WHITE & CASE

White & Case LLP
555 South Flower Street
Suite 2700
Los Angeles, California 90071-2433
T +1 213 620 7700

whitecase.com

June 14, 2023

VIA MAIL AND EMAIL

Julie A. Hammil (julie@juliehammil-law.com)
Hamill Law & Consulting
904 Silver Spur Rd. #287
Rolling Hills Estates, CA 90274

Re: ***Alliance of Los Angeles County Parents v. County of Los Angeles Department of Public Health, et al.,*** **Case No. 22STCP02772 (Cal. Super. Ct.) – Subpoena**

Dear Counsel:

We represent X Corp., successor in interest to Twitter, Inc. ("Twitter"). We are in receipt of the Deposition Subpoena for Production of Business Records (the "Subpoena") that you served on behalf of the Plaintiff in connection with the above-referenced action. In accordance with applicable rules, including the California Code of Civil Procedure, and our agreement to extend Twitter's response deadline to June 15, 2023, Twitter responds to the Subpoena and the document requests ("Requests") in the Subpoena as follows:

## General Objections

1. The following responses are based on information currently available to Twitter. These responses are given without prejudice to Twitter's right to produce or rely on subsequently discovered information.

2. Twitter reserves the right to amend, supplement, or otherwise modify its responses and interpose objections not asserted herein. Twitter's failure to include any objection to the Requests or any particular definition is neither intended as, nor shall in any way be deemed, a waiver of Twitter's right to assert that or any other objection.

3. Twitter objects to each Request to the extent they seek documents not in Twitter's possession, custody, or control.

4. It appears that the Subpoena constitutes unauthorized early discovery. The California Civil Procedure Code requires that a subpoena may be served upon a non-party such as Twitter only "20 days after the service of the summons on, or appearance by, any defendant." Cal. Civ. Proc. Code § 2025.210(b); *see also Cal. Shellfish Inc. v. United Shellfish Co.*, 64 Cal. Rptr. 2d 797, 800–01 (Cal. Ct. App. 1997). The court may, for good cause shown, grant leave to the plaintiff to engage in non-party discovery at an earlier time. *Id.* Here, it does

not appear that a defendant has been served, and there is no indication that you have sought, or that the court has granted, leave to serve discovery on a non-party. Therefore, your discovery request is unauthorized early discovery. *Cal. Shellfish Inc.*, 64 Cal. Rptr. 2d at 800–01 (holding that plaintiff could not serve non-party with deposition subpoena for business records before serving summons and complaint on only named defendant, and noting that "[a]llowing a plaintiff to initiate discovery by deposition subpoena [on a non-party] before serving any defendant with the summons and complaint, and without notice of the deposition to any defendant, or any other party in the action is fraught with the danger for abuse") (citing *Lund v. Superior Court*, 39 Cal. Rptr. 891 (Cal. 1964)).

5. Twitter objects to the Subpoena to the extent you are seeking Twitter's deposition testimony. Twitter is unable to produce trial or deposition witnesses. Record interpretation, opinion on what the records may mean to your case, or testimony about how to use Twitter must be provided by the parties' technical experts and/or the correct party witness(es). It is improper and unduly burdensome to attempt to force a non-party like Twitter to provide expert testimony against their will. *See Intermarine, LLC v. Spliethoff Bevrachtingskantoor, B.V.*, 123 F. Supp. 3d 1215 (N.D. Cal. 2015) (quashing deposition subpoena because a litigant "is not entitled to elicit expert testimony from [a service provider], particularly where it can retain its own expert witness to explain these issues[,]"and service providers "should not bear the burden of providing testimony in all cases in which [a user's documents] are at issue"); *Young v. U.S.*, 181 F.R.D. 344, 346 (W.D. Tex. 1997) ("just because a party wants to make a person work as an expert does not mean that, absent the consent of the person in question, the party generally can do so."). To the extent Twitter's appearance is being requested merely to prove up records, Twitter is willing to provide a standard custodian declaration if it later produces data in connection with this Subpoena.

6. Twitter objects to all definitions, instructions, and Requests that purport to impose obligations on Twitter that are different from, in addition to, or greater than those set forth in the California Rules of Civil Procedure.

7. Twitter further objects to the terms "communications," "documents," "person," "using an email address," "regarding," "Twitter account," "known as," "pertaining to," "suspension," "deboosting," "throttling," "adverse actions taken," and "Twitter Case Number," on the basis that these terms are vague and ambiguous, overbroad, and unduly burdensome, as the scope of materials sought in the Request is unclear.

8. Twitter objects to the Requests to the extent they exceed the scope of basic subscriber information that Twitter may permissibly produce under the Electronic Communications Privacy Act, 18 U.S.C. §§ 2510 *et seq.*, including the Stored Communications Act, 18 U.S.C. §§ 2701 *et seq.* ("SCA"), and to the extent they seek the content of a user's electronic communications, such as messages, posts, comments, photos, or videos, because such a request is barred by the SCA. The SCA does not permit private parties to compel production of the content of a user's electronic communications from service providers such as Twitter by service of a subpoena or court order, and there is no exception for civil discovery demands. 18 U.S.C. §§ 2702(a)(1), (2); 2702(b)(1)-(8); *see also Suzlon Energy Ltd. v.*

*Microsoft Corp.*, 671 F.3d 726, 730 (9th Cir. 2011) (holding that non-governmental entities may not obtain communications content with a civil discovery demand because it would "invade[] the specific interests that the [SCA] seeks to protect."); *O'Grady v. Superior Court*, 139 Cal. App. 4th 1423, 1441-47 (2006) (holding that the SCA bars civil litigants from obtaining communications content from a service provider). Such requests must be directed to the user or other non-provider entities. Active users can log into their accounts at any time to preserve, collect, produce, and authenticate their account contents. Various tools are available to help users access and download their information. Descriptions of these tools are available in Twitter's Help Center (https://help.twitter.com/en/managing-your-account/accessing-your-twitter-data).

9. Twitter further objects to the Subpoena because you have provided no documentation demonstrating that the Court considered and imposed the First Amendment safeguards required before a litigant may be permitted to unmask the identity of an anonymous speaker. As courts addressing the issue have recognized, the trial court must strike a balance "between the well-established First Amendment right to speak anonymously, and the right of the plaintiff to protect its proprietary interests and reputation through the assertion of recognizable claims based on the actionable conduct of the anonymous, fictitiously-named defendants." *Dendrite Int'l, Inc. v. Doe No. 3*, 775 A.2d 756, 760 (N.J. Super. A.D. 2001). Accordingly, before a service provider may be compelled to unmask an anonymous speaker, (1) a reasonable attempt to notify the user of the request and the lawsuit must be made, thereby providing the user an opportunity to assert his or her First Amendment right to speak anonymously through an application for a protective order or a motion to quash; and (2) the plaintiff must make a prima facie showing of the elements of the asserted cause of action. *See Krinsky v. Doe*, 72 Cal. Rptr. 3d 231, 239, 244–46 (Cal. Ct. App. 2008); *Glassdoor, Inc. v. Super. Ct.*, 9 Cal. App. 5th 623 (2017) (affirming the *Krinsky* requirements and the standard for protecting online speakers). Moreover, the party seeking discovery must demonstrate a compelling need for discovery. *Williams v. Superior Court*, 3 Cal. 5th 531, 557 (2017) (citing *Hill v. Nat'l Collegiate Athletic Assn.*, 7 Cal. 4th 1, 34 (1994)) ("obvious invasions of interests fundamental to personal autonomy must be supported by a compelling interest"); *see also Smythe v. Does 1-10*, No. 15-mc-80292-LB, 2016 WL 54125 (N.D. Cal. Jan. 5, 2016) (denying motion to enforce subpoena against Twitter where movant failed to overcome user's First Amendment right to anonymous speech). It is unclear here whether the Court has issued an order with the requisite First Amendment findings.

10. Because it appears that you purport to know or suspect who controls the targeted account(s), you may obtain the information you seek by issuing a discovery request directly to those persons, who are not subject to the SCA's provisions. Courts have recognized that a request for production directly to the user is the appropriate way to obtain the content of a litigant's electronic communications. *See, e.g.*, *Suzlon*, 671 F.3d at 731 (noting that the inability to obtain documents from a provider does not affect the ability to obtain the documents directly from the user); *O'Grady*, 139 Cal. App. 4th at 1446 (holding that a discovery request for content must be directed to the user). This is consistent with your duty to avoid imposing an undue burden on nonparties such as Twitter, and nonparty discovery can occur only if the information sought is not available through discovery from the parties to the litigation

themselves. *See, e.g.*, Fed. R. Civ. P. 45(d)(1); *Suzlon*, 671 F.3d at 731 (noting that the inability to obtain documents from a provider does not affect the ability to obtain the documents directly from the user); *Calcor Space Facility, Inc. v. Superior Court*, 53 Cal. App. 4th 216, 225 (1997) (holding that "[a]s between parties to litigation and nonparties, the burden of discovery should be placed on the latter only if the former do not possess the material sought to be discovered.").

11. Separately, Twitter objects to your Requests as overbroad because Twitter either does not understand your need for the requested data, or does not believe your request to be appropriately limited to data necessary for your litigation. All discovery requests must be relevant to a claim or defense or the subject matter of the underlying action See, *e.g.*, Fed. R. Civ. P. 26(b); [Cal. Civ. Proc. Code § 2017.010]; *Tompkins v. Detroit Metro. Airport*, 278 F.R.D. 387, 388-89 (E.D. Mich. 2012) (denying request for content of online account and emphasizing that a litigant "does not have a generalized right to rummage at will through information that [another party] has limited from public view"); *McCann v. Harleysville Ins. Co. of New York*, 78 A.D.3d 1524, 1525, 910 N.Y.S.2d 614, 615 (N.Y. App. Div. 2010) (denying motion for production of content of account where movant "essentially sought permission to conduct 'a fishing expedition' into plaintiff's [online] account based on the mere hope of finding relevant evidence").

12. Twitter objects to the Requests to the extent they seek protected or privileged information, including information protected by the attorney-client privilege, work product doctrine, or other applicable privilege, or confidential, proprietary, or trade secret information. Twitter does not intend to disclose any protected material. Any disclosure of protected materials is inadvertent and should not be construed as a waiver of any applicable privilege or protection.

13. Twitter objects to the Subpoena to the extent it calls for information to be produced in a form or manner other than that kept by Twitter in the usual course of its business.

14. Twitter notes that according to its policies it will give notice to an impacted user before producing basic subscriber information.

15. These general objections shall apply to each response, and the general objections shall be deemed as continuing as to each Request and are not waived, or limited, by Twitter's specific objections and responses.

## Specific Responses and Objections

**Document Request No. 1:**

All Communications between You and Brett Morrow from March 1, 2020 through the date of production.

**Response to Document Request No. 1:**

In addition to the foregoing objections, Twitter objects to the terms "Communications" and "between" on the basis that these terms are vague and ambiguous, overbroad, and unduly burdensome, as the scope of materials sought in the Request is unclear.

Twitter further objects to this Request as overbroad and unduly burdensome to the extent that it seeks "All Communications," particularly without reference to any subject matter that could, if at all, be relevant to the litigation.

Twitter further objects to the extent the Request seeks confidential or proprietary information.

Twitter further objects to this Request to the extent it seeks documents that are publicly available or that already within the Requestor's possession, custody, or control.

Twitter further objects to this Request to the extent that it seeks disclosure of documents or information protected by disclosure by the attorney-client privilege, the work product doctrine, or any other protection, privilege, or immunity against disclosure.

Twitter further objects to this Request because it constitutes unauthorized early discovery under the California Civil Procedure Code § 2025.210(b).

Separately, Twitter objects to the Requests as overbroad because Twitter either does not understand your need for the requested data, or does not believe your Requests to be appropriately limited to data necessary for your litigation. All discovery requests must be relevant to a claim or defense or the subject matter of the underlying action. *See, e.g.*, Cal. Civ. Proc. Code § 2017.010; *Tompkins v. Detroit Metro. Airport*, 278 F.R.D. 387, 388-89 (E.D. Mich. 2012) (denying request for content of online account and emphasizing that a litigant "does not have a generalized right to rummage at will through information that [another party] has limited from public view"); *McCann v. Harleysville Ins. Co. of New York*, 78 A.D.3d 1524, 1525, 910 N.Y.S.2d 614, 615 (N.Y. App. Div. 2010) (denying motion for production of content of account where movant "essentially sought permission to conduct 'a fishing expedition' into plaintiff's [online] account based on the mere hope of finding relevant evidence.").

Twitter further objects to the Requests to the extent they seek information that is more properly obtained by issuing discovery requests directly to a party in this action. Litigants have an obligation to avoid imposing an undue burden on non-parties, and non-party discovery should therefore occur only if the information is not available through discovery from the parties to the litigation themselves. *See* Fed. R. Civ. P. 45(d)(1), (d)(3)(A)(iv). Indeed, a party "must first establish that it cannot obtain the discoverable information from its party-opponent before subpoenaing those documents from a non-party." *In re CareSource Mgmt. Grp. Co.*, 289 F.R.D. 251, 254 (S.D. Ohio 2013). Twitter does not have an "obligation to determine which documents have, or have not, been produced to" parties to the litigation. *Id.* Thus, courts have routinely held that parties should not attempt to seek documents from non-parties that are available to, or in possession of, a party to the litigation. *See, e.g., Calcor Space Facility v. Superior Court*, 53 Cal. App. 4th 216, 225, 61 Cal. Rptr. 2d 567, 573 (1997) ("As between parties to litigation and

nonparties, the burden of discovery should be placed on the latter only if the former do not possess the material sought to be discovered.")

Subject to and without waiving these objections, Twitter responds as follows: Twitter will not produce documents in response to this Request.

**Document Request No. 2:**

All Communications between You and any person using an email address ending in @ph.lacounty.gov from March 1, 2020 through the date of production.

**Response to Document Request No. 2:**

In addition to the foregoing objections, Twitter objects to the terms "Communications," "between," and "any person using an email address," on the basis that these terms are vague and ambiguous, overbroad, and unduly burdensome, as the scope of materials sought in the Request is unclear.

Twitter further objects to this Request as overbroad and unduly burdensome to the extent that it seeks "All Communications," particularly without reference to any subject matter that could, if at all, be relevant to the litigation.

Twitter further objects to the extent the Request seeks confidential or proprietary information.

Twitter further objects to this Request to the extent it seeks documents that are publicly available or that already within the Requestor's possession, custody, or control.

Twitter further objects to this Request to the extent that it seeks disclosure of documents or information protected by disclosure by the attorney-client privilege, the work product doctrine, or any other protection, privilege, or immunity against disclosure.

Twitter further objects to this Request because it constitutes unauthorized early discovery under the California Civil Procedure Code § 2025.210(b).

Separately, Twitter objects to the Requests as overbroad because Twitter either does not understand your need for the requested data, or does not believe your Requests to be appropriately limited to data necessary for your litigation. All discovery requests must be relevant to a claim or defense or the subject matter of the underlying action. *See, e.g.*, Cal. Civ. Proc. Code § 2017.010; *Tompkins v. Detroit Metro. Airport*, 278 F.R.D. 387, 388-89 (E.D. Mich. 2012) (denying request for content of online account and emphasizing that a litigant "does not have a generalized right to rummage at will through information that [another party] has limited from public view"); *McCann v. Harleysville Ins. Co. of New York*, 78 A.D.3d 1524, 1525, 910 N.Y.S.2d 614, 615 (N.Y. App. Div. 2010) (denying motion for production of content of account where movant "essentially sought permission to conduct 'a fishing expedition' into plaintiff's [online] account based on the mere hope of finding relevant evidence.").

Twitter further objects to the Requests to the extent they seek information that is more properly obtained by issuing discovery requests directly to a party in this action. Litigants have an obligation to avoid imposing an undue burden on non-parties, and non-party discovery should therefore occur only if the information is not available through discovery from the parties to the litigation themselves. *See* Fed. R. Civ. P. 45(d)(1), (d)(3)(A)(iv). Indeed, a party "must first establish that it cannot obtain the discoverable information from its party-opponent before subpoenaing those documents from a non-party." *In re CareSource Mgmt. Grp. Co.*, 289 F.R.D. 251, 254 (S.D. Ohio 2013). Twitter does not have an "obligation to determine which documents have, or have not, been produced to" parties to the litigation. *Id*. Thus, courts have routinely held that parties should not attempt to seek documents from non-parties that are available to, or in possession of, a party to the litigation. *See, e.g., Calcor Space Facility v. Superior Court*, 53 Cal. App. 4th 216, 225, 61 Cal. Rptr. 2d 567, 573 (1997) ("As between parties to litigation and nonparties, the burden of discovery should be placed on the latter only if the former do not possess the material sought to be discovered.")

Subject to and without waiving these objections, Twitter responds as follows: Twitter will not produce documents in response to this Request.

**Document Request No. 3:**

All Communications between You and any person using an email address ending in @bos.lacounty.gov from March 1, 2020 through the date of production.

**Response to Document Request No. 3:**

In addition to the foregoing objections, Twitter objects to the terms "Communications," "between," and "any person using an email address," on the basis that these terms are vague and ambiguous, overbroad, and unduly burdensome, as the scope of materials sought in the Request is unclear.

Twitter further objects to this Request as overbroad and unduly burdensome to the extent that it seeks "All Communications," particularly without reference to any subject matter that could, if at all, be relevant to the litigation.

Twitter further objects to the extent the Request seeks confidential or proprietary information.

Twitter further objects to this Request to the extent it seeks documents that are publicly available or that already within the Requestor's possession, custody, or control.

Twitter further objects to this Request to the extent that it seeks disclosure of documents or information protected by disclosure by the attorney-client privilege, the work product doctrine, or any other protection, privilege, or immunity against disclosure.

Twitter further objects to this Request because it constitutes unauthorized early discovery under the California Civil Procedure Code § 2025.210(b).

Separately, Twitter objects to the Requests as overbroad because Twitter either does not understand your need for the requested data, or does not believe your Requests to be appropriately limited to data necessary for your litigation. All discovery requests must be relevant to a claim or defense or the subject matter of the underlying action. *See, e.g.*, Cal. Civ. Proc. Code § 2017.010; *Tompkins v. Detroit Metro. Airport*, 278 F.R.D. 387, 388-89 (E.D. Mich. 2012) (denying request for content of online account and emphasizing that a litigant "does not have a generalized right to rummage at will through information that [another party] has limited from public view"); *McCann v. Harleysville Ins. Co. of New York*, 78 A.D.3d 1524, 1525, 910 N.Y.S.2d 614, 615 (N.Y. App. Div. 2010) (denying motion for production of content of account where movant "essentially sought permission to conduct 'a fishing expedition' into plaintiff's [online] account based on the mere hope of finding relevant evidence.").

Twitter further objects to the Requests to the extent they seek information that is more properly obtained by issuing discovery requests directly to a party in this action. Litigants have an obligation to avoid imposing an undue burden on non-parties, and non-party discovery should therefore occur only if the information is not available through discovery from the parties to the litigation themselves. *See* Fed. R. Civ. P. 45(d)(1), (d)(3)(A)(iv). Indeed, a party "must first establish that it cannot obtain the discoverable information from its party-opponent before subpoenaing those documents from a non-party." *In re CareSource Mgmt. Grp. Co.*, 289 F.R.D. 251, 254 (S.D. Ohio 2013). Twitter does not have an "obligation to determine which documents have, or have not, been produced to" parties to the litigation. *Id*. Thus, courts have routinely held that parties should not attempt to seek documents from non-parties that are available to, or in possession of, a party to the litigation. *See, e.g., Calcor Space Facility v. Superior Court*, 53 Cal. App. 4th 216, 225, 61 Cal. Rptr. 2d 567, 573 (1997) ("As between parties to litigation and nonparties, the burden of discovery should be placed on the latter only if the former do not possess the material sought to be discovered.")

Subject to and without waiving these objections, Twitter responds as follows: Twitter will not produce documents in response to this Request.

**Document Request No. 4:**

All Communications between Lauren Culbertson (lculbertson@twitter.com) and any other person regarding the Los Angeles County Department of Public Health.

**Response to Document Request No. 4:**

In addition to the foregoing objections, Twitter objects to the terms "Communications," "between," and "regarding the Los Angeles County Department of Public Health," on the basis that these terms are vague and ambiguous, overbroad, and unduly burdensome, as the scope of materials sought in the Request is unclear.

Twitter further objects to this Request as overbroad and unduly burdensome to the extent that it seeks "All Communications," particularly without reference to any subject matter that could, if at all, be relevant to the litigation.

Twitter further objects to the extent the Request seeks confidential or proprietary information.

Twitter further objects to this Request to the extent it seeks documents that are publicly available or that already within the Requestor's possession, custody, or control.

Twitter further objects to this Request to the extent that it seeks disclosure of documents or information protected by disclosure by the attorney-client privilege, the work product doctrine, or any other protection, privilege, or immunity against disclosure.

Twitter further objects to this Request because it constitutes unauthorized early discovery under the California Civil Procedure Code § 2025.210(b).

Separately, Twitter objects to the Requests as overbroad because Twitter either does not understand your need for the requested data, or does not believe your Requests to be appropriately limited to data necessary for your litigation. All discovery requests must be relevant to a claim or defense or the subject matter of the underlying action. *See, e.g.*, Cal. Civ. Proc. Code § 2017.010; *Tompkins v. Detroit Metro. Airport*, 278 F.R.D. 387, 388-89 (E.D. Mich. 2012) (denying request for content of online account and emphasizing that a litigant "does not have a generalized right to rummage at will through information that [another party] has limited from public view"); *McCann v. Harleysville Ins. Co. of New York*, 78 A.D.3d 1524, 1525, 910 N.Y.S.2d 614, 615 (N.Y. App. Div. 2010) (denying motion for production of content of account where movant "essentially sought permission to conduct 'a fishing expedition' into plaintiff's [online] account based on the mere hope of finding relevant evidence.").

Twitter further objects to the Requests to the extent they seek information that is more properly obtained by issuing discovery requests directly to a party in this action. Litigants have an obligation to avoid imposing an undue burden on non-parties, and non-party discovery should therefore occur only if the information is not available through discovery from the parties to the litigation themselves. *See* Fed. R. Civ. P. 45(d)(1), (d)(3)(A)(iv). Indeed, a party "must first establish that it cannot obtain the discoverable information from its party-opponent before subpoenaing those documents from a non-party." *In re CareSource Mgmt. Grp. Co.*, 289 F.R.D. 251, 254 (S.D. Ohio 2013). Twitter does not have an "obligation to determine which documents have, or have not, been produced to" parties to the litigation. *Id.* Thus, courts have routinely held that parties should not attempt to seek documents from non-parties that are available to, or in possession of, a party to the litigation. *See, e.g., Calcor Space Facility v. Superior Court*, 53 Cal. App. 4th 216, 225, 61 Cal. Rptr. 2d 567, 573 (1997) ("As between parties to litigation and nonparties, the burden of discovery should be placed on the latter only if the former do not possess the material sought to be discovered.")

Subject to and without waiving these objections, Twitter responds as follows: Twitter will not produce documents in response to this Request.

**Document Request No. 5:**

All Communications between Lauren Culbertson (lculbertson@twitter.com) and Brett Morrow (Bmorrow@ph.lacounty.gov) from March 1, 2020 through the date of production.

**Response to Document Request No. 5:**

In addition to the foregoing objections, Twitter objects to the terms "Communications" and "between" on the basis that these terms are vague and ambiguous, overbroad, and unduly burdensome, as the scope of materials sought in the Request is unclear.

Twitter further objects to this Request as overbroad and unduly burdensome to the extent that it seeks "All Communications," particularly without reference to any subject matter that could, if at all, be relevant to the litigation.

Twitter further objects to the extent the Request seeks confidential or proprietary information.

Twitter further objects to this Request to the extent it seeks documents that are publicly available or that already within the Requestor's possession, custody, or control.

Twitter further objects to this Request to the extent that it seeks disclosure of documents or information protected by disclosure by the attorney-client privilege, the work product doctrine, or any other protection, privilege, or immunity against disclosure.

Twitter further objects to this Request because it constitutes unauthorized early discovery under the California Civil Procedure Code § 2025.210(b).

Separately, Twitter objects to the Requests as overbroad because Twitter either does not understand your need for the requested data, or does not believe your Requests to be appropriately limited to data necessary for your litigation. All discovery requests must be relevant to a claim or defense or the subject matter of the underlying action. *See, e.g.*, Cal. Civ. Proc. Code § 2017.010; *Tompkins v. Detroit Metro. Airport*, 278 F.R.D. 387, 388-89 (E.D. Mich. 2012) (denying request for content of online account and emphasizing that a litigant "does not have a generalized right to rummage at will through information that [another party] has limited from public view"); *McCann v. Harleysville Ins. Co. of New York*, 78 A.D.3d 1524, 1525, 910 N.Y.S.2d 614, 615 (N.Y. App. Div. 2010) (denying motion for production of content of account where movant "essentially sought permission to conduct 'a fishing expedition' into plaintiff's [online] account based on the mere hope of finding relevant evidence.").

Twitter further objects to the Requests to the extent they seek information that is more properly obtained by issuing discovery requests directly to a party in this action. Litigants have an obligation to avoid imposing an undue burden on non-parties, and non-party discovery should therefore occur only if the information is not available through discovery from the parties to the litigation themselves. *See* Fed. R. Civ. P. 45(d)(1), (d)(3)(A)(iv). Indeed, a party "must first establish that it cannot obtain the discoverable information from its party-opponent before subpoenaing those documents from a non-party." *In re CareSource Mgmt. Grp. Co.*, 289 F.R.D. 251, 254 (S.D. Ohio 2013). Twitter does not have an "obligation to determine which documents have, or have not, been produced to" parties to the litigation. *Id.* Thus, courts have routinely held that parties should not attempt to seek documents from non-parties that are available to, or in possession of, a party to the litigation. *See, e.g., Calcor Space Facility v. Superior Court*, 53 Cal. App. 4th 216, 225, 61 Cal. Rptr. 2d 567, 573 (1997) ("As between parties to litigation and

nonparties, the burden of discovery should be placed on the latter only if the former do not possess the material sought to be discovered.")

Subject to and without waiving these objections, Twitter responds as follows: Twitter will not produce documents in response to this Request.

**Document Request No. 6:**

All Communications regarding the County of Los Angeles between You and any other person using an email address ending in @sheppardmullin.com from March 1, 2020 through the date of production.

**Response to Document Request No. 6:**

In addition to the foregoing objections, Twitter objects to the terms "Communications," "between," and "any other person using an email address" on the basis that these terms are vague and ambiguous, overbroad, and unduly burdensome, as the scope of materials sought in the Request is unclear.

Twitter further objects to this Request as overbroad and unduly burdensome to the extent that it seeks "All Communications," particularly without reference to any subject matter that could, if at all, be relevant to the litigation.

Twitter further objects to the extent the Request seeks confidential or proprietary information.

Twitter further objects to this Request to the extent it seeks documents that are publicly available or that already within the Requestor's possession, custody, or control.

Twitter further objects to this Request to the extent that it seeks disclosure of documents or information protected by disclosure by the attorney-client privilege, the work product doctrine, or any other protection, privilege, or immunity against disclosure.

Twitter further objects to this Request because it constitutes unauthorized early discovery under the California Civil Procedure Code § 2025.210(b).

Separately, Twitter objects to the Requests as overbroad because Twitter either does not understand your need for the requested data, or does not believe your Requests to be appropriately limited to data necessary for your litigation. All discovery requests must be relevant to a claim or defense or the subject matter of the underlying action. *See, e.g.*, Cal. Civ. Proc. Code § 2017.010; *Tompkins v. Detroit Metro. Airport*, 278 F.R.D. 387, 388-89 (E.D. Mich. 2012) (denying request for content of online account and emphasizing that a litigant "does not have a generalized right to rummage at will through information that [another party] has limited from public view"); *McCann v. Harleysville Ins. Co. of New York*, 78 A.D.3d 1524, 1525, 910 N.Y.S.2d 614, 615 (N.Y. App. Div. 2010) (denying motion for production of content of account where movant "essentially sought permission to conduct 'a fishing expedition' into plaintiff's [online] account based on the mere hope of finding relevant evidence.").

Twitter further objects to the Requests to the extent they seek information that is more properly obtained by issuing discovery requests directly to a party in this action. Litigants have an obligation to avoid imposing an undue burden on non-parties, and non-party discovery should therefore occur only if the information is not available through discovery from the parties to the litigation themselves. *See* Fed. R. Civ. P. 45(d)(1), (d)(3)(A)(iv). Indeed, a party "must first establish that it cannot obtain the discoverable information from its party-opponent before subpoenaing those documents from a non-party." *In re CareSource Mgmt. Grp. Co.*, 289 F.R.D. 251, 254 (S.D. Ohio 2013). Twitter does not have an "obligation to determine which documents have, or have not, been produced to" parties to the litigation. *Id*. Thus, courts have routinely held that parties should not attempt to seek documents from non-parties that are available to, or in possession of, a party to the litigation. *See, e.g., Calcor Space Facility v. Superior Court*, 53 Cal. App. 4th 216, 225, 61 Cal. Rptr. 2d 567, 573 (1997) ("As between parties to litigation and nonparties, the burden of discovery should be placed on the latter only if the former do not possess the material sought to be discovered.")

Subject to and without waiving these objections, Twitter responds as follows: Twitter will not produce documents in response to this Request.

**Document Request No. 7:**

All Communications between You and any other person using an email address ending in @frasercommunications.com from March 1, 2020 through the date of production.

**Response to Document Request No. 7:**

In addition to the foregoing objections, Twitter objects to the terms "Communications," "between," and "any other person using an email address" on the basis that these terms are vague and ambiguous, overbroad, and unduly burdensome, as the scope of materials sought in the Request is unclear.

Twitter further objects to this Request as overbroad and unduly burdensome to the extent that it seeks "All Communications," particularly without reference to any subject matter that could, if at all, be relevant to the litigation.

Twitter further objects to the extent the Request seeks confidential or proprietary information.

Twitter further objects to this Request to the extent it seeks documents that are publicly available or that already within the Requestor's possession, custody, or control.

Twitter further objects to this Request to the extent that it seeks disclosure of documents or information protected by disclosure by the attorney-client privilege, the work product doctrine, or any other protection, privilege, or immunity against disclosure.

Twitter further objects to this Request because it constitutes unauthorized early discovery under the California Civil Procedure Code § 2025.210(b).

Separately, Twitter objects to the Requests as overbroad because Twitter either does not understand your need for the requested data, or does not believe your Requests to be appropriately limited to data necessary for your litigation. All discovery requests must be relevant to a claim or defense or the subject matter of the underlying action. *See, e.g.*, Cal. Civ. Proc. Code § 2017.010; *Tompkins v. Detroit Metro. Airport*, 278 F.R.D. 387, 388-89 (E.D. Mich. 2012) (denying request for content of online account and emphasizing that a litigant "does not have a generalized right to rummage at will through information that [another party] has limited from public view"); *McCann v. Harleysville Ins. Co. of New York*, 78 A.D.3d 1524, 1525, 910 N.Y.S.2d 614, 615 (N.Y. App. Div. 2010) (denying motion for production of content of account where movant "essentially sought permission to conduct 'a fishing expedition' into plaintiff's [online] account based on the mere hope of finding relevant evidence.").

Twitter further objects to the Requests to the extent they seek information that is more properly obtained by issuing discovery requests directly to a party in this action. Litigants have an obligation to avoid imposing an undue burden on non-parties, and non-party discovery should therefore occur only if the information is not available through discovery from the parties to the litigation themselves. *See* Fed. R. Civ. P. 45(d)(1), (d)(3)(A)(iv). Indeed, a party "must first establish that it cannot obtain the discoverable information from its party-opponent before subpoenaing those documents from a non-party." *In re CareSource Mgmt. Grp. Co.*, 289 F.R.D. 251, 254 (S.D. Ohio 2013). Twitter does not have an "obligation to determine which documents have, or have not, been produced to" parties to the litigation. *Id*. Thus, courts have routinely held that parties should not attempt to seek documents from non-parties that are available to, or in possession of, a party to the litigation. *See, e.g., Calcor Space Facility v. Superior Court*, 53 Cal. App. 4th 216, 225, 61 Cal. Rptr. 2d 567, 573 (1997) ("As between parties to litigation and nonparties, the burden of discovery should be placed on the latter only if the former do not possess the material sought to be discovered.")

Subject to and without waiving these objections, Twitter responds as follows: Twitter will not produce documents in response to this Request.

**Document Request No. 8:**

All Communications regarding Brett Morrow form March 1, 2020 through the date of production.

**Response to Document Request No. 8:**

In addition to the foregoing objections, Twitter objects to the terms "Communications" and "regarding" on the basis that these terms are vague and ambiguous, overbroad, and unduly burdensome, as the scope of materials sought in the Request is unclear.

Twitter further objects to this Request as overbroad and unduly burdensome to the extent that it seeks "All Communications," particularly without reference to any subject matter that could, if at all, be relevant to the litigation.

Twitter further objects to the extent the Request seeks confidential or proprietary information.

Twitter further objects to this Request to the extent it seeks documents that are publicly available or that already within the Requestor's possession, custody, or control.

Twitter further objects to this Request to the extent that it seeks disclosure of documents or information protected by disclosure by the attorney-client privilege, the work product doctrine, or any other protection, privilege, or immunity against disclosure.

Twitter further objects to this Request because it constitutes unauthorized early discovery under the California Civil Procedure Code § 2025.210(b).

Separately, Twitter objects to the Requests as overbroad because Twitter either does not understand your need for the requested data, or does not believe your Requests to be appropriately limited to data necessary for your litigation. All discovery requests must be relevant to a claim or defense or the subject matter of the underlying action. *See, e.g.*, Cal. Civ. Proc. Code § 2017.010; *Tompkins v. Detroit Metro. Airport*, 278 F.R.D. 387, 388-89 (E.D. Mich. 2012) (denying request for content of online account and emphasizing that a litigant "does not have a generalized right to rummage at will through information that [another party] has limited from public view"); *McCann v. Harleysville Ins. Co. of New York*, 78 A.D.3d 1524, 1525, 910 N.Y.S.2d 614, 615 (N.Y. App. Div. 2010) (denying motion for production of content of account where movant "essentially sought permission to conduct 'a fishing expedition' into plaintiff's [online] account based on the mere hope of finding relevant evidence.").

Twitter further objects to the Requests to the extent they seek information that is more properly obtained by issuing discovery requests directly to a party in this action. Litigants have an obligation to avoid imposing an undue burden on non-parties, and non-party discovery should therefore occur only if the information is not available through discovery from the parties to the litigation themselves. *See* Fed. R. Civ. P. 45(d)(1), (d)(3)(A)(iv). Indeed, a party "must first establish that it cannot obtain the discoverable information from its party-opponent before subpoenaing those documents from a non-party." *In re CareSource Mgmt. Grp. Co.*, 289 F.R.D. 251, 254 (S.D. Ohio 2013). Twitter does not have an "obligation to determine which documents have, or have not, been produced to" parties to the litigation. *Id.* Thus, courts have routinely held that parties should not attempt to seek documents from non-parties that are available to, or in possession of, a party to the litigation. *See, e.g., Calcor Space Facility v. Superior Court*, 53 Cal. App. 4th 216, 225, 61 Cal. Rptr. 2d 567, 573 (1997) ("As between parties to litigation and nonparties, the burden of discovery should be placed on the latter only if the former do not possess the material sought to be discovered.")

Subject to and without waiving these objections, Twitter responds as follows: Twitter will not produce documents in response to this Request.

**Document Request No. 9:**

All Communications regarding the Twitter account known as @lapublichealth from March 1, 2020 through the date of production.

**Response to Document Request No. 9:**

In addition to the foregoing objections, Twitter objects to the terms "Communications," "regarding," and "Twitter account known as" on the basis that these terms are vague and ambiguous, overbroad, and unduly burdensome, as the scope of materials sought in the Request is unclear.

Twitter further objects to this Request as overbroad and unduly burdensome to the extent that it seeks "All Communications," particularly without reference to any subject matter that could, if at all, be relevant to the litigation.

Twitter further objects to the extent the Request seeks confidential or proprietary information.

Twitter further objects to this Request to the extent that it exceeds the scope of what Twitter may produce under the SCA, and there is no showing that a court has considered First Amendment or Constitutional safeguards with respect to potentially unmasking an anonymous user.

Twitter further objects to this Request to the extent it seeks documents that are publicly available or that already within the Requestor's possession, custody, or control.

Twitter further objects to this Request to the extent that it seeks disclosure of documents or information protected by disclosure by the attorney-client privilege, the work product doctrine, or any other protection, privilege, or immunity against disclosure.

Twitter further objects to this Request because it constitutes unauthorized early discovery under the California Civil Procedure Code § 2025.210(b).

Separately, Twitter objects to the Requests as overbroad because Twitter either does not understand your need for the requested data, or does not believe your Requests to be appropriately limited to data necessary for your litigation. All discovery requests must be relevant to a claim or defense or the subject matter of the underlying action. *See, e.g.*, Cal. Civ. Proc. Code § 2017.010; *Tompkins v. Detroit Metro. Airport*, 278 F.R.D. 387, 388-89 (E.D. Mich. 2012) (denying request for content of online account and emphasizing that a litigant "does not have a generalized right to rummage at will through information that [another party] has limited from public view"); *McCann v. Harleysville Ins. Co. of New York*, 78 A.D.3d 1524, 1525, 910 N.Y.S.2d 614, 615 (N.Y. App. Div. 2010) (denying motion for production of content of account where movant "essentially sought permission to conduct 'a fishing expedition' into plaintiff's [online] account based on the mere hope of finding relevant evidence.").

Twitter further objects to the Requests to the extent they seek information that is more properly obtained by issuing discovery requests directly to a party in this action. Litigants have an obligation to avoid imposing an undue burden on non-parties, and non-party discovery should therefore occur only if the information is not available through discovery from the parties to the litigation themselves. *See* Fed. R. Civ. P. 45(d)(1), (d)(3)(A)(iv). Indeed, a party "must first establish that it cannot obtain the discoverable information from its party-opponent before subpoenaing those documents from a non-party." *In re CareSource Mgmt. Grp. Co.*, 289 F.R.D.

251, 254 (S.D. Ohio 2013). Twitter does not have an "obligation to determine which documents have, or have not, been produced to" parties to the litigation. *Id*. Thus, courts have routinely held that parties should not attempt to seek documents from non-parties that are available to, or in possession of, a party to the litigation. *See, e.g., Calcor Space Facility v. Superior Court*, 53 Cal. App. 4th 216, 225, 61 Cal. Rptr. 2d 567, 573 (1997) ("As between parties to litigation and nonparties, the burden of discovery should be placed on the latter only if the former do not possess the material sought to be discovered.")

Subject to and without waiving these objections, Twitter responds as follows: Twitter will not produce documents in response to this Request.

**Document Request No. 10:**

All Communications regarding the Twitter account known as @alt_lacph from March 1, 2020 through the date of production.

**Response to Document Request No. 10:**

In addition to the foregoing objections, Twitter objects to the terms "Communications," "regarding," and "Twitter account known as" on the basis that these terms are vague and ambiguous, overbroad, and unduly burdensome, as the scope of materials sought in the Request is unclear.

Twitter further objects to this Request as overbroad and unduly burdensome to the extent that it seeks "All Communications," particularly without reference to any subject matter that could, if at all, be relevant to the litigation.

Twitter further objects to the extent the Request seeks confidential or proprietary information.

Twitter further objects to this Request to the extent that it exceeds the scope of what Twitter may produce under the SCA, and there is no showing that a court has considered First Amendment or Constitutional safeguards with respect to potentially unmasking an anonymous user.

Twitter further objects to this Request to the extent it seeks documents that are publicly available or that already within the Requestor's possession, custody, or control.

Twitter further objects to this Request to the extent that it seeks disclosure of documents or information protected by disclosure by the attorney-client privilege, the work product doctrine, or any other protection, privilege, or immunity against disclosure.

Twitter further objects to this Request because it constitutes unauthorized early discovery under the California Civil Procedure Code § 2025.210(b).

Separately, Twitter objects to the Requests as overbroad because Twitter either does not understand your need for the requested data, or does not believe your Requests to be appropriately limited to data necessary for your litigation. All discovery requests must be relevant to a claim or

defense or the subject matter of the underlying action. *See, e.g.*, Cal. Civ. Proc. Code § 2017.010; *Tompkins v. Detroit Metro. Airport*, 278 F.R.D. 387, 388-89 (E.D. Mich. 2012) (denying request for content of online account and emphasizing that a litigant "does not have a generalized right to rummage at will through information that [another party] has limited from public view"); *McCann v. Harleysville Ins. Co. of New York*, 78 A.D.3d 1524, 1525, 910 N.Y.S.2d 614, 615 (N.Y. App. Div. 2010) (denying motion for production of content of account where movant "essentially sought permission to conduct 'a fishing expedition' into plaintiff's [online] account based on the mere hope of finding relevant evidence.").

Twitter further objects to the Requests to the extent they seek information that is more properly obtained by issuing discovery requests directly to a party in this action. Litigants have an obligation to avoid imposing an undue burden on non-parties, and non-party discovery should therefore occur only if the information is not available through discovery from the parties to the litigation themselves. *See* Fed. R. Civ. P. 45(d)(1), (d)(3)(A)(iv). Indeed, a party "must first establish that it cannot obtain the discoverable information from its party-opponent before subpoenaing those documents from a non-party." *In re CareSource Mgmt. Grp. Co.*, 289 F.R.D. 251, 254 (S.D. Ohio 2013). Twitter does not have an "obligation to determine which documents have, or have not, been produced to" parties to the litigation. *Id*. Thus, courts have routinely held that parties should not attempt to seek documents from non-parties that are available to, or in possession of, a party to the litigation. *See, e.g., Calcor Space Facility v. Superior Court*, 53 Cal. App. 4th 216, 225, 61 Cal. Rptr. 2d 567, 573 (1997) ("As between parties to litigation and nonparties, the burden of discovery should be placed on the latter only if the former do not possess the material sought to be discovered.")

Subject to and without waiving these objections, Twitter responds as follows: Twitter will not produce documents in response to this Request.

**Document Request No. 11:**

All Communications regarding Barbara Ferrer from March 1, 2020 through the date of production.

**Response to Document Request No. 11:**

In addition to the foregoing objections, Twitter objects to the terms "Communications," "regarding," and "Twitter account known as" on the basis that these terms are vague and ambiguous, overbroad, and unduly burdensome, as the scope of materials sought in the Request is unclear.

Twitter further objects to this Request as overbroad and unduly burdensome to the extent that it seeks "All Communications," particularly without reference to any subject matter that could, if at all, be relevant to the litigation.

Twitter further objects to the extent the Request seeks confidential or proprietary information.

Twitter further objects to this Request to the extent it seeks documents that are publicly available or that already within the Requestor's possession, custody, or control.

Twitter further objects to this Request to the extent that it seeks disclosure of documents or information protected by disclosure by the attorney-client privilege, the work product doctrine, or any other protection, privilege, or immunity against disclosure.

Twitter further objects to this Request because it constitutes unauthorized early discovery under the California Civil Procedure Code § 2025.210(b).

Separately, Twitter objects to the Requests as overbroad because Twitter either does not understand your need for the requested data, or does not believe your Requests to be appropriately limited to data necessary for your litigation. All discovery requests must be relevant to a claim or defense or the subject matter of the underlying action. *See, e.g.*, Cal. Civ. Proc. Code § 2017.010; *Tompkins v. Detroit Metro. Airport*, 278 F.R.D. 387, 388-89 (E.D. Mich. 2012) (denying request for content of online account and emphasizing that a litigant "does not have a generalized right to rummage at will through information that [another party] has limited from public view"); *McCann v. Harleysville Ins. Co. of New York*, 78 A.D.3d 1524, 1525, 910 N.Y.S.2d 614, 615 (N.Y. App. Div. 2010) (denying motion for production of content of account where movant "essentially sought permission to conduct 'a fishing expedition' into plaintiff's [online] account based on the mere hope of finding relevant evidence.").

Twitter further objects to the Requests to the extent they seek information that is more properly obtained by issuing discovery requests directly to a party in this action. Litigants have an obligation to avoid imposing an undue burden on non-parties, and non-party discovery should therefore occur only if the information is not available through discovery from the parties to the litigation themselves. *See* Fed. R. Civ. P. 45(d)(1), (d)(3)(A)(iv). Indeed, a party "must first establish that it cannot obtain the discoverable information from its party-opponent before subpoenaing those documents from a non-party." *In re CareSource Mgmt. Grp. Co.*, 289 F.R.D. 251, 254 (S.D. Ohio 2013). Twitter does not have an "obligation to determine which documents have, or have not, been produced to" parties to the litigation. *Id*. Thus, courts have routinely held that parties should not attempt to seek documents from non-parties that are available to, or in possession of, a party to the litigation. *See, e.g., Calcor Space Facility v. Superior Court*, 53 Cal. App. 4th 216, 225, 61 Cal. Rptr. 2d 567, 573 (1997) ("As between parties to litigation and nonparties, the burden of discovery should be placed on the latter only if the former do not possess the material sought to be discovered.")

Subject to and without waiving these objections, Twitter responds as follows: Twitter will not produce documents in response to this Request.

**Document Request No. 12:**

All Communications between You and Patrick Boland (boland@mail.house.gov) from March 1, 2020 through the date of production.

**Response to Document Request No. 12:**

In addition to the foregoing objections, Twitter objects to the terms "Communications" and "between" on the basis that these terms are vague and ambiguous, overbroad, and unduly burdensome, as the scope of materials sought in the Request is unclear.

Twitter further objects to this Request as overbroad and unduly burdensome to the extent that it seeks "All Communications," particularly without reference to any subject matter that could, if at all, be relevant to the litigation.

Twitter further objects to the extent the Request seeks confidential or proprietary information.

Twitter further objects to this Request to the extent that it exceeds the scope of what Twitter may produce under the SCA, and there is no showing that a court has considered First Amendment or Constitutional safeguards with respect to potentially unmasking an anonymous user.

Twitter further objects to this Request to the extent it seeks documents that are publicly available or that already within the Requestor's possession, custody, or control.

Twitter further objects to this Request to the extent that it seeks disclosure of documents or information protected by disclosure by the attorney-client privilege, the work product doctrine, or any other protection, privilege, or immunity against disclosure.

Twitter further objects to this Request because it constitutes unauthorized early discovery under the California Civil Procedure Code § 2025.210(b).

Separately, Twitter objects to the Requests as overbroad because Twitter either does not understand your need for the requested data, or does not believe your Requests to be appropriately limited to data necessary for your litigation. All discovery requests must be relevant to a claim or defense or the subject matter of the underlying action. *See, e.g.*, Cal. Civ. Proc. Code § 2017.010; *Tompkins v. Detroit Metro. Airport*, 278 F.R.D. 387, 388-89 (E.D. Mich. 2012) (denying request for content of online account and emphasizing that a litigant "does not have a generalized right to rummage at will through information that [another party] has limited from public view"); *McCann v. Harleysville Ins. Co. of New York*, 78 A.D.3d 1524, 1525, 910 N.Y.S.2d 614, 615 (N.Y. App. Div. 2010) (denying motion for production of content of account where movant "essentially sought permission to conduct 'a fishing expedition' into plaintiff's [online] account based on the mere hope of finding relevant evidence.").

Twitter further objects to the Requests to the extent they seek information that is more properly obtained by issuing discovery requests directly to a party in this action. Litigants have an obligation to avoid imposing an undue burden on non-parties, and non-party discovery should therefore occur only if the information is not available through discovery from the parties to the litigation themselves. *See* Fed. R. Civ. P. 45(d)(1), (d)(3)(A)(iv). Indeed, a party "must first establish that it cannot obtain the discoverable information from its party-opponent before subpoenaing those documents from a non-party." *In re CareSource Mgmt. Grp. Co.*, 289 F.R.D. 251, 254 (S.D. Ohio 2013). Twitter does not have an "obligation to determine which documents

have, or have not, been produced to" parties to the litigation. *Id*. Thus, courts have routinely held that parties should not attempt to seek documents from non-parties that are available to, or in possession of, a party to the litigation. *See, e.g., Calcor Space Facility v. Superior Court*, 53 Cal. App. 4th 216, 225, 61 Cal. Rptr. 2d 567, 573 (1997) ("As between parties to litigation and nonparties, the burden of discovery should be placed on the latter only if the former do not possess the material sought to be discovered.")

Subject to and without waiving these objections, Twitter responds as follows: Twitter will not produce documents in response to this Request.

**Document Request No. 13:**

All Documents pertaining to the suspension of the Twitter account known as @alt_lacph.

**Response to Document Request No. 13:**

In addition to the foregoing objections, Twitter objects to the terms "Documents," "pertaining to the suspension," and "Twitter account known as" on the basis that these terms are vague and ambiguous, overbroad, and unduly burdensome, as the scope of materials sought in the Request is unclear.

Twitter further objects to this Request as overbroad and unduly burdensome to the extent that it seeks "All Communications," particularly without reference to any subject matter that could, if at all, be relevant to the litigation.

Twitter further objects to the extent the Request seeks confidential or proprietary information.

Twitter further objects to this Request to the extent that it exceeds the scope of what Twitter may produce under the SCA, and there is no showing that a court has considered First Amendment or Constitutional safeguards with respect to potentially unmasking an anonymous user.

Twitter further objects to this Request to the extent it seeks documents that are publicly available or that already within the Requestor's possession, custody, or control.

Twitter further objects to this Request to the extent that it seeks disclosure of documents or information protected by disclosure by the attorney-client privilege, the work product doctrine, or any other protection, privilege, or immunity against disclosure.

Twitter further objects to this Request because it constitutes unauthorized early discovery under the California Civil Procedure Code § 2025.210(b).

Separately, Twitter objects to the Requests as overbroad because Twitter either does not understand your need for the requested data, or does not believe your Requests to be appropriately limited to data necessary for your litigation. All discovery requests must be relevant to a claim or defense or the subject matter of the underlying action. *See, e.g.*, Cal. Civ. Proc. Code § 2017.010; *Tompkins v. Detroit Metro. Airport*, 278 F.R.D. 387, 388-89 (E.D. Mich. 2012) (denying request

for content of online account and emphasizing that a litigant "does not have a generalized right to rummage at will through information that [another party] has limited from public view"); *McCann v. Harleysville Ins. Co. of New York*, 78 A.D.3d 1524, 1525, 910 N.Y.S.2d 614, 615 (N.Y. App. Div. 2010) (denying motion for production of content of account where movant "essentially sought permission to conduct 'a fishing expedition' into plaintiff's [online] account based on the mere hope of finding relevant evidence.").

Twitter further objects to the Requests to the extent they seek information that is more properly obtained by issuing discovery requests directly to a party in this action. Litigants have an obligation to avoid imposing an undue burden on non-parties, and non-party discovery should therefore occur only if the information is not available through discovery from the parties to the litigation themselves. *See* Fed. R. Civ. P. 45(d)(1), (d)(3)(A)(iv). Indeed, a party "must first establish that it cannot obtain the discoverable information from its party-opponent before subpoenaing those documents from a non-party." *In re CareSource Mgmt. Grp. Co.*, 289 F.R.D. 251, 254 (S.D. Ohio 2013). Twitter does not have an "obligation to determine which documents have, or have not, been produced to" parties to the litigation. *Id*. Thus, courts have routinely held that parties should not attempt to seek documents from non-parties that are available to, or in possession of, a party to the litigation. *See, e.g., Calcor Space Facility v. Superior Court*, 53 Cal. App. 4th 216, 225, 61 Cal. Rptr. 2d 567, 573 (1997) ("As between parties to litigation and nonparties, the burden of discovery should be placed on the latter only if the former do not possess the material sought to be discovered.")

Subject to and without waiving these objections, Twitter responds as follows: Twitter will not produce documents in response to this Request.

**Document Request No. 14:**

All Documents pertaining to any deboosting, throttling, or any other adverse actions taken by You against the Twitter account known as @johnnydontlike.

**Response to Document Request No. 14:**

In addition to the foregoing objections, Twitter objects to the terms "Documents," "pertaining to any," "deboosting," "throttling," "any other adverse actions," and "Twitter account known as" on the basis that these terms are vague and ambiguous, overbroad, and unduly burdensome, as the scope of materials sought in the Request is unclear.

Twitter further objects to this Request as overbroad and unduly burdensome to the extent that it seeks "All Communications," particularly without reference to any subject matter that could, if at all, be relevant to the litigation.

Twitter further objects to the extent the Request seeks confidential or proprietary information.

Twitter further objects to this Request to the extent that it exceeds the scope of what Twitter may produce under the SCA, and there is no showing that a court has considered First Amendment or Constitutional safeguards with respect to potentially unmasking an anonymous user.

Twitter further objects to this Request to the extent it seeks documents that are publicly available or that already within the Requestor's possession, custody, or control.

Twitter further objects to this Request to the extent that it seeks disclosure of documents or information protected by disclosure by the attorney-client privilege, the work product doctrine, or any other protection, privilege, or immunity against disclosure.

Twitter further objects to this Request because it constitutes unauthorized early discovery under the California Civil Procedure Code § 2025.210(b).

Separately, Twitter objects to the Requests as overbroad because Twitter either does not understand your need for the requested data, or does not believe your Requests to be appropriately limited to data necessary for your litigation. All discovery requests must be relevant to a claim or defense or the subject matter of the underlying action. *See, e.g.*, Cal. Civ. Proc. Code § 2017.010; *Tompkins v. Detroit Metro. Airport*, 278 F.R.D. 387, 388-89 (E.D. Mich. 2012) (denying request for content of online account and emphasizing that a litigant "does not have a generalized right to rummage at will through information that [another party] has limited from public view"); *McCann v. Harleysville Ins. Co. of New York*, 78 A.D.3d 1524, 1525, 910 N.Y.S.2d 614, 615 (N.Y. App. Div. 2010) (denying motion for production of content of account where movant "essentially sought permission to conduct 'a fishing expedition' into plaintiff's [online] account based on the mere hope of finding relevant evidence.").

Twitter further objects to the Requests to the extent they seek information that is more properly obtained by issuing discovery requests directly to a party in this action. Litigants have an obligation to avoid imposing an undue burden on non-parties, and non-party discovery should therefore occur only if the information is not available through discovery from the parties to the litigation themselves. *See* Fed. R. Civ. P. 45(d)(1), (d)(3)(A)(iv). Indeed, a party "must first establish that it cannot obtain the discoverable information from its party-opponent before subpoenaing those documents from a non-party." *In re CareSource Mgmt. Grp. Co.*, 289 F.R.D. 251, 254 (S.D. Ohio 2013). Twitter does not have an "obligation to determine which documents have, or have not, been produced to" parties to the litigation. *Id.* Thus, courts have routinely held that parties should not attempt to seek documents from non-parties that are available to, or in possession of, a party to the litigation. *See, e.g., Calcor Space Facility v. Superior Court*, 53 Cal. App. 4th 216, 225, 61 Cal. Rptr. 2d 567, 573 (1997) ("As between parties to litigation and nonparties, the burden of discovery should be placed on the latter only if the former do not possess the material sought to be discovered.")

Subject to and without waiving these objections, Twitter responds as follows: Twitter will not produce documents in response to this Request.

**Document Request No. 15:**

All Documents regarding Twitter Case Number 0282691988.

**Response to Document Request No. 15:**

In addition to the foregoing objections, Twitter objects to the terms "Documents," "regarding," and "Twitter Case Number," on the basis that these terms are vague and ambiguous, overbroad, and unduly burdensome, as the scope of materials sought in the Request is unclear.

Twitter further objects to this Request as overbroad and unduly burdensome to the extent that it seeks "All Communications," particularly without reference to any subject matter that could, if at all, be relevant to the litigation.

Twitter further objects to the extent the Request seeks confidential or proprietary information.

Twitter further objects to this Request to the extent that it exceeds the scope of what Twitter may produce under the SCA, and there is no showing that a court has considered First Amendment or Constitutional safeguards with respect to potentially unmasking an anonymous user.

Twitter further objects to this Request to the extent it seeks documents that are publicly available or that already within the Requestor's possession, custody, or control.

Twitter further objects to this Request to the extent that it seeks disclosure of documents or information protected by disclosure by the attorney-client privilege, the work product doctrine, or any other protection, privilege, or immunity against disclosure.

Twitter further objects to this Request because it constitutes unauthorized early discovery under the California Civil Procedure Code § 2025.210(b).

Separately, Twitter objects to the Requests as overbroad because Twitter either does not understand your need for the requested data, or does not believe your Requests to be appropriately limited to data necessary for your litigation. All discovery requests must be relevant to a claim or defense or the subject matter of the underlying action. *See, e.g.*, Cal. Civ. Proc. Code § 2017.010; *Tompkins v. Detroit Metro. Airport*, 278 F.R.D. 387, 388-89 (E.D. Mich. 2012) (denying request for content of online account and emphasizing that a litigant "does not have a generalized right to rummage at will through information that [another party] has limited from public view"); *McCann v. Harleysville Ins. Co. of New York*, 78 A.D.3d 1524, 1525, 910 N.Y.S.2d 614, 615 (N.Y. App. Div. 2010) (denying motion for production of content of account where movant "essentially sought permission to conduct 'a fishing expedition' into plaintiff's [online] account based on the mere hope of finding relevant evidence.").

Twitter further objects to the Requests to the extent they seek information that is more properly obtained by issuing discovery requests directly to a party in this action. Litigants have an obligation to avoid imposing an undue burden on non-parties, and non-party discovery should therefore occur only if the information is not available through discovery from the parties to the litigation themselves. *See* Fed. R. Civ. P. 45(d)(1), (d)(3)(A)(iv). Indeed, a party "must first establish that it cannot obtain the discoverable information from its party-opponent before subpoenaing those documents from a non-party." *In re CareSource Mgmt. Grp. Co.*, 289 F.R.D. 251, 254 (S.D. Ohio 2013). Twitter does not have an "obligation to determine which documents

have, or have not, been produced to" parties to the litigation. *Id*. Thus, courts have routinely held that parties should not attempt to seek documents from non-parties that are available to, or in possession of, a party to the litigation. *See, e.g., Calcor Space Facility v. Superior Court*, 53 Cal. App. 4th 216, 225, 61 Cal. Rptr. 2d 567, 573 (1997) ("As between parties to litigation and nonparties, the burden of discovery should be placed on the latter only if the former do not possess the material sought to be discovered.")

Subject to and without waiving these objections, Twitter responds as follows: Twitter will not produce documents in response to this Request.

***

Based on at least the foregoing objections, Twitter will not be producing any data in response to your Subpoena. Please do not hesitate to contact me if you have any questions. Twitter otherwise preserves and does not waive any other available objections or rights.

Sincerely,

**Jon Hawk**
**T** +1 (213) 620-7741
**E** jhawk@whitecase.com