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12 *Attorneys for Plaintiff and the Putative Classes*

13

14 **IN THE UNITED STATES DISTRICT COURT**  
15 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
16 **SAN FRANCISCO DIVISION**

17 WILFORD RANEY, individually and on  
18 behalf of all others similarly situated,

19 *Plaintiff,*

20 v.

21 TWITTER, INC., a Delaware corporation,

22 *Defendant.*  
23  
24  
25  
26

Case No.:

**CLASS ACTION COMPLAINT  
FOR:**

- (1) Violations of the Electronic Communications Privacy Act, 18 U.S.C. §§ 2510 et seq.; and**
- (2) Violations of the California Invasion of Privacy Act, Cal. Pen. Code §§ 630 et seq.**

**DEMAND FOR JURY TRIAL**

27

28

1 Plaintiff Wilford Raney brings this Class Action Complaint and Demand for Jury  
2 Trial against Defendant Twitter, Inc., to stop its practice of systematically intercepting,  
3 reading, and altering the private messages of its users without their knowledge or consent.  
4 Plaintiff alleges as follows upon personal knowledge as to himself and his own acts and  
5 experiences and, as to all other matters, upon information and belief, including investigation  
6 conducted by his attorneys.

### 7 NATURE OF THE ACTION

8 1. Twitter, a popular social network, is best known for its short, public, 140-  
9 character messages called “tweets.” Twitter users “follow” and are “followed” by other  
10 Twitter users, and write, read, and share tweets about politics, pop culture, sports, and more.

11 2. Twitter also operates a purportedly private (and non-public) “Direct Message”  
12 service. Twitter represents that its users can “talk privately” through these Direct Messages,  
13 which “can only be seen between the people included.”<sup>1</sup>

14 3. In reality, and despite these representations, Twitter surreptitiously eavesdrops  
15 on its users’ private Direct Message communications. As soon as a user sends a Direct  
16 Message, Twitter intercepts, reads, and, at times, even alters the message. For example,  
17 should a user write a Direct Message and include a hyperlink (*i.e.*, a link to a website such as  
18 [www.nytimes.com](http://www.nytimes.com)), Twitter’s algorithms will read through the Direct Message, identify the  
19 hyperlink, and replace it with its own custom link, thereby sending the person clicking on the  
20 link to Twitter’s analytics servers before passing them on to the original linked-to website.

21 4. Twitter benefits immensely from replacing user hyperlinks with its own. For  
22 instance, Twitter increases its perceived value to third-party websites and would-be  
23 advertisers. That is, in the example given, the *New York Times* would identify Twitter as the  
24 source of internet traffic, whereas without replacing the link the source would be anonymous.  
25 The end result is that Twitter can negotiate better advertising rates.

26 5. But while Twitter reads the contents of its users’ private Direct Messages,  
27

28 <sup>1</sup> *About Direct Messages*, [about.twitter.com/directmessages](http://about.twitter.com/directmessages) (last visited Sept. 4, 2015).

1 Twitter never obtains (or even seeks) its users' consent. As such, and as a result of Twitter's  
2 unlawful and continuing privacy violations, Plaintiff brings suit individually and on behalf of  
3 all others similarly situated to enjoin Twitter's unlawful conduct and to seek redress and  
4 statutory damages under the Electronic Communications Privacy Act, 18 U.S.C. §§ 2510 *et*  
5 *seq.* (the "ECPA"), and the California Invasion of Privacy Act, California Penal Code §§ 630  
6 *et seq.* ("CIPA").

#### 7 **PARTIES**

8 6. Plaintiff Wilford Raney is a natural person and citizen and resident of the  
9 State of Texas.

10 7. Defendant Twitter, Inc., is a citizen and corporation incorporated in and  
11 existing under the laws of the State of Delaware, with its principal place of business located  
12 at 1355 Market Street, Suite 900, San Francisco, California 94103. Twitter does business  
13 throughout this District, the State of California, and the United States.

#### 14 **JURISDICTION AND VENUE**

15 8. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 because this  
16 action arises under the ECPA, a federal statute. This Court also has diversity jurisdiction over  
17 this action pursuant to 28 U.S.C. § 1332(d)(2) because (a) at least one member of each of the  
18 putative Classes is a citizen of a state different from Defendant, (b) the amount in  
19 controversy exceeds \$5,000,000, exclusive of interest and costs, and (c) none of the  
20 exceptions under the subsection apply to this action.

21 9. This Court has personal jurisdiction over Defendant because it is  
22 headquartered in this District, conducts significant business in this District, and the unlawful  
23 conduct alleged in this Complaint occurred in and emanated from this District.

24 10. Venue is proper in this District under 28 U.S.C. § 1391(b) because Defendant  
25 maintains its headquarters and principal place of business in this District and a substantial  
26 part of the events giving rise to Plaintiff's Complaint occurred in this District. Venue is also  
27 proper in this District because Defendant's Twitter Terms of Service state that "[a]ll claims,  
28 legal proceedings or litigation arising in connection with the Services will be brought solely

1 in the federal or state courts located in San Francisco County, California.”<sup>2</sup>

## 2 INTRADISTRICT ASSIGNMENT

3 11. Pursuant to Civil Local Rule 3-2(d), this case should be assigned to the San  
4 Francisco Division.

## 5 CHOICE OF LAW

6 12. California law governs the substantive legal issues in the instant matter.  
7 Defendant’s Twitter Terms of Service state that “[t]hese Terms and any action related thereto  
8 will be governed by the laws of the State of California without regard to or application of its  
9 conflict of law provisions or your state or country of residence.”<sup>3</sup> Twitter’s conduct at issue  
10 herein also occurred in California.

## 11 FACTUAL BACKGROUND

### 12 I. An Introduction to Twitter and its Communications Platform.

13 13. Twitter owns and operates the social network where users create, read, and  
14 share short, 140-character messages called “tweets.” Started in 2006, Twitter has grown to  
15 enormous proportions, with over one billion registered users and 316 million active users  
16 who collectively transmit over a half-billion tweets per day.

17 14. To begin using Twitter, a consumer selects a unique Twitter username,  
18 provides contact information, and agrees to Defendant’s Twitter Terms of Service. After that,  
19 the Twitter user is invited to begin “following” other Twitter users to see tweets and to begin  
20 writing their own tweets, which are public by default.

21 15. Twitter makes tweets public as a policy and as a business model. Its mission is  
22 “[t]o give everyone the power to create and share ideas and information instantly, without  
23 barriers.”<sup>4</sup> Public tweets also let Twitter track what issues are being tweeted (*e.g.*, what issues  
24 are trending), who follows whom, and more. Twitter compiles this information, adds to it  
25 from third-party sources, and builds digital profiles of its users’ likes and dislikes, to sell

27 <sup>2</sup> A true and accurate copy of Defendant’s Twitter Terms of Service is attached hereto  
as Exhibit A.

28 <sup>3</sup> *Id.*

<sup>4</sup> *About the Company*, <https://about.twitter.com/company> (last visited Sept. 4, 2015).

1 advertisements targeting specific types of users or even specific individuals.

2 16. Indeed, Twitter monitors which people, companies, and other Twitter  
3 personalities its users follow and makes inferences about such users' interests (*e.g.*, Twitter  
4 may infer that someone following Ford Motor Company's Twitter account may have an  
5 interest in cars and trucks). And Twitter reads the contents of public tweets to identify  
6 specific keywords and phrases, and to determine the "sentiment" of the tweet.<sup>5</sup> As part of its  
7 advertising service, Twitter searches for "keywords in [a user's] search queries, recent  
8 Tweets, and Tweets they recently engaged with."<sup>6</sup> If a keyword is found, Twitter might show  
9 the user a relevant ad.<sup>7</sup>

10 17. Beyond keywords and sentiment, Twitter also monitors tweets for hyperlinks  
11 (*i.e.*, a link to a website, such as [www.nytimes.com](http://www.nytimes.com)). Roughly one-third of all tweets (over  
12 150,000,000 tweets per day) contain hyperlinks to other websites.<sup>8</sup> The sheer number of  
13 tweets sent and read by Twitter users means that Twitter is responsible for generating a large  
14 amount of internet traffic for other websites, with many of those sites generating revenue  
15 from advertisements shown to their visitors. An increase in visitors causes an increase in  
16 revenue for the target websites, making internet traffic the "currency" of the web.<sup>9</sup>

17 18. Unfortunately for Twitter, normal hyperlinks do not always tell website  
18 owners where their traffic comes from (the "referrer"). Consequently, at one time, there was  
19 no uniform way to measure Twitter's website referral influence, meaning Twitter's  
20 advertising partners could not readily measure the payoff from marketing to Twitter's users.

21 \_\_\_\_\_  
22 <sup>5</sup> Twitter's "sentiment monitoring technology" "filter[s] out English language Tweets  
23 with negative sentiment so [marketing] messages are only shown to the most receptive  
24 users." As a result, if a user "tweets that they're hungry but hates burritos," they "won't  
25 immediately be presented with a Promoted Tweet from Taco Bell, as an example." *Twitter  
26 Makes Words in Tweets Available for Ad Targeting* | *Adweek*, [www.adweek.com/  
27 news/technology/twitter-looks-emulate-google-keyword-ad-targeting-148646](http://www.adweek.com/news/technology/twitter-looks-emulate-google-keyword-ad-targeting-148646) (last visited  
28 Sept. 3, 2015).

<sup>6</sup> *Keyword Targeting* | *Twitter for Business*, [business.twitter.com/help/keyword-  
targeting](https://business.twitter.com/help/keyword-targeting) (last visited Sept. 14, 2015).

<sup>7</sup> *Id.*

<sup>8</sup> *How Do People Use Twitter? [Infographic]*, [blog.hubspot.com/marketing/twitter-  
usage-stats](http://blog.hubspot.com/marketing/twitter-usage-stats) (last visited Sept. 14, 2015).

<sup>9</sup> George Ivie, *The Viewable Impression: The First Step To An Audience-Based Digital  
Currency 03/23/2015*, [www.mediapost.com/publications/article/246125/the-viewable-  
impression-the-first-step-to-an-audi.html](http://www.mediapost.com/publications/article/246125/the-viewable-imp-<br/>ression-the-first-step-to-an-audi.html) (last visited Sept. 14, 2015).

1 Worse, Twitter users invariably used “link shortening” services from other companies to  
 2 meet Twitter’s 140-character limit on public tweets, effectively giving those other companies  
 3 the referral credits and analytics that Twitter itself might otherwise have enjoyed.<sup>10</sup>

4 19. To rectify this lack of recognition, Twitter developed a “link service” that  
 5 replaces any link found in a tweet with a new hyperlink to “www.t.co,” a website owned and  
 6 operated by Twitter. For example, Twitter changes links like “www.nytimes.com” to links  
 7 like “http://t.co/CL2SKBxr1s” (while still displaying the text “www.nytimes.com” to its  
 8 users). Should someone click on this new link (http://t.co/CL2SKBxr1s), they would first be  
 9 taken to Twitter’s “t.co” website and then forwarded to the original “www.nytimes.com”  
 10 website. The mechanics of this redirection would ensure that the *New York Times* could see  
 11 that the visit came from Twitter. As a consequence, the *New York Times* would view Twitter  
 12 as a more valuable source of online traffic.

13 20. When Twitter released its link service, those in the industry took note. Before,  
 14 “it was impossible to truly measure the impact Twitter brought through referrals.”<sup>11</sup> But with  
 15 the link service, Twitter was “recognized as a hugely influential source of social media  
 16 traffic.”<sup>12</sup> Others stated that “[p]reviously, it was challenging to get accurate clickthrough  
 17 metrics across multiple URL shorteners . . . beyond simple referral metrics in your web  
 18 analytics package. In addition, there was no easy and consistent method to measure outbound  
 19 link sharing using the Twitter widgets. . . . Moving forward, it’s likely that Twitter will  
 20 continue to expand their analytics tools, and potentially even explore paid measurement and  
 21

22  
 23 <sup>10</sup> As the name implies, “link shortening” means converting long hyperlinks (*e.g.*, links  
 24 over 30 characters) to short ones (*e.g.*, links with about 15 characters). Companies providing  
 25 link shortening services are able to “track how effectively [] links work,” “understand[] what  
 26 people are linking to and clicking on right now,” and get recognition for referring online  
 traffic. *Is there any money in making URLs shorter? | Technology | The Guardian*, www.  
 theguardian.com/technology/2009/aug/12/url-shortener-trim-bitly (last visited Sept. 14,  
 2015).

<sup>11</sup> *Twitter Just Got the Respect it Deserves*, thenextweb.com/twitter/2011/08/21/twitter-  
 just-got-the-respect-it-deserves (last visited Sept. 14, 2015).

<sup>12</sup> *Id.*; see also *Twitter Launches New Analytics Tool to Justify Itself | Windy City  
 Strategies*, http://www.windycitystrategies.com/blog/twitter-launches-new-analytics-tool-to-  
 justify-itself-002807 (last visited Sept. 14, 2015).

1 engagement products for business.”<sup>13</sup>

2 21. In addition, Twitter maintains a webpage providing answers to “frequently  
3 asked questions” about its link service, where it states:

4 “Why does Twitter have its own link [service]?”

- 5 1. Shortened links allow you to share long URLs in a Tweet while maintaining  
6 the maximum number of characters for your message.
- 7 2. Our link service measures information such as how many times a link has  
8 been clicked, which is an important quality signal in determining how relevant  
9 and interesting each Tweet is when compared to similar Tweets.
- 10 3. Having a link shortener protects users from malicious sites that engage in  
11 spreading malware, phishing attacks, and other harmful activity. A link  
12 converted by Twitter’s link service is checked against a list of potentially  
13 dangerous sites. Users are warned with the error message below when clicking  
14 on potentially harmful URLs.”<sup>14</sup>

15 22. Besides the increase in referral recognition (which Twitter does not mention),  
16 it is the second point that generates the greatest benefit for Twitter.<sup>15</sup> Through its link service,  
17 Twitter can “determin[e] how relevant and interesting each Tweet is compared to similar  
18 Tweets.” Twitter can ostensibly collect more information about its users by replacing every  
19 link in a tweet, tracking the websites its users share, and figuring out how they interact. Such  
20 information reveals valuable details about each user’s interests, relationships, and relative  
21 levels of social influence—“important quality signals” that Twitter can (and likely does)  
22 monetize.

23 23. But while Twitter acknowledges and publicizes that it replaces hyperlinks  
24 found with *tweets*, it does not disclose that it looks for and replaces hyperlinks in *private*  
25 *direct messages*. On the contrary, Twitter represents that the private messages it offers, called  
26 “Direct Messages,” are readable only by the sender and the recipients. Yet, a close look at the

24 <sup>13</sup> *Twitter Launches New Web Analytics Dashboard | Klick Health*,  
25 [www.klick.com/health/news/blog/twitter-launches-new-web-analytics-dashboard/](http://www.klick.com/health/news/blog/twitter-launches-new-web-analytics-dashboard/) (last  
26 visited Sept. 14, 2015).

26 <sup>14</sup> *About Twitter’s link service (http://t.co) | Twitter Help Center*, [support.twitter.com/  
articles/109623](http://support.twitter.com/articles/109623) (last visited Sept. 14, 2015).

27 <sup>15</sup> The first point—that “[s]hortened links allow you to share long URLs in a Tweet  
28 while maintaining the maximum number of characters for your message”—is inapplicable to  
Direct Messages, which do not have character limitations. And the third—that links are  
“checked against a list of potentially dangerous sites”—is likewise inapplicable, as checking  
against a list in no way requires a link to be converted.

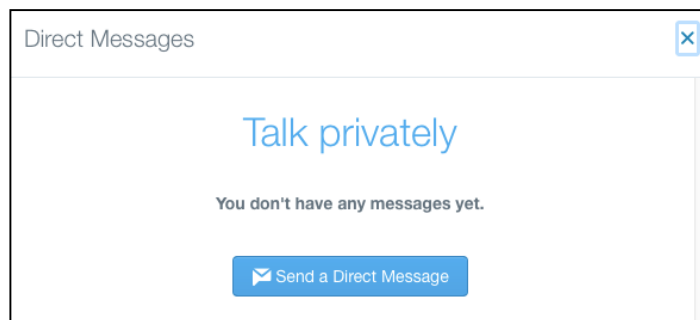
1 Direct Message service reveals that Twitter intercepts and reads contents of every message  
2 to, *inter alia*, find hyperlinks that it can replace with its own “t.co” links.

3 **II. Twitter Represents that Direct Messages are Private but in Reality Reads the**  
4 **Contents of Each One Without Consent.**

5 24. Recognizing that its users may want to share information privately, Twitter  
6 created the “Direct Message” system. According to Twitter’s representations, Direct  
7 Messages (as opposed to public tweets) allow users to write communications that will only  
8 be accessible and read by the sender and the recipients. Despite those representations, Twitter  
9 reads the contents of every Direct Message *while in transit* to, at the least, identify and  
10 modify hyperlinks.

11 *A. Twitter Expressly Represents that Direct Messages are Private.*

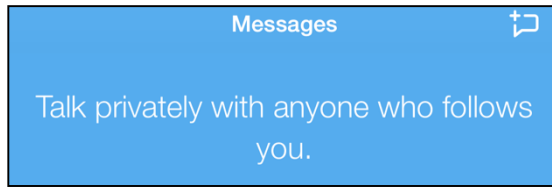
12 25. Twitter advertises its Direct Message service as an alternative to a public  
13 tweet. Rather than requiring users to send messages publicly to all their followers, like with  
14 tweets, Direct Messages allow users to transmit private messages directly to selected  
15 recipients. Twitter programmed its service to display certain text to Direct Message users  
16 emphasizing that they can “[t]alk privately.” For example, Twitter displays the following  
17 when a user opens the Direct Message service for the very first time through a web browser:



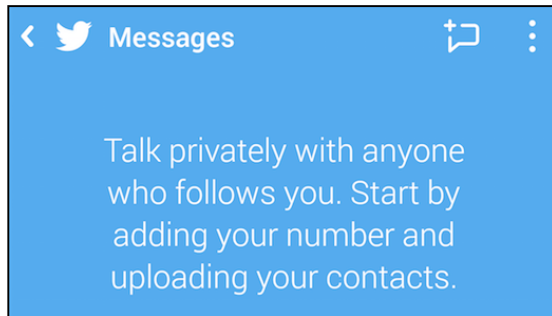
23 **(Figure 1, showing representations from Twitter’s web browser interface.)**

24 26. Twitter makes similar representations when users first access the Direct  
25 Message system through iOS (*e.g.*, Apple iPhone and iPad) or Android (*e.g.*, Samsung  
26 Galaxy S) devices:  
27  
28





4 (Figure 2, showing representations from Twitter’s iOS interface.)



10 (Figure 3, showing representations from Twitter’s Android interface, inviting users to “Talk privately with anyone who follows you.”)

11 27. Elsewhere, Twitter represents that “Direct Messages are the private side of  
 12 Twitter. [Twitter users] can use Direct Messages to have private conversations with Twitter  
 13 users about Tweets and other content.”<sup>16</sup> “While Twitter is largely a public experience,  
 14 Direct Messages let [Twitter users] have private conversations about the memes, news,  
 15 movements, and events that unfold on Twitter.”<sup>17</sup> “With Direct Messages on Twitter, [users]  
 16 can communicate privately.”<sup>18</sup> “*Direct messages can only be seen between the people*  
 17 *included*”<sup>19</sup> [emphasis added].

18 28. Twitter expressly represents that Direct Messages are private messages.  
 19 Twitter users necessarily rely on these representations to form the understanding that Direct  
 20 Messages let them communicate privately, as opposed to publicly through public tweets.  
 21 Without this understanding, Twitter users would have no reason to use Direct Messages  
 22 instead of public tweets. As such, Twitter users reasonably expect that their Direct Messages  
 23 will be kept private during transmission. Nonetheless, unbeknownst to them, Twitter  
 24 intercepts and reads the contents of every Direct Message.

25 <sup>16</sup> *About Direct Messages | Twitter Help Center*, support.twitter.com/articles/14606 (last  
 26 visited Sept. 14, 2015).

27 <sup>17</sup> *Removing the 140-character limit from Direct Messages | Twitter Blogs*,  
 blog.twitter.com /2015/removing-the-140-character-limit-from-direct-messages (last visited  
 28 Sept. 14, 2015).

<sup>18</sup> *About Direct Messages, supra*.

<sup>19</sup> *Id.*

1           B.       *Twitter Intercepts and Reads the Contents of Every Direct Message During*  
2                    *Transmission.*

3           29.       Contrary to Twitter’s representations, Direct Messages are not private.  
4           Instead, Twitter intercepts and reads the contents of each Direct Message while the message  
5           is in transit (*i.e.*, immediately after it is sent but before it is received). Moreover, Twitter  
6           actively monitors Direct Messages for hyperlinks that can supplement its link service. But  
7           while Twitter reads, monitors, and, at times, alters Direct Messages, Twitter never obtains its  
8           users’ consent to do so.

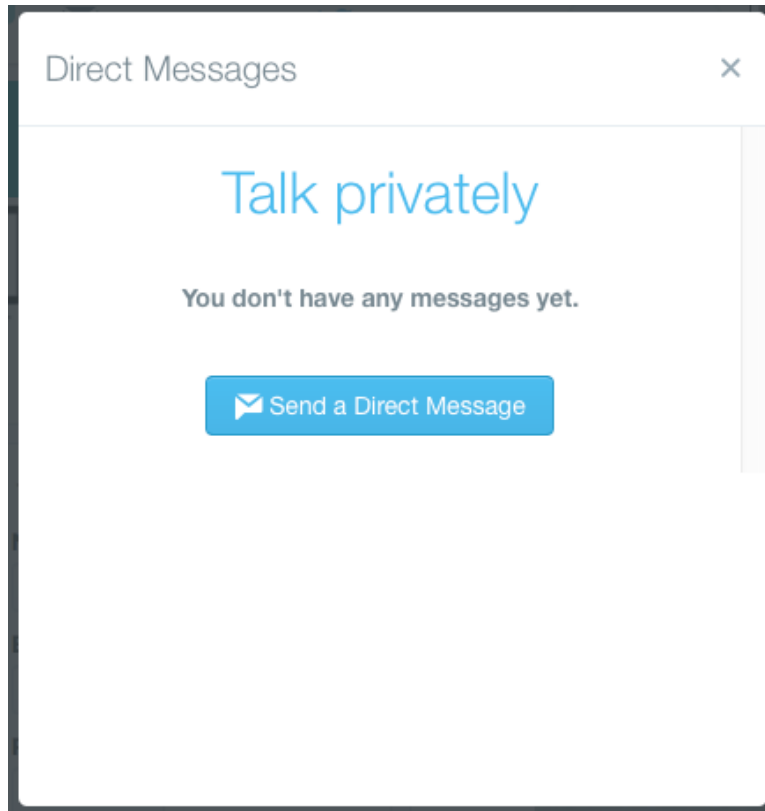
9           30.       From a Twitter user’s perspective, sending a Direct Message is a simple task.  
10           The user navigates to the Direct Message system (after viewing Twitter’s privacy-related  
11           representations, discussed above) and specifies to whom the Direct Message will be sent.  
12           After selecting the recipient or recipients, the user drafts a message and clicks on a “Send”  
13           button to transmit the message.

14           31.       But before Twitter delivers the message to the intended recipient, Twitter  
15           intercepts and accesses the contents of the message. The moment the consumer clicks  
16           “Send,” Twitter’s service will open, scan, and potentially alter the contents of the message.

17           32.       Twitter’s invasive scanning is demonstrated by its practice of altering the  
18           contents of hyperlinks. Should a Twitter user transmit a Direct Message with a hyperlink,  
19           Twitter automatically uses its link service, described above, to replace the hyperlink with its  
20           own referral link. This link replacement happens instantaneously during transit and is hidden  
21           from both the sender and recipient.

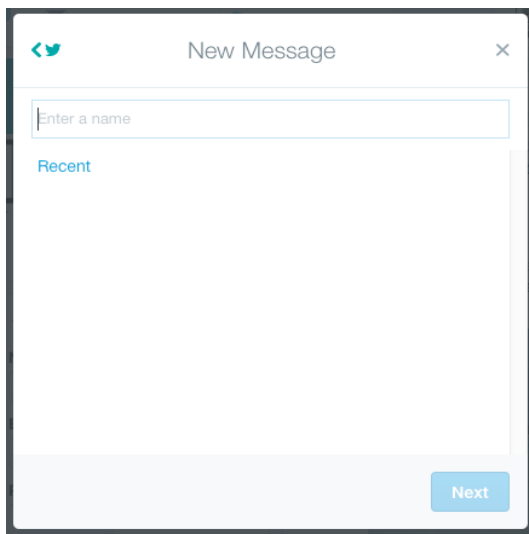
22           33.       Indeed, to the sender of the message, his or her Direct Message looks  
23           unadulterated. For example, Figures 4 through 9 show Twitter’s user interface for drafting  
24           and transmitting a Direct Message. First, in Figure 4, Twitter invites the user to “Talk  
25           privately” by clicking on a button that says “Send a Direct Message”:  
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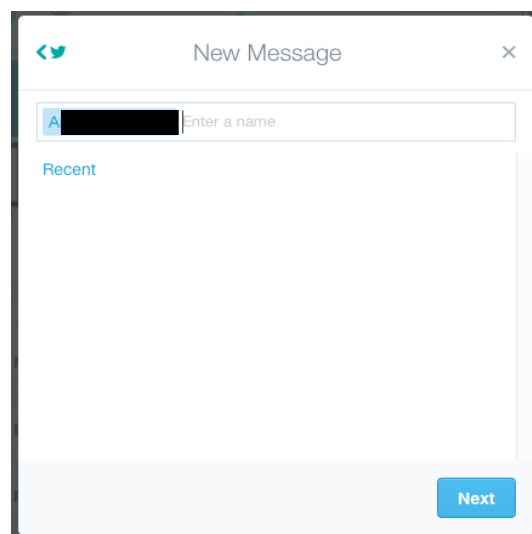


**(Figure 4.)**

34. Next, as shown in Figures 5 and 6, Twitter asks the user to “Enter a name” of at least one other Twitter user who will receive the message.

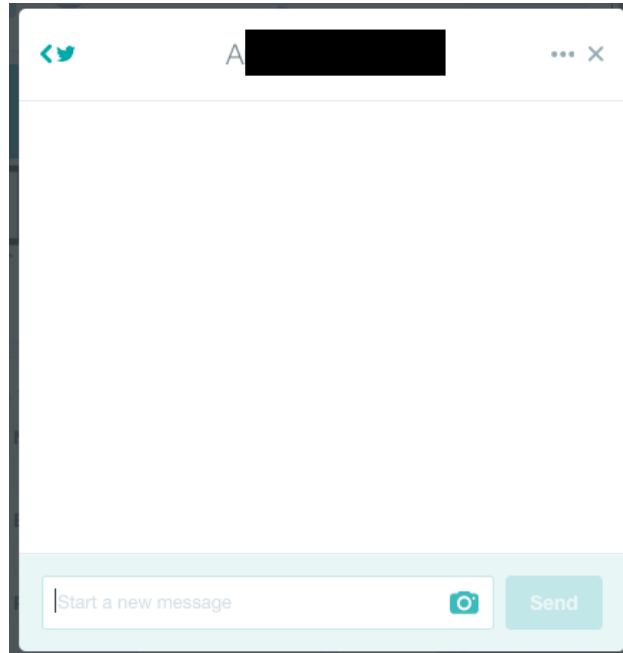


**(Figure 5.)**



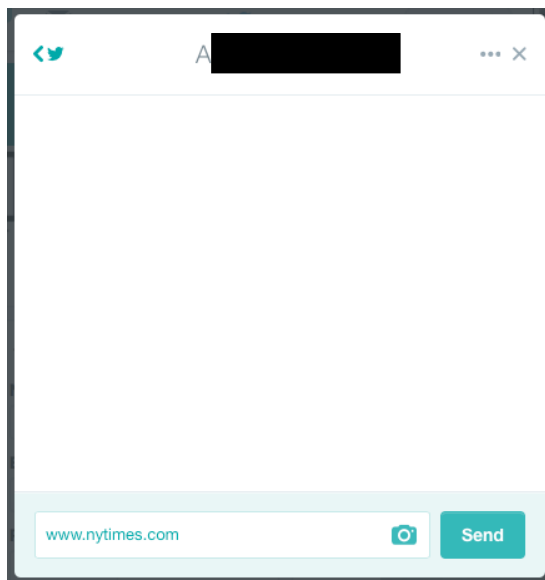
**(Figure 6, showing redacted Twitter name.)**

35. Once the user specifies a recipient, Twitter instructs the user to “Start a new message” by typing into a box at the bottom. *See Figure 7.*

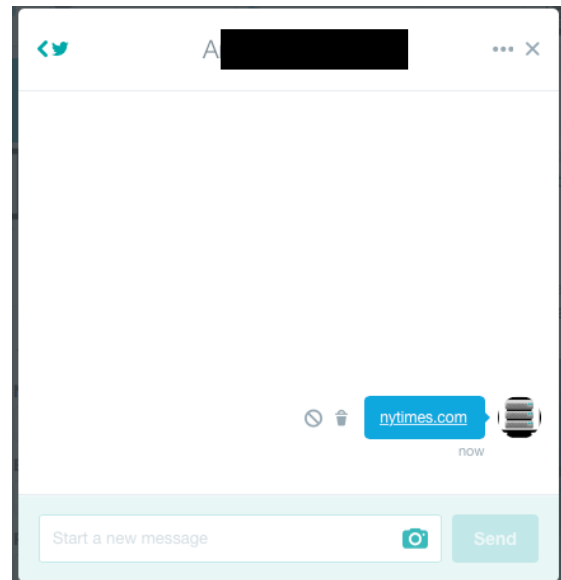


(Figure 7.)

12           36.     In the example shown, the user drafted a message containing a link to  
13 [www.nytimes.com](http://www.nytimes.com), *see* [Figure 8](#), and then pressed the “Send” button to transmit the message  
14 to the recipient. *See* [Figure 9](#).



(Figure 8.)



(Figure 9.)

25           37.     As [Figure 9](#) shows, the transmitted Direct Message appears to contain the  
26 same hyperlink to “nytimes.com” that the user had originally sent.

27           38.     Behind the scenes, however, it is evident that Twitter intercepted and read the  
28 message, identified the hyperlink, and tampered with the message by replacing the hyperlink

1 with its own “t.co” link. Specifically, the computer code for Twitter.com used to display the  
 2 interface as shown in Figure 9 reveals that the “display” link (circled in green) is  
 3 programmed to match what the user sent (*i.e.*, nytimes.com) but the underlying hyperlink  
 4 (circled in red) is modified from “www.nytimes.com” to “http://t.co/36rtdx2c1M.” See  
 5 Figure 10.

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6 <a href="http://t.co/36rtdx2c1M" rel="nofollow" dir="ltr" data-expanded-
7 url="http://www.nytimes.com" class="twitter-timeline-link" target=
8 "_blank" title="http://www.nytimes.com">
9 <span class="tco-ellipsis"></span>
10 <span class="invisible">http://www.</span>
11 <span class="js-display-url">nytimes.com</span>
12 <span class="invisible"></span>
13 <span class="tco-ellipsis">_</span>
  
```

9 (Figure 10, showing an example of Twitter’s underlying computer code.)

10 39. Twitter displays “nytimes.com” instead of the “t.co” hyperlink because it  
 11 understands that consumers might be weary of clicking on indecipherable hyperlinks (*e.g.*,  
 12 t.co/36rtdx2c1M). That is, Twitter knows that users are unable to discern that the hyperlink  
 13 “t.co/36rtdx2c1M” will navigate them to nytimes.com. To resolve this, Twitter masks its  
 14 “t.co” hyperlink with the original nytimes.com link. The recipient of the Direct Message,  
 15 then, is more likely to click on this familiar-looking hyperlink.

16 40. When a Twitter user clicks on the masked hyperlink, Twitter receives a  
 17 benefit in the form of referral credit. In the example provided, while both hyperlinks  
 18 ultimately navigate users to nytimes.com, the first—which connects *directly* to  
 19 “www.nytimes.com”—will not generate referral credit for Twitter. Conversely, the second,  
 20 masked link, which reroutes users to Twitter’s own “t.co” website before nytimes.com, will  
 21 generate referral credit for Twitter. Thus, Twitter’s masked “t.co” link lets the *New York*  
 22 *Times* identify Twitter as the referrer of its web traffic, increasing the perceived value of  
 23 marketing through Twitter.

24 41. In addition, Twitter benefits by tracking and generating analytics from users  
 25 that click on its replaced hyperlinks. As explained above, Twitter reads the contents of all  
 26 Direct Messages so that it can identify and replace hyperlinks with its own, routing every  
 27 user who clicks to Twitter’s “t.co” website. Twitter then tracks each “t.co” visitor (voluntary  
 28 or not) through the use of “cookie” technology; where cookies are simple text files placed

1 onto a user's computer by a web server (e.g., Twitter's "t.co") that can be used to track  
2 browsing activity and report said activity back to the server that originally placed the cookie.

3 42. Twitter uses cookies, such as the "t.co" cookie, not only to track users as they  
4 connect to its own websites, but also as they surf the web. Indeed, Twitter partners with  
5 website operators to include "tweet this" buttons on their websites, shown in Figure 11, that  
6 expand Twitter's tracking and analytics capabilities.



9 **(Figure 11.)**

10 43. Every website with a "tweet this" button reports back to Twitter with  
11 information on the site's visitors, allowing Twitter's analytics to span the internet. One  
12 internet publication described Twitter's tracking:

13 "Basically, every time you visit a site that has a follow button, a 'tweet this'  
14 button ... Twitter is recording your behavior. It is transparently watching your  
15 movements and storing them somewhere for later use. ... The privacy  
16 implications of such behavior by a company so large are sweeping and  
17 absolute."<sup>20</sup>

18 44. Twitter's replacement of hyperlinks in private Direct Messages demonstrates  
19 that Twitter intercepts and reads the contents of every Direct Message, and it receives several  
20 benefits from this practice—including the ability to track users based on information they  
21 would not reveal publicly through default tweets. Yet, Twitter never obtains its users'  
22 consent. As such, Defendant's methods disregard consumers' privacy rights and violate  
23 federal and state law.

#### 24 **FACTS RELATING TO PLAINTIFF WILFORD RANEY**

25 45. Plaintiff Wilford Raney registered for a Twitter account in 2009, at which  
26 time he agreed to Defendant's Twitter Terms of Service. Since then, Plaintiff has publicly  
27 tweeted more than 200,000 times from his personal computer and his smartphone.

28 46. Plaintiff has also sent and received hundreds of Direct Messages, both from

<sup>20</sup> *Twitter Is Tracking You On The Web; Here's What You Can Do To Stop It*,  
<http://lifehacker.com/5911389/twitter-is-tracking-you-on-the-web-heres-what-you-can-do-to-stop-it> (last visited Sept. 14, 2015).

1 his personal computer and smartphone, including more than a dozen in the past twelve  
2 months. Unbeknownst to Plaintiff (and without his consent), Twitter intercepted and read the  
3 contents of all of his private Direct Messages. For instance, Twitter read Plaintiff's Direct  
4 Messages to identify hyperlinks to other websites so that it could replace identified links with  
5 its own "t.co" hyperlinks.

6 47. Plaintiff also received many Direct Messages, including messages containing  
7 hyperlinks replaced by Twitter. When Plaintiff clicked on links from those Direct Messages,  
8 he was surreptitiously rerouted through Twitter's servers without his knowledge or consent.

9 48. At no time did Plaintiff consent to Twitter's interception, reading, monitoring,  
10 or alteration of the contents of the Direct Messages he sent or received.

#### 11 CLASS ALLEGATIONS

12 49. Plaintiff brings this action pursuant to Fed. R. Civ. P. 23(b)(2) and (3) on  
13 behalf of himself and two Classes of similarly situated individuals, defined as follows:

14 **Sender Class:** All individuals in the United States who sent one or  
15 more Direct Message where Twitter was not a party to the message.

16 **Recipient Class:** All individuals in the United States who received one  
or Direct Message where Twitter was not a party to the message.

17 Excluded from the Classes are: (1) any Judge or Magistrate presiding over this action  
18 and members of their families; (2) Defendant, Defendant's subsidiaries, parents, successors,  
19 predecessors, and any entity in which the Defendant or its parents have a controlling interest  
20 and their current or former employees, officers, and directors; (3) counsel for Plaintiff and  
21 Defendant; (4) persons who properly execute and file a timely request for exclusion from the  
22 classes; (5) the legal representatives, successors, or assigns of any such excluded persons;  
23 and (6) all persons who have previously had claims similar to those alleged herein finally  
24 adjudicated or who have released their claims against Defendant.

25 50. **Numerosity:** The exact number of members in each Class is unknown to  
26 Plaintiff at this time, but on information and belief, there are tens of thousands of people in  
27 each of the Classes, making joinder of each individual member impracticable. Ultimately,  
28 members of the Classes will be easily identified through Defendant's records.

1           51.     **Commonality and Predominance:** There are many questions of law and fact  
2 common to the claims of Plaintiff and the other members of the Classes, and those questions  
3 predominate over any questions that may affect individual members of the Classes. Common  
4 questions for the Classes include but are not limited to the following:

- 5                   (a)     whether Twitter obtained consent to intercept and/or access  
6                   Plaintiff's and the Classes' Direct Messages;
- 7                   (b)     whether Twitter intercepted and/or read Plaintiff's and the  
8                   Classes' Direct Messages;
- 9                   (c)     whether Twitter used the contents of Plaintiff's and the  
10                  Classes' Direct Messages for its benefit;
- 11                  (d)     whether Twitter's conduct violates the Electronic  
12                  Communications Privacy Act, 18 U.S.C. §§ 2510, *et seq.*;
- 13                  (e)     whether Twitter's conduct violates the California Invasion of  
14                  Privacy Act, Cal. Pen. Code §§ 630, *et seq.*; and
- 15                  (f)     whether Plaintiff and the members of the Classes are entitled to  
16                  actual and/or statutory damages as a result of Twitter's  
17                  conduct.

16           52.     **Typicality:** Plaintiff's claims are typical of the claims of all the other  
17 members of the Classes. Plaintiff and the members of the Classes sustained substantially  
18 similar damages as a result of Defendant's uniform wrongful conduct, based upon the same  
19 interactions that were made uniformly with Plaintiff and the public.

20           53.     **Adequate Representation:** Plaintiff will fairly and adequately represent and  
21 protect the interests of the other members of the Classes. Plaintiff has retained counsel with  
22 substantial experience in prosecuting complex litigation and class actions. Plaintiff and his  
23 counsel are committed to vigorously prosecuting this action on behalf of the members of the  
24 Classes and have the financial resources to do so. Neither Plaintiff nor his counsel have any  
25 interest adverse to those of the other members of the Classes.

26           54.     **Policies Generally Applicable to the Classes:** Defendant has acted and failed  
27 to act on grounds generally applicable to Plaintiff and the other members of the Classes,  
28 requiring the Court's imposition of uniform relief to ensure compatible standards of conduct



1 toward the Classes.

2       55.     **Superiority:** This case is also appropriate for class certification because class  
3 proceedings are superior to all other available methods for the fair and efficient adjudication  
4 of this controversy as joinder of all parties is impracticable. The damages suffered by the  
5 individual members of the Classes will likely be relatively small, especially given the burden  
6 and expense of individual prosecution of the complex litigation necessitated by Defendant's  
7 actions. Thus, it would be virtually impossible for the individual members of the Classes to  
8 obtain effective relief from Defendant's misconduct. Even if members of the Classes could  
9 sustain such individual litigation, it would still not be preferable to a class action, because  
10 individual litigation would increase the delay and expense to all parties due to the complex  
11 legal and factual controversies presented in this Complaint. By contrast, a class action  
12 presents far fewer management difficulties and provides the benefits of single adjudication,  
13 economies of scale, and comprehensive supervision by a single Court. Economies of time,  
14 effort, and expense will be fostered and uniformity of decisions ensured.

15       56.     Plaintiff reserves the right to revise the Class Definitions and Class  
16 Allegations based on further investigation, including facts learned in discovery.

17                                   **FIRST CAUSE OF ACTION**  
18                                   **Violations of the Electronic Communications Privacy Act**  
19                                   **18 U.S.C. §§ 2510 *et seq.***  
20                                   **(On Behalf of Plaintiff and the Classes)**

21       57.     Plaintiff incorporates by reference the foregoing allegations.

22       58.     The Electronic Communications Privacy Act, 18 U.S.C. §§ 2510, *et seq.* (the  
23 "ECPA"), prohibits any person from intentionally intercepting any electronic communication  
24 or from intentionally using, or endeavoring to use, the contents of any electronic  
25 communication while knowing or having reason to know that the information was obtained  
26 through the interception of an electronic communication. 18 U.S.C. § 2511(1)(a), (d).

27       59.     Twitter, as a corporation, is a "person" under the ECPA, which is broadly  
28 defined to include "any individual, partnership, association, joint stock company, trust, or  
corporation." 18 U.S.C. § 2510(6).

1           60.     Direct Messages are “electronic communications” under the ECPA, which are  
2 broadly defined as “any transfer of signs, signals, writing, images, sounds, data, or  
3 intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic,  
4 photoelectric or photooptical system that affects interstate or foreign commerce . . . .” 18  
5 U.S.C. § 2510(12).

6           61.     Plaintiff and the members of the Classes sent or received “electronic  
7 communications” while using Defendant Twitter’s services whenever they sent or received  
8 Direct Messages through such services.

9           62.     Twitter intercepted, read, and/or used the Direct Messages sent or received by  
10 Plaintiff and each member of the Classes between the time each such message was sent, on  
11 the one hand, and the time such message was posted to a recipient’s inbox, on the other. In  
12 doing so, Twitter used electronic, mechanical, or other devices to automatically acquire, read,  
13 and manipulate content from Direct Messages in the course of each such message’s  
14 transmission.

15           63.     Twitter intentionally used, or endeavored to use, the contents of these Direct  
16 Messages while knowing or having reason to know that the information was obtained  
17 through the interception of an electronic communication.

18           64.     Twitter’s actions as complained of herein have been intentional, as evidenced  
19 by the design and implementation of its Direct Message service.

20           65.     Twitter’s interception, reading, and altering of Direct Messages are not  
21 necessary practices for providers of electronic communication services, nor are they  
22 instrumental or necessary to the operation of a functioning Direct Messaging system to the  
23 transmission of Direct Messages. Specifically, it is not necessary for Twitter to identify and  
24 replace hyperlinks with its own t.co links to transmit the Direct Messages or to protect  
25 against malicious messages. As described in Section I, Twitter states that analytics (*e.g.*,  
26 “measure[ing] information such as how many times a link has been clicked”) is a separate  
27 process from purported protections against malicious hyperlinks.

28           66.     No party to the electronic communications alleged herein consented to

1 Twitter's interception or use of the contents of the electronic communications. Nor could  
2 they, because Twitter never sought to obtain its users' consent, and each interception  
3 occurred immediately after the sending of a Direct Message, before the recipient (or sender)  
4 could provide consent (if any was sought). Moreover, Twitter was never a party to any of the  
5 messages sent and/or received by Plaintiff and members of the Classes.

6 67. Plaintiff and the Classes suffered harm as a result of Defendant's violations of  
7 the ECPA, and therefore seek (a) preliminary, equitable and declaratory relief as may be  
8 appropriate, (b) the sum of the actual damages suffered and the profits obtained by Defendant  
9 as a result of its unlawful conduct, or statutory damages as authorized by 18 U.S.C.  
10 § 2520(2)(B), whichever is greater, (c) punitive damages, and (d) reasonable costs and  
11 attorneys' fees.

12 **SECOND CAUSE OF ACTION**  
13 **Violation of the California Invasion of Privacy Act**  
14 **Cal. Pen. Code §§ 630, *et seq.***  
15 **(On Behalf of Plaintiff and the Classes)**

16 68. Plaintiff incorporates by reference the foregoing allegations.

17 69. The California Invasion of Privacy Act, Cal. Pen. Code §§ 630, *et seq.* (the  
18 "CIPA"), provides that "The Legislature hereby declares that advances in science and  
19 technology have led to the development of new devices and techniques for the purpose of  
20 eavesdropping upon private communications and that the invasion of privacy resulting from  
21 the continual and increasing use of such devices and techniques has created a serious threat  
22 to the free exercise of personal liberties and cannot be tolerated in a free and civilized  
23 society."

24 70. Plaintiff and the members of the Classes sent and received private Direct  
25 Messages through Twitter's services.

26 71. California Penal Code § 631(a) prohibits "[a]ny person" from "willfully and  
27 without consent of all parties to the communication, or in any unauthorized manner,  
28 read[ing], or attempt[ing] to read, or [] learn[ing] the contents or meaning of any message,  
report, or communication while the same is in transit or passing over any wire, line, or cable"

1 or from “us[ing], or attempt[ing] to use” such communications.

2 72. Pursuant to California Penal Code § 7, Twitter, a corporation, is a “person.”

3 73. Twitter acts willfully when it reads, attempts to read, or learns the content or  
4 meaning of the private Direct Messages sent and received by Plaintiff and the members of  
5 the Classes.

6 74. Twitter does not have the consent of any party to the communication, or it acts  
7 in an unauthorized manner, when it reads, attempts to read, or learns the content or meaning  
8 of the private Direct Messages sent and received by Plaintiff and the members of the Classes  
9 or when it uses or attempts to use the contents of those communications.

10 75. At the time Twitter reads, attempts to read, or learns the content or meaning of  
11 the private Direct Messages sent and received by Plaintiff and the members of the Classes,  
12 the messages are in transit, in that Twitter intercepts and scans such messages after they have  
13 been sent but before they have been posted to any recipient’s inbox.

14 76. At the time Twitter reads, attempts to read, or learns the content or meaning of  
15 the private Direct Messages sent and received by Plaintiff and the members of the Classes,  
16 such messages are in transit or are passing over a wire, line, or cable. Specifically, Twitter  
17 intercepts and scans the content of private Direct Messages while such messages are still in  
18 transit, after having been sent from one user but before being received by any other user or  
19 his or her account.

20 77. Plaintiff and the members of the Classes do not consent, expressly or  
21 impliedly, to Twitter’s eavesdropping upon and recording of their private messages. Twitter  
22 does not disclose material information to its users relating to its attempts at, among other  
23 things, intercepting, reading, and altering the contents of its users’ private Direct Messages.

24 78. Plaintiff and the members of the Classes do not know or expect that Twitter  
25 reads their private Direct Messages and/or learns of and manipulates the contents therein.  
26 Twitter’s actions extend beyond the normal occurrences, requirements, and expectations  
27 regarding the transmission of private Direct Messages.

28 79. Pursuant to Cal. Penal Code Section 637.2, Plaintiff seeks an order: (i)

1 requiring Defendant to cease the unlawful practices described herein; (ii) awarding statutory  
2 damages of \$5,000 to each member of the Classes; and (iii) awarding reasonable costs and  
3 attorneys' fees.

4 **PRAYER FOR RELIEF**

5 **WHEREFORE**, Plaintiff Wilford Raney, individually and on behalf of the Classes,  
6 prays for the following relief:

7 A. Certify this case as a class action on behalf of the Classes defined above,  
8 appoint Wilford Raney as representative for the Classes, and appoint his counsel as counsel  
9 for the Classes;

10 B. Declare that Defendant's actions, as described herein, violate the Electronic  
11 Communications Privacy Act (18 U.S.C. §§ 2510 *et seq.*) and the California Invasion of  
12 Privacy Act (Cal. Penal Code §§ 630 *et seq.*);

13 C. Award injunctive and other equitable relief as is necessary to protect the  
14 interests of Plaintiff and the members of the Classes, including, *inter alia*, an order  
15 prohibiting Defendant from engaging in the wrongful and unlawful acts described herein;

16 D. Award damages, including:

17 i. the greater of (a) the sum of actual damages suffered plus any profits  
18 Defendant earned through its unlawful conduct, and (b) the greater of  
19 \$100 per member of the Classes, per day of Defendant's violations, or  
20 \$10,000 per member of the Classes, pursuant to 18 U.S.C.

21 § 2520(c)(2);

22 ii. statutory damages of \$5,000 per Class member, pursuant to Cal. Pen.  
23 Code § 637.2; and

24 iii. punitive damages, where applicable, to Plaintiff and the Classes in an  
25 amount to be determined at trial;

26 E. Award Plaintiff and members of the Classes their reasonable litigation  
27 expenses and attorney's fees;

28 F. Award Plaintiff and members of the Classes pre- and post-judgment interest,

1 to the extent allowable; and

2 G. Award such other and further relief as equity and justice may require.

3 **JURY TRIAL**

4 Plaintiff demands a trial by jury for all issues so triable.

5  
6 Respectfully submitted,

7 Dated: September 14, 2015

**WILFORD RANEY**, individually and on  
8 behalf of all others similarly situated,

9 By: /s/ Samuel M. Lasser  
10 One of Plaintiff's Attorneys

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\**Pro hac vice* admission to be sought.

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