests of  
15 the other Class members. Plaintiffs and their counsel are committed to vigorously prosecuting this  
16 action on behalf of the members of the Class, and they have the resources to do so.

17 87. **Superiority:** A class action is superior to all other available methods for the fair and  
18 efficient adjudication of this controversy since joinder of all members is impracticable. This proposed  
19 class action presents fewer management difficulties than individual litigation and provides the benefits  
20 of a single adjudication, economies of scale and comprehensive supervision by a single, able court.  
21 Furthermore, as the damages individual Class members have suffered may be relatively small, the  
22 expense and burden of individual litigation make it impossible for members of the Class to individually  
23 redress the wrongs done to them. There will be no difficulty in management of this action as a class  
24 action.

25 88. **California Law Applies to the Entirety of the Class:** California’s substantive laws  
26 apply to every member of the Class, regardless of where in the United States the Class member resides.  
27 Defendant’s own Terms of Service explicitly states “The laws of the State of California, excluding its  
28 choice of law provisions, will govern these Terms and any dispute that arises between you and Twitter.

1 All disputes related to these Terms or the Services will be brought solely in the federal or state courts  
2 located in San Francisco County, California, United States, and you consent to personal jurisdiction and  
3 waive any objection as to inconvenient forum.” By choosing California law for the resolution of disputes  
4 covered by its Terms of Service, Twitter concedes that it is appropriate for this Court to apply California  
5 law to the instant dispute to all Class members. Further, California’s substantive laws may be  
6 constitutionally applied to the claims of Plaintiffs and the Class members under the Due Process Clause,  
7 *see* U.S. CONST. amend. XIV, § 1, and the Full Faith and Credit Clause, *see* U.S. CONST. art. IV, § 1, of  
8 the U.S. Constitution. California has significant contact, or significant aggregation of contacts, to the  
9 claims asserted by the Plaintiffs and all Class members, thereby creating state interests that ensure that  
10 the choice of California state law is not arbitrary or unfair. Defendant’s decision to reside in California  
11 and avail itself of California’s laws, and to engage in the challenged conduct from and emanating out  
12 of California, renders the application of California law to the claims herein constitutionally permissible.  
13 The application of California laws to the Class is also appropriate under California’s choice of law rules  
14 because California has significant contacts to the claims of Plaintiffs and the proposed Class and  
15 California has the greatest interest in applying its laws here.

16 89. Plaintiffs reserve the right to revise the foregoing class allegations and definitions based  
17 on facts learned and legal developments following additional investigation, discovery, or otherwise.

18 **COUNT ONE: BREACH OF CONTRACT**  
19 **(On Behalf of Plaintiffs and the Nationwide Class)**

20 90. Plaintiffs hereby incorporate the previously-pleaded paragraphs as if fully stated  
21 herein.

22 91. Twitter’s relationship with its users is governed by the Twitter Terms of Service,  
23 and the Twitter Privacy Policy.

24 92. The Twitter Privacy Policy repeatedly promises Plaintiffs and Class members that  
25 Twitter respects their information and discloses such information only with users’ consent.

26 93. Specifically, Twitter’s Privacy Policy states:

- 27 • “We believe you should always know what data we collect from you and how we  
28 use it, and that you should have meaningful control over both. We want to empower

1           you to make the best decisions about the information that you share with us.”

2           Privacy Policy, p. 1.

- 3           • “We give you control through your settings to limit the data we collect from you and  
4           how we use it, and to control things like account security, marketing preferences,  
5           apps that can access your account, and address book contacts you’ve uploaded to  
6           Twitter. You can also download information you have shared on Twitter.” Privacy  
7           Policy, p. 2.

8  
9           94.     Most notably, § 3.1 of the Privacy Policy promises that:

10           **We share or disclose your personal data with your consent or at your direction,**  
11           such as when you authorize a third-party web client or application to access your  
12           account or when you direct us to share your feedback with a business. . . .

13           Subject to your settings, we also provide certain third parties with personal data to  
14           help us offer or operate our services. You can learn more about these partnerships  
15           in our Help Center, and **you can control whether Twitter shares your personal  
16           data in this way by using the “Allow additional information sharing with  
17           business partners” option in your Personalization and Data settings.** (This  
18           setting does not control sharing described elsewhere in our Privacy Policy, such as  
19           when we share data with our service providers, or through partnerships other than  
20           as described in our Help Center.)

21           95.     Twitter breached these promises.

22           96.     As described herein, Plaintiffs and Class members did not “know what data” Twitter  
23           “collect[ed] from [them] and how [Twitter] use[d] it,” nor did Plaintiffs and Class members “have  
24           meaningful control over both”; Twitter did not give its users “control through your settings to limit  
25           the data we collect from you and how we use it”; and most importantly Twitter did “share or disclose  
26           [users’] personal data” without their “consent or at [their] direction”; all contrary to the Privacy  
27           Policy.

28           97.     Plaintiffs and Class members fulfilled their obligations under the relevant contracts  
and are not in breach of any material terms.

          98.     As a result of Twitter’s breach(es), Twitter was able to obtain the personal property  
of Plaintiffs and Class members and earn unjust profits.

1 99. Plaintiffs and Class members also did not receive the benefit of the bargain for  
2 which they contracted and for which they paid valuable consideration in the form of the personal  
3 information they agreed to share, which has ascertainable value to be proven at trial.

4 100. Plaintiffs, on behalf of themselves and Class members, seek compensatory  
5 damages, consequential damages, nominal damages, and/or non-restitutionary disgorgement in an  
6 amount to be proven at trial, and declarative, injunctive, or other equitable relief.

7  
8 **COUNT TWO: BREACH OF IMPLIED CONTRACT**  
9 **(Alleged In the Alternative to Count I)**  
10 **(On Behalf of Plaintiffs and the Nationwide Class)**

11 101. Plaintiffs hereby incorporate the previously-pleaded paragraphs as if fully stated  
12 herein.

13 102. Defendant solicited and collected the Personal Information of Plaintiffs and Class  
14 members with the express representation that it would be used for two-factor authentication,  
15 account recovery, and/or account re-authentication.

16 103. In so doing, Plaintiffs and the Class entered into implied contracts with Defendant  
17 by which Defendant agreed to utilize the Personal Information solely for the purposes expressed:  
18 two-factor authentication, account recovery, and/or account re-authentication, and for no other  
19 purposes such as marketing and/or advertising.

20 104. A meeting of the minds occurred when Plaintiffs and Class members agreed to, and  
21 did, provide their Personal Information to Defendant.

22 105. Plaintiffs and the Class fully performed their obligations under the implied  
23 contracts with Defendant.

24 106. Defendant breached the implied contracts it made with Plaintiffs and the Class by  
25 utilizing and profiting from their Personal Information via the marketing and advertising purposes  
26 the information was put to.

27 107. As a result of Defendant's breach of implied contract, Plaintiffs and the Class are  
28 entitled to and demand actual, consequential, and nominal damages.

1  
2                   **COUNT THREE: UNFAIR COMPETITION LAW (“UCL”),**  
3                   **CAL. BUS. & PROF. CODE § 17200 *ET SEQ.***  
4                   **(On Behalf of Plaintiffs and the Nationwide Class)**

5           108. Plaintiffs hereby incorporate the previously-pleaded paragraphs as if fully stated  
6 herein.

7           109. The UCL prohibits any “unlawful, unfair, or fraudulent business act or practice and  
8 unfair, deceptive, untrue or misleading advertising.” Cal. Bus. & Prof. Code § 17200 (“UCL”). By  
9 engaging in the practices aforementioned, Twitter has violated the UCL.

10           110. Twitter’s “unlawful” acts and practices include its violation of the 2011  
11 Commission Order and Section 5 of FTC Act, violation of the Privacy Shield and Frameworks,  
12 and violation of Cal. Bus. & Prof. Code § 22576.

13           111. Twitter’s conduct violated the spirit and letter of these laws, which prohibit  
14 unauthorized disclosure and collection of Personal Information.

15           112. Twitter’s “unfair” acts and practices include its misrepresentations regarding, and  
16 failure to disclose the purposes for which it was collecting and utilizing, the Personal Information,  
17 as described above, and its subsequent use of that information for profit.

18           113. Twitter’s “fraudulent” acts and practices include its misrepresentations and  
19 omissions regarding the purposes for which it was collecting and utilizing the Personal  
20 Information, as described above, and its subsequent use of that information for profit.

21           114. Plaintiffs and Class members have suffered injury-in-fact, including the loss of  
22 money and/or property as a result of Twitter’s unfair, unlawful, and/or fraudulent practices, to wit,  
23 the unauthorized disclosure and use of their Personal Information which has value as demonstrated  
24 by its use for targeted advertising by Twitter. Plaintiffs and Class members have suffered harm in  
25 the form of diminution of the value of their private and personally identifiable data and content.

26           115. Twitter’s actions caused damage to and loss of Plaintiffs’ and Class members’  
27 property right to control the dissemination and use of their personal information.

28           116. Twitter reaped unjust profits and revenues in violation of the UCL. This includes  
Twitter’s profits and revenues from its targeted-advertising services. Plaintiffs and the Class seek  
restitution and disgorgement of these unjust profits and revenues.

1 117. While Twitter has purportedly ceased using the Personal Information gathered from  
2 Class members it collected as described above for advertising purposes, Twitter still possesses  
3 Class members' Personal Information and could use it for such purposes in the future. Plaintiffs  
4 and the Class seek injunctive relief prohibiting further violations of their privacy and misuse of  
5 their Personal Information.

6 **COUNT FOUR: UNJUST ENRICHMENT**  
7 **(Alleged In the Alternative to Counts 1 & 2)**  
8 **(On Behalf of Plaintiffs and the Nationwide Class)**

9 118. Plaintiffs hereby incorporate the previously-pleaded paragraphs as if fully stated  
10 herein.

11 119. Plaintiffs and Class members conferred a benefit on Twitter. Specifically, they  
12 provided Twitter with their Personal Information. In exchange, Plaintiffs and Class members  
13 should have received from Twitter the services that were the subject of the transaction—two-factor  
14 authentication, account recovery, and/or account re-authentication services—and should have  
15 been entitled to have Twitter not disclose and use their Personal Information for targeted  
16 advertising and/or marketing purposes.

17 120. Twitter knew that Plaintiffs and Class members conferred a benefit on Twitter and  
18 has accepted or retained that benefit. Twitter profited from the Personal Information of Plaintiffs  
19 and Class members for business purposes, without disclosing to, or obtaining authorization from,  
20 Plaintiffs and Class members to so use the Personal Information.

21 121. Thus, Twitter acquired the Personal Information through inequitable means in that  
22 it failed to disclose all the purposes for which it would use the Personal Information, and  
23 misrepresented those uses.

24 122. Plaintiffs and Class members have no adequate remedy at law.

25 123. Under the circumstances, it would be unjust for Twitter to be permitted to retain  
26 any of the benefits that Plaintiffs and Class members conferred on it.

27 124. Twitter should be compelled to disgorge into a common fund or constructive trust,  
28 for the benefit of Plaintiffs and Class members, proceeds that it unjustly received—specifically all

1 revenue related to the targeted advertising and/or marketing that utilized the improperly obtained  
2 Personal Information.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiffs respectfully request that this Court:

5 A. Certify this action as a class action pursuant to Rule 23 of the Federal Rules of Civil  
6 Procedure;

7 B. Appoint Plaintiffs to represent the Class;

8 C. Appoint undersigned counsel to represent the Class;

9 D. Award compensatory damages, including statutory damages where available, to  
10 Plaintiffs and the Class members against Defendant for all damages sustained as a result of  
11 Defendant's wrongdoing, in an amount to be proven at trial, including interest thereon;

12 E. Award nominal damages to Plaintiffs and the Class members against Defendant;

13 F. Provide for non-restitutionary disgorgement of all of Defendant's profits that were  
14 derived, in whole or in part, from Twitter's collection and subsequent use of Plaintiffs' Personal  
15 Information;

16 G. Order Defendant to disgorge revenues and profits wrongfully obtained;

17 H. Award Plaintiffs and Class members their reasonable costs and expenses incurred in  
18 this action, including attorneys' fees and expert fees; and

19 I. Grant Plaintiffs and the Class members such further relief as the Court deems  
20 appropriate.

21 **JURY TRIAL DEMAND**

22 Plaintiffs demand a trial by jury of all issues so triable.  
23  
24  
25  
26  
27  
28



1 DATED: August 15, 2022

Respectfully submitted,

2  
3 */s/ Sophia Rios*

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*Counsel for Plaintiffs and the Proposed Class*

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Twitter Secretly Uses Phone Numbers, Email Addresses for Ad Targeting, Class Action Says](#)

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