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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10

11
12 GENEVIEVE MORTON, an
13 individual,
14 Plaintiff

15 v.

16 TWITTER, INC., a Delaware
17 Corporation; TWITTER
18 INTERNATIONAL COMPANY;
19 TWEETDECK, INC., a Delaware
20 Corporation; MAGIC PONY
TECHNOLOGY, INC., a Delaware
Corporation; Does 1-10,
Defendants.

COMPLAINT FOR:

1. **COPYRIGHT INFRINGEMENT, 17 U.S.C. § 106**
2. **RIGHT OF PUBLICITY, CAL. CIV. CODE § 3344**
3. **FALSE LIGHT**

DEMAND FOR JURY TRIAL

21 PLAINTIFF GENEVIEVE MORTON (“Morton” or “Plaintiff”), by and through
22 her attorney of record, Jennifer Holliday, alleges against Twitter, Inc. (“Twitter”),
23 Twitter International Company (“Twitter International”), TweetDeck, Inc., Magic
24 Pony Technology, Inc., and Doe Defendants 1-10 (collectively, “Defendants”) upon
25 personal information as to Plaintiff’s own activities, and upon information and
26 belief as to the activities of others, as follows:
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I. Jurisdiction and Venue

1. This Court has exclusive subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this is a claim for copyright infringement arising under the Copyright Act for the United States, 17 U.S.C. § 101, et. seq., and the Court has jurisdiction over the remaining causes of action under 28 U.S.C. §1367.

2. This Court has personal jurisdiction over Defendants Twitter, Inc., Twitter International, TweetDeck, Inc., Magic Pony Technology, Inc., and Doe Defendants Numbers 1 through 10 because these Defendants conduct substantial business in the State of California and can be found in this judicial district.

3. The claims alleged in this Complaint arise in the State of California and the Central District of California.

4. Venue is appropriate in this judicial district pursuant to 28 U.S. Code Section 1391(b)(3) and this Court has jurisdiction over Defendants, and each of them, by reason of the fact that among other things: (1) the Defendants Twitter, Inc. and Twitter International operate Twitter.com, an interactive website accessible in the County of Los Angeles; (2) the Defendants’ businesses are accessible in the County of Los Angeles; (3) Defendants are personally subject to jurisdiction of this Court pursuant to the California Long-Arm statute, California Code of Civil Procedure Section 413.10 and Federal Rule of Civil Procedure 4(e).

II. Parties

5. Plaintiff is an individual, a citizen of South Africa, a Permanent Resident of the United States currently residing in Tennessee.

6. Upon information and belief, Defendant Twitter, Inc. is a Delaware Corporation registered number 4337446, with its headquarters and principal business address at 1355 Market Street, Suite 900, San Francisco, CA 94103. Twitter, Inc. is also registered with the Secretary of State of California with file

1 number C3006676 and lists a registered agent for service of process of “CT
2 Corporation System” in Los Angeles County at 330 N. Brand Blvd., Glendale,
3 California 91203. On information and belief, Twitter, Inc. owns and operates
4 Twitter.com, Twitter for iPad, Twitter for iPhone, Twitter for Android, and Twitter
5 for Mac, as well as Defendants TweetDeck, Inc., Magic Pony Technology, Inc.
6 (collectively “Subsidiary Defendants”). At all relevant times, Defendant Twitter,
7 Inc. offered users access to Twitter.com in the United States pursuant to its Terms
8 of Service available at https://twitter.com/en/tos/previous/version_15 hereby
9 incorporated by reference. Plaintiff is informed and believes all Subsidiary
10 Defendants were acting as agents of Twitter, Inc. at all relevant times and had the
11 authority to act on behalf of Twitter, Inc. and that Twitter, Inc. is responsible for the
12 acts of Subsidiary Defendants.

13 7. Defendant Twitter International Company is a company registered in Ireland.
14 At all relevant times, Twitter International Company offered users access to
15 Twitter.com to users in the E.U., EFTA States or the United Kingdom pursuant its
16 Terms of Service also available at https://twitter.com/en/tos/previous/version_15.
17 Plaintiff is informed and believes Twitter International Company is responsible for
18 enforcing Terms of Service against users of Twitter.com outside the United States.

19 8. Defendant TweetDeck, Inc. “TweetDeck” is a Corporation organized under
20 the laws of the State of Delaware registered under File Number 4643066 and owns
21 TweetDeck, a social media dashboard application for management of multiple
22 Twitter accounts and an alternative to using Twitter.com. Instructions on how to
23 use TweetDeck appear on Twitter.com, and TweetDeck “lets you delegate access to
24 your team members without the need to share passwords.” TweetDeck is an
25 application integrated with Twitter that enables entire teams of people to “share
26 access” to an account.¹ Using the TweetDeck interface, a Twitter account can be

27 _____
28 ¹ See Twitter.com, Help Center, App and website integrations, How to use the Teams feature on TweetDeck,
available at: <https://help.twitter.com/en/using-twitter/tweetdeck-teams> (last accessed Aug. 17, 2021).

1 shared by multiple people on multiple IP addresses in multiple locations worldwide,
2 and an account can be operated by up to 200 members of a team.

3 9. Defendant Magic Pony Technology, Inc. is a corporation organized under the
4 laws of the State of Delaware with corporate file number 5986226. Magic Pony
5 Technology, Inc. develops artificial intelligence learning technologies that use
6 neural networks and machine learning to alter photography-based image data.
7 Magic Pony Technology, Inc. is a subsidiary of Defendant Twitter, Inc. who
8 acquired it for approximately \$150,000,000 in 2016.

9 10. Doe Number 1 is an agent of Twitter, Inc. who manages Twitter's DMCA
10 Notice and Takedown Requests. Although Doe Number 1 is unknown to Plaintiff,
11 the party's identity is known to Twitter, Inc., and it had the apparent authority to act
12 on behalf of, and acted on behalf of, Twitter, Inc. and its subsidiaries at all relevant
13 times.

14 11. Doe Defendant Number 2 is unknown to Plaintiff but whose identity is likely
15 to be discovered through the course of this litigation. Doe Defendant Number Two
16 operates the Twitter.com account under username @city_tits and the linked website
17 operating at IP Address 172.64.34.200, a server located within the United States.
18 Twitter and/or Twitter International offered its Services to Doe Defendant Number
19 2 through its Terms of Service and/or Developer Policy available here:
20 <https://developer.twitter.com/en/developer-terms/policy> and incorporated by
21 reference. At all relevant times, Twitter, Inc. and/or its subsidiary Twitter
22 International Company had the right to terminate services to the account holder
23 operating the @city_tits account.

24 12. Plaintiff does not know the true names of defendants named in this
25 Complaint as Does 3-10 and therefore sues those defendants by such fictitious
26 names. Plaintiff will amend the Complaint to include the true names of the Doe
27 Defendants and allege facts supporting their liability when Plaintiff learns them.
28 Plaintiff is informed and believes, and on that basis alleges, that each of the

1 fictitiously named defendants is responsible in some manner for the acts and
2 omissions that give rise to Plaintiff’s injuries, and that the Doe Defendants
3 proximately caused Plaintiff’s injuries.

4 **III. Facts**

5 A. Morton created photographs and registered them with the U.S. Copyright
6 Office

7 13. Morton created and owns all rights to two photographs, one registered with
8 Copyright Registration Number VA-2-211-724 and entitled “Love on the Rocks
9 15” (“Infringed Image 1”), and another with Copyright Registration Number
10 VA0002210005 and entitled, “Artists Collection 16” (“Infringed Image 2”)
11 (collectively “Infringed Images”).

12 14. Morton is an internationally-recognizable model whose name and likeness
13 have substantial value, and Morton’s business partially involves creating,
14 commissioning and selling and/or licensing copyrighted collections of copyrighted
15 photographs.

16 15. Ms. Morton has maintained a Verified Account on Twitter.com since 2009
17 under the username @genevievemorton and, at all relevant times, had a following
18 of over 83,000 users on Twitter.com and over 3.5 million followers across other
19 social media platforms. Ms. Morton’s name, image and likeness (“the Morton
20 Publicity Rights”) has and, at all relevant times had, substantial commercial value.

21 B. Twitter, Inc.’s business model and platform.

22 16. Twitter, Inc. operates an Internet-based service that, among other things,
23 allows its users to send messages (“Tweets”) through Twitter.com and its mobile
24 site, client applications, or third-party applications (“Twitter”). Twitter enabled its
25 user @city_tits to embed photos and videos into Tweets displayed to the public as
26 well as in direct messages transmitted outside of public view.

27 17. Twitter, Inc. also offers users access to data storage, developer services, and
28 a CDN (“Content Delivery Network”) consisting of data centers in various

1 locations that facilitate rapid data transfer worldwide. Plaintiff is informed and
2 believes that over 800,000 websites use Twitter, Inc.’s CDN, including companies
3 like Walmart and the Professional Golf Association (PGA), and the CDN is a
4 source of revenue for Twitter, Inc.

5 18. Twitter, Inc. grossed in excess of \$3.5 billion in 2020 from selling
6 advertising on Twitter.com and other revenue streams, is traded on the New York
7 Stock Exchange, and has a market valuation exceeding \$56,000,000,000.

8 19. At the time of the alleged infringement, Twitter.com had approximately
9 180,000,000 unique daily users and 330,000,000 registered users, and that number
10 has subsequently increased in 2020.

11 C. Twitter and its users copied, displayed, and distributed the Infringed Images,
12 and created derivative works without license or permission from Morton.

13 20. On or about June 18, 2020, a copy of Plaintiff’s Infringed Image 1 appeared
14 without Morton’s authorization on the @city_tits Twitter feed at the URL
15 https://twitter.com/city_tits/status/1273260487506120709 with the following text:
16 “Genevieve Morton @genevievemorton #Girlswithbigtits #genevievemorton” and a
17 link to a third-party website.

18 21. Plaintiff is informed and believes Twitter user @city_tits embedded a
19 substantially similar copy of Plaintiff’s copyrighted work, Infringed Image 1, in a
20 Tweet on Twitter.com, reproducing, displaying and distributing it without license,
21 permission or authorization from Morton along with a link to the user’s third-party
22 website where additional unauthorized reproductions of Morton’s works appeared.

23 22. As soon as she discovered the infringement, Morton, through counsel,
24 submitted a DMCA-compliant Notice and Takedown Report (Report #1) to Twitter,
25 Inc. on July 23, 2020 through Twitter.com’s DMCA reporting system.

26 23. On or about September 10, 2020, a copy of Plaintiff’s Infringed Image 2
27 appeared without Ms. Morton’s authorization on the @city_tits Twitter feed at the
28 URL https://twitter.com/city_tits/status/1304069685680443394 with the following

1 text: “Genevieve Morton @genevievemorton #Girlswithbigtits #genevievemorton”
2 and a link to a third-party website containing additional infringed works.

3 24. Morton discovered the Tweet featuring Infringed Image 2 on September 10,
4 2021 and submitted a DMCA-compliant Notice and Takedown Report (Report #2)
5 to Twitter, Inc. on September 10, 2020 through Twitter.com’s DMCA reporting
6 system.

7 25. Although the Infringed Image 1 and 2 are substantially similar to Plaintiff’s
8 Original images, Doe Defendant #1 @city_tits “flipped” the Infringed Images
9 before embedding them into Tweets to avoid detection from automated copyright
10 enforcement tools.

11 26. Doe Defendant #2, Twitter user @city_tits, used a Twitter developer account
12 to post the Infringed Images.

13 27. Doe Defendant #2, Twitter user @city_tits, used Twitter’s “PHP pics poster”
14 developer tool to post the Infringed Images, embedding it into a Tweet where it was
15 displayed without Plaintiff’s authorization on Twitter.com, TweetDeck, Twitter for
16 iPhone, Twitter for iPad, and other related applications.

17 D. Twitter’s access to the Infringed Images and its Saliency Algorithm.

18 28. Defendant Twitter, Inc. developed, engineered, and deployed an artificially
19 intelligent saliency algorithm² (“Saliency Algorithm”).

20 29. Defendant Twitter, Inc., and/or its subsidiaries, had access to the Infringed
21 Images through Twitter user @city_tits who embedded the Infringed Images, and
22 Twitter used the Saliency Algorithm to crop and alter the Infringed Images without
23 Ms. Morton’s authorization cropped Ms. Morton’s Infringed Images, creating an
24 unauthorized derivative work that it displayed on Twitter’s website, mobile
25 application, and third-party applications and stored and cached on servers
26 worldwide, including servers within the United States.

27 ² Theis, Lucas and Wang, Zehan. Twitter.com, Infrastructure: “Speedy Neural Networks for Smart Auto-Cropping of
28 Images.” (available at https://blog.twitter.com/engineering/en_us/topics/infrastructure/2018/Smart-Auto-Cropping-of-Images) (accessed August 17, 2021).

1 30. Plaintiff is informed and believes Twitter, Inc.’s Saliency Algorithm saved
2 Twitter, Inc. a substantial amount of expense with respect to its CDN at the cost of
3 the integrity of copyrighted photographic works including the Infringed Images and
4 at the expense of the Morton Publicity Rights.

5 31. The Saliency Algorithm technology was designed and created by male
6 engineers at Twitter, Inc. and Magic Pony, Inc. and cropped photographs. The
7 algorithm was later determined to be biased, resulting in sexist and racist crops,
8 favoring white women and female body parts.³ This finding was independently
9 confirmed in August 2021.⁴

10 E. Twitter failed to remove the infringing uses despite notice from Morton.

11 32. As alleged herein, Morton, through counsel, submitted Report 1 on July 23,
12 2020. Twitter, Inc. did not respond to this Report or remove Infringed Image 1 until
13 October 28, 2020.

14 33. As alleged herein, Morton, through counsel, submitted Report 2 on
15 September 10, 2020. Twitter immediately responded on September 10, 2020 with
16 an automatically-generated confirmation notice, stating that they received the
17 Report and issued a ticket number 0172275586.

18 34. At least one of Twitter.com’s users located within the United States viewed
19 the Tweets containing the Infringed Images on @City_Tits Twitter feed on
20 Twitter.com. The Tweet featuring Infringed Image 1 received at least 55 “likes,”
21 and the Tweet featuring Infringed Image 2 received at least 12 “likes,” indicating
22 that the Infringed Images were actually displayed to at least 67 unique users.

23 35. Twitter, Inc. did not remove the Infringing Image 2 until October 19, 2020,
24 and did not delete the Tweet or suspend the @city_tits account at that time. Twitter
25

26 ³ Johnson, Kari. WIRED “Twitter’s Photo crop algorithm favors white faces and women,” May 19, 2021. (available at:
<https://www.wired.com/story/twitter-photo-crop-algorithm-favors-white-faces-women/>) (accessed August 17, 2021).

27 ⁴ Quatch, Katyanna. TheRegister.com “Twitter’s AI image-crop algo is biased towards people who look younger,
28 skinnier, and whiter, bounty challenge at DEF CON reveals,” Aug. 11, 2021 available at:
https://www.theregister.com/2021/08/11/defcon_twitter_ai/

1 Support sent an e-mail update on October 19, 2020 stating that they had removed
2 access to the content.

3 36. Twitter, Inc. did not remove Infringing Image 1 until October 28, 2020, and
4 did not delete the Tweet or suspend the @city_tits account at that time.

5 37. Plaintiff is informed and believes that Twitter Support did not remove all
6 infringing uses from all media lockers and/or Twitter's other servers or data centers
7 on the Content Delivery Network.

8 38. Twitter, Inc. had the contractual and legal right and technical ability to
9 remove the Infringed Images but has not removed the Infringed Images from data
10 storage.

11 39. Twitter, Inc. had the right and ability to remove the Tweet containing the
12 Infringed Image from all Twitter platforms, but Twitter, Inc. did not remove the
13 Tweet when it removed the Infringed Image.

14 40. Twitter, Inc. had the right and ability to suspend the @city_tits user and its
15 related accounts, if any, but Twitter did not suspend the @city_tits user or any of its
16 related accounts on or before October 19, 2021.

17 41. Twitter, Inc. had the right and ability to suspend the @city_tits account at or
18 before the time of the infringement.

19 42. Since 2018, Twitter, Inc. has posted steadily increasing earnings and
20 increasing reports of copyright infringement.

21 43. In the period from July to December 2020, Twitter reportedly received
22 169,659 DMCA takedown notices and reported a compliance rate of 59.9%. In the
23 same period, Twitter received 3,167 counternotices with a 100% restoration rate.
24 Twitter, Inc. publicly disclosed this information in its Global Transparency Report.⁵

25 44. Twitter, Inc.'s earnings include the sale of advertising on its platform and
26 fees to use Twitter's CDN.

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28 ⁵ Twitter, Inc., Global Transparency Report, available at: <https://transparency.twitter.com> (accessed August 17, 2021).

1 45. Twitter, Inc.’s earnings include selling user data.

2 46. Twitter.com displays, and at all relevant times actually displayed, Tweets in
3 more than a passive manner, selecting and adding Tweets, including the Tweets
4 containing Plaintiff’s Infringed Images, to a user’s Home timeline that Twitter, Inc.
5 identifies as being relevant or interesting to a user. Twitter, Inc. also displays
6 “promoted Tweets” or “Retweets” or other posts that a user has not otherwise
7 personally requested to see.

8 47. Twitter claims its “worldwide network directly interconnects with over 3,000
9 unique networks in many datacenters worldwide.”

10 **CAUSES OF ACTION**

11 **I. COPYRIGHT INFRINGEMENT / 17 U.S. CODE SECTION 106**
12 **(AGAINST DOE DEFENDANT #2)**

13 48. Plaintiff realleges Paragraphs 1-47 and further alleges:

14 49. Plaintiff is the creator and registered copyright owner of a photograph
15 registered with the U.S. Copyright Office, Copyright Registration Number
16 VA0002210005 and entitled, “Artists Collection 16” and referred to herein as
17 Infringed Image 1.

18 50. Infringed Image 1 is copyrightable subject matter under 17 U.S. Code
19 Section 102(a)(5), and Plaintiff is the registered copyright owner of Infringed
20 Image 1.

21 51. A substantially similar copy of Infringed Image 1 appeared on Twitter.com
22 on the @city_tits feed and elsewhere on Twitter’s products and applications in the
23 United States without Plaintiff’s authorization.

24 52. Twitter’s user, Doe Defendant #2, @city_tits, reproduced Plaintiff’s
25 copyrighted photograph through some technological means without Plaintiff’s
26 authorization in violation of Plaintiff’s exclusive right to reproduce the Infringed
27 Image.

28 53. Twitter’s user, Doe Defendant #2, @city_tits, embedded Plaintiff’s

1 copyrighted photograph on Twitter without authorization in violation of Plaintiff’s
2 exclusive right to reproduce the Infringed Image.

3 54.Doe Defendant #2 displayed the Infringed Image on Twitter in violation of
4 Plaintiff’s exclusive right to display the Infringed Image.

5 55.Doe Defendant #2 distributed the Infringed Image on Twitter in violation of
6 Plaintiff’s exclusive right to distribute the Infringed Image.

7 56.Doe Defendant #2 created a derivative work of the Infringed Image in
8 “flipping” or “mirroring” the original Infringed Image in violation of Plaintiff’s
9 exclusive right to create derivative works.

10 57.Doe Defendant #2 created a Tweet on Twitter using the Infringed Image in
11 violation of Plaintiff’s exclusive right to create derivative works.

12 58.Plaintiff is informed and believes Doe Defendant #2 altered the Infringed
13 Image, and “flipped” or “mirrored” the original image, willfully and in bad faith, to
14 interfere with reverse image search-based copyright enforcement management
15 tools.

16 59.Plaintiff is informed and believes Doe Defendant #2 provided false
17 information to a domain registrar.

18 60.Users of Twitter shared Plaintiff’s copyrighted works on Twitter’s peer-to
19 peer direct share feature without her authorization in violation of Plaintiff’s
20 exclusive rights to reproduce, display and distribute.

21 61.Plaintiff is informed and believes Twitter user @city_tits embedded a
22 substantially similar copy of Infringed Image 2 in a Tweet on Twitter.com,
23 reproducing, displaying and distributing Infringed Image 2 without license,
24 permission or authorization from Morton along with a link to the user’s third-party
25 website.

26 **II. COPYRIGHT INFRINGEMENT / 17 U.S. CODE SECTION 106**
27 **(AGAINST TWITTER, INC. AND ITS SUBSIDIARIES)**

28 62. Plaintiff realleges Paragraphs 1-61 and further alleges:.

1 63. Twitter, Inc. had access to Plaintiff’s Infringed Images through its users and
2 embedded the Infringed Images into Twitter’s API and/or onto its servers.

3 64. Images substantially similar to Plaintiff’s Infringed Images appeared on
4 Twitter.com, TweetDeck, Twitter for iPad, Twitter for Mac, Twitter for Android,
5 and other applications and search engines without Plaintiff’s authorization.

6 65. Twitter, Inc. and/or its subsidiary Defendant Magic Pony Technology, Inc.
7 cropped and altered the Infringed Images using a proprietary, artificially-intelligent
8 algorithm, creating a derivative work and displaying it, reproducing it, and caching
9 it on Twitter, Inc.’s servers within the United States and worldwide without
10 Plaintiff’s authorization and in violation of her exclusive rights under 17 U.S.C. §
11 106.

12 66. Plaintiff is informed and believes Twitter, Inc. has not removed the Infringed
13 Images from its data lockers, “virtual buckets” or data storage systems.

14 67. Twitter, Inc. cached Plaintiff’s Infringed Images on its CDN and/or servers
15 in violation the United States without Plaintiff’s authorization in violation of
16 Plaintiff’s exclusive right of reproduction under 17 U.S.C. § 106.

17 68. Twitter, Inc. displayed Plaintiff’s Infringed Images on Twitter.com and
18 related applications in violation of Plaintiff’s exclusive right to display under 17
19 U.S.C. § 106.

20 69. At all relevant times, Twitter, Inc. sold advertising including advertising that
21 appeared on user feeds that featured the Infringed Images and Twitter’s derivative
22 work.

23 **III. SECONDARY INFRINGEMENT**
24 **CONTRIBUTORY and VICARIOUS INFRINGEMENT**
25 **(Against Twitter, Inc. Subsidiary Defendants)**

26 70. Plaintiff realleges Paragraphs 1-69 as though fully set forth and further
27 alleges:

28 71. Defendant Twitter, Inc. and/or its subsidiary Defendant Magic Pony

1 Technology materially contributed to the infringement by @City_Tits by
2 developing and providing the platform and technology, including a peer-to-peer file
3 sharing system, that enabled the unauthorized reproduction, display and distribution
4 of the Infringed Images.

5 72. Twitter, Inc. materially contributed to the infringement by @City_Tits by
6 providing data storage and/or server space that store media hidden from public view
7 that multiple users on Twitter.com can access and post using Twitter's developer
8 tools.

9 73. Twitter, Inc. materially contributed to the infringement by providing users
10 with a bit torrent-style, peer-to-peer network that enables users to privately share
11 copyrighted works through direct messaging and outside of public view.

12 74. Twitter, Inc. materially contributed to the infringement by providing the
13 technological means to embed Tweets, file share, and permit up to 200 users at a
14 time to access one account through TweetDeck while actively courting
15 infringement by making public statements that they refuse to disclose a repeat
16 infringer policy and otherwise failing to comply with the DMCA.

17 75. Twitter, Inc. had the right and ability to suspend @city_tits after
18 Plaintiff reported the Tweet and infringing activity on July 23, 2021, but Twitter
19 took no action. Thereafter, with actual knowledge of @city_tits infringing activity,
20 Twitter, Inc. failed to expeditiously disable access to or remove the Infringed Image
21 for over three months, resulting in additional infringement by the same user. When
22 Twitter eventually disabled access to the Infringed Image, it did not exercise its
23 right and ability to the fullest extent possible and incurred a direct financial benefit.

24 76. Twitter also had the right and ability to control the infringing activity and had
25 actual knowledge of infringement on September 10, 2020, but Twitter failed once
26 again to disable access to or remove the Infringed Image for over one month. When
27 Twitter eventually disabled access to the Infringed Image, it did not exercise its
28 right and ability to the fullest extent possible because it did not delete the Tweet or

1 suspend the user, and it incurred a benefit by retaining a user and benefiting from
2 the use of the Morton Publicity Rights appearing in the Tweet.

3 77. At all relevant times, Twitter did not require an account for a member of the
4 public to view the Infringed Images.

5 78. Twitter acted willfully in failing to suspend the account or disable access to
6 the Tweets or to the Infringed Images stored on its servers, continuing to allow its
7 330,000,000 subscribers and the worldwide public to access to the Infringed Images
8 and profiting from the infringement.

9 79. Twitter, Inc. and its subsidiaries acted willfully in encouraging users to
10 upload photographs, including the Infringed Images, to its platform and/or
11 applications to obtain a competitive advantage with other social media platforms
12 and serve its users.

13 80. Twitter, Inc. and its subsidiaries acted willfully and without regard to Ms.
14 Morton's exclusive rights under 17 U.S.C. §106 in providing services to infringers
15 and, knowing the extent of and propensity for infringement on its platform,
16 willfully ignored the infringement and did not remove the Infringed Images
17 expeditiously.

18 **IV. RIGHT OF PUBLICITY**

19 **(against Doe Defendant 1 @city tits)**

20 81. Plaintiff realleges paragraphs 1-80 as though and further alleges:

21 82. Doe Defendant #2 (@city_tits) knowingly and willfully used Plaintiff's
22 commercially valuable name, readily identifiable image, likeness and Twitter
23 verified account username without her knowledge, consent, or authorization in the
24 Tweet for the commercial purpose of advertising and promoting its Twitter account
25 and driving user traffic to its third-party website where additional unauthorized,
26 infringed images of Ms. Morton appeared.

27 83. Defendant Twitter, Inc. provided the instrumentality for the unauthorized
28 use of Morton's publicity rights and profited from the sale of advertising that

1 appeared on web pages and applications that featured Ms. Morton’s publicity rights.

2 84. After reviewing the Tweets for copyright infringement, Defendant Twitter,
3 Inc. and its subsidiaries had the right and ability to prevent the ongoing harm by
4 deleting the Tweets or suspending the user but did not exercise that right and ability
5 to the fullest extent, leaving the Tweet visible and harming Plaintiff until January
6 2021 while profiting from it.

7 **V. FALSE LIGHT**

8 **(against Twitter, Inc. and its Subsidiary Defendants)**

9 85. Plaintiff realleges allegations 1-85 and further alleges:

10 86. Defendants Twitter, Inc. and/or any of its subsidiaries cropped and altered
11 Plaintiff’s photographic image in a way that falsely presented Plaintiff’s likeness,
12 coloring it with the subliminal, subtle, or obvious sexist and racist biases imposed
13 by the artificially-intelligent algorithmic tool created by engineers.

14 87. The alteration and cropping of the image, focusing on Ms. Morton’s face
15 and breasts, falsely presented Ms. Morton as appearing in pornography, and
16 viewers actually believed the false representation, causing lost income, loss of
17 followers, and other substantial damage to Ms. Morton’s personal and professional
18 reputation.

19 **VI. PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff prays for relief as follows:

21 For an Order enjoining Defendants, their officers, agents, employees, temporarily
22 during the pendency of this action and permanently thereafter:

23 1. From infringing or contributing to the infringement by others the
24 copyright in Plaintiff’s works or acting in concert with, aiding and abetting others
25 to infringe said copyright in any way; and

26 2. From copying, duplicating, selling, licensing, displaying, distributing, or
27 otherwise using without Plaintiff’s authorization copies of Plaintiff’s works to
28 which Plaintiff is the owner of exclusive rights under the respective copyrights or

1 making derivative works based thereon; and

2 3. From selling or otherwise monetizing any and all data that has been
3 collected as a result of the infringement alleged herein; and

4 4. To remove any and all of Plaintiff's copyrighted Images from servers
5 controlled by Twitter, Inc. including all media lockers or other data storage;

6 5. For an award of actual damages suffered by Plaintiff as a result of the
7 infringement and any profits of the Defendants attributable to the infringement of
8 Plaintiff's exclusive rights under copyright and to pay such damages to Plaintiff as
9 to this Court shall appear just and proper, or in the alternative, at Plaintiff's
10 election, statutory damages for infringement as set forth in 17 U.S. Code Section
11 504 in an amount no less than \$150,000 per instance at a minimum of 67 instances,
12 and any additional instances of infringement discovered through the course of the
13 litigation; and

14 6. For an award of damages of at least \$750, the statutory minimum under
15 California Civil Code Section 3344(g); and

16 7. Punitive damages under Section 3344(g);

17 8. For an award of damages according to proof at trial; and

18 9. For an award of attorney's fees pursuant to 17 U.S. Code Section 505; and

19 10. For an award of pre-judgment interest and post-judgment interest in the
20 maximum amount permitted by law;

21 11. For such other and further relief as the Court deems just and proper.

22 Plaintiff hereby requests a jury trial on all triable issues.

23 Dated this 3rd of September 2021.

24 /s/ Jennifer Holliday

25 Jennifer Holliday

26 ATTORNEY FOR PLAINTIFF