VIRGINIA:	IN THE CIRCUIT COURT FOR THE COUNTY OF HENRICO
DEVIN G. NUNE	S ,)
Plaintiff,)
v.) Case No.: CL19-1715-00
TWITTER, INC.,	et al.,
Defendant	, ,

MOTION TO DISMISS FOR LACK OF PERSONAL JURISDICTION AND IMPROPER VENUE

Specially-Appearing Defendant Twitter, Inc. ("Twitter"), by counsel, hereby moves to dismiss this action and the claims against it for lack of personal jurisdiction and improper venue.¹ Twitter states the following in support of this Motion:

- 1. Plaintiff's claims against Twitter must be dismissed because the Court lacks personal jurisdiction over Twitter. Twitter is neither "at home" in Virginia such that *general* personal jurisdiction is appropriate, nor does this suit arise out of any actions that Twitter took in or directed at Virginia, such that *specific* personal jurisdiction is appropriate.
- 2. Plaintiff's claims against Twitter must also be dismissed for improper venue under Va. Code § 8.01-264. The mandatory forum selection clause in Twitter's Terms of Service requires Plaintiff, as a Twitter user, to file any action arising out of Twitter's Terms or services in San Francisco, California.

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Twitter files this motion by special appearance. Because this motion challenges only personal jurisdiction and venue, it is "unrelated to adjudicating the merits of the case" and therefore "does not waive any objection to personal jurisdiction." Va. Code § 8.01-277.1(B). Twitter expressly reserves the right to file responsive pleadings addressing the merits of Plaintiff's Complaint in the event that Twitter's motion to dismiss is not granted.

- 3. Moreover, and presented only in the alternative if the Court were to determine that jurisdiction and venue are proper in this forum (which they are not for the reasons given above), Twitter moves to dismiss this action on forum non conveniens grounds pursuant to Va. Code § 8.01-265. Forum non conveniens principles dictate that this lawsuit be brought where the witnesses, evidence, and operative facts will overwhelmingly be found—here, California—and not in a forum that has only a tangential relationship to this dispute.
- 4. In support of this motion, Twitter relies upon and incorporates herein the arguments and authorities contained in its contemporaneously-filed memorandum in support of this motion.

WHEREFORE, Specially-Appearing Defendant Twitter, Inc. respectfully requests that the Court grant this Motion, dismiss this action and all claims against it without prejudice, and grant such other relief as the Court deems just and proper.

Dated: May 9, 2019

Respectfully submitted,

TWITTER, INC.

By Counsel

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