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**TWITTER, INC.**

8 **UNITED STATES DISTRICT COURT**  
9 **NORTHERN DISTRICT OF CALIFORNIA**

10 TWITTER, INC.,

11 Plaintiff,

12 v.

13 U.S. DEPARTMENT OF HOMELAND  
14 SECURITY; U.S. CUSTOMS AND  
15 BORDER PROTECTION; JOHN F. KELLY,  
16 in his official capacity as Secretary of  
17 Homeland Security; KEVIN K.  
18 MCALEENAN, in his official capacity as  
19 Acting Commissioner, U.S. Customs and  
20 Border Protection; STEPHEN P. CARUSO,  
in his official capacity as Special Agent In  
Charge, U.S. Customs and Border Protection;  
and ADAM HOFFMAN, in his official  
capacity as Special Agent, U.S. Customs and  
Border Protection,

21 Defendants.

Case No. \_\_\_\_\_

22 **COMPLAINT**

23 Plaintiff Twitter, Inc. (“Twitter”), by and through its attorneys, hereby alleges:

24 **INTRODUCTION**

25 1. This is an action to prevent the U.S. Department of Homeland Security (“DHS”),  
26 U.S. Customs and Border Protection (“CBP”), and the individual Defendants from unlawfully  
27 abusing a limited-purpose investigatory tool to try to unmask the real identity of one or more  
28 persons who have been using Twitter’s social media platform, and specifically a Twitter account

1 named @ALT\_USCIS, to express public criticism of the Department and the current  
2 Administration. The rights of free speech afforded Twitter’s users and Twitter itself under the  
3 First Amendment of the U.S. Constitution include a right to disseminate such anonymous or  
4 pseudonymous political speech. In these circumstances, Defendants may not compel Twitter to  
5 disclose information regarding the real identities of these users without first demonstrating that  
6 some criminal or civil offense has been committed, that unmasking the users’ identity is the least  
7 restrictive means for investigating that offense, that the demand for this information is not  
8 motivated by a desire to suppress free speech, and that the interests of pursuing that investigation  
9 outweigh the important First Amendment rights of Twitter and its users. But Defendants have  
10 not come close to making any of those showings. And even if Defendants could otherwise  
11 demonstrate an appropriate basis for impairing the First Amendment interests of Twitter and its  
12 users, they certainly may not do so using the particular investigatory tool employed here—which  
13 Congress authorized solely to ensure compliance with federal laws concerning imported  
14 merchandise—because it is apparent that whatever investigation Defendants are conducting here  
15 does not pertain to imported merchandise.

16 2. In the days and weeks following the inauguration of President Donald J. Trump, a  
17 new and innovative class of American speakers emerged on Twitter’s ubiquitous online  
18 platform: speakers who purport to be current or former employees of federal agencies, or others  
19 with special insights about the agencies, who provide views and commentary that is often  
20 vigorously opposed, resistant, or “alternative” to the official actions and policies of the new  
21 Administration. Typically, these so-called “alternative agency” accounts are named and self-  
22 described by their users in a manner that both (a) identifies the particular federal agency that the  
23 user seeks primarily to criticize and with which the user purports to have significant knowledge,  
24 and (b) proclaims that the user is not an official voice or spokesperson for the agency. Examples  
25 of these accounts include @alt\_labor, which purports to provide informed but unofficial  
26 commentary on the U.S. Department Labor, and @blm\_alt, which does the same for the federal  
27 Bureau of Land Management. Dozens of such accounts have sprung up, and many of them are  
28 actively used to disseminate criticism of the Administration and its policies. Many of these

1 accounts have attracted large audiences of other Twitter users (“followers”), often numbering in  
2 the tens of thousands or more.

3 3. Like many Twitter users, those who speak through these “alternative agency”  
4 accounts do so pseudonymously, often going to considerable lengths to avoid disclosing their  
5 real identities. The motivations these users have for preserving their anonymity presumably  
6 include a desire to speak freely and without the fear of negative consequences that may flow  
7 from being identified as the source of controversial views and commentary concerning the  
8 Administration and its agencies. Such fears are likely to be especially great for users of  
9 “alternative agency” accounts who are currently employed by the very agency that is a principal  
10 target of the commentary, in light of the retaliation, harassment, or even loss of livelihood that  
11 might occur if their real identities became known to their superiors.

12 4. One such “alternative agency” account is @ALT\_USCIS. Like other accounts of  
13 this sort, @ALT\_USCIS claims to be run by one or more current government employees—in this  
14 case, employees of the United States Citizenship and Immigration Services (“USCIS”), a unit  
15 within the Defendant DHS. And as with other such accounts, the person or persons who  
16 established and speak through @ALT\_USCIS have identified themselves only by means of this  
17 pseudonymous account name. To the best of Twitter’s knowledge, they have not disclosed their  
18 real identities in any of their public communications through this account.

19 5. In the just over two months since it was created, @ALT\_USCIS has frequently  
20 criticized the immigration policies of the new Administration, highlighted what the user views as  
21 a history of waste and mismanagement within USCIS and DHS, and publicized facts that the  
22 account’s users portray as casting doubt on Administration policies.

23 6. The Defendants are now threatening the anonymity of the person(s) speaking  
24 through the @ALT\_USCIS account. Specifically, on March 14, 2017, they issued and delivered  
25 to Twitter an administrative summons (the “CBP Summons”) demanding that Twitter provide  
26 them records that would unmask, or likely lead to unmasking, the identity of the person(s)  
27 responsible for the @ALT\_USCIS account. The summons was issued by a Special Agent in  
28

1 Charge within U.S. Customs and Border Protection, another unit of DHS. The CBP Summons is  
2 unlawful and must be enjoined for two reasons.

3 7. *First*, the sole statutory authority CBP invoked in issuing the summons—19  
4 U.S.C. § 1509—authorizes the agency to compel production of only a narrow class of records  
5 relating to the importation of merchandise. But CBP’s investigation of the @ALT\_USCIS  
6 account plainly has nothing whatsoever to do with the importation of merchandise into the  
7 United States. Section 1509 thus provides CBP no power to compel Twitter to reveal  
8 information pertaining to the identity of the individual(s) behind the @ALT\_USCIS account.

9 8. *Second*, permitting CBP to pierce the pseudonym of the @ALT\_USCIS account  
10 would have a grave chilling effect on the speech of that account in particular and on the many  
11 other “alternative agency” accounts that have been created to voice dissent to government  
12 policies. The Supreme Court has long recognized the extraordinary value of the kind of speech  
13 emanating from these accounts—pure political speech criticizing government policies and  
14 highlighting government waste and mismanagement. And the Court has likewise recognized that  
15 anonymity is often essential to fostering such political speech where, as here, the speaker could  
16 face retaliation or retribution if his or her real identity were linked to the speech. In this context,  
17 the CBP Summons must be declared unlawful and enjoined absent an evidentiary showing by  
18 Defendants that some criminal or civil offense has been committed, that unmasking the users’  
19 identity is the least restrictive means for investigating that offense, that the demand for this  
20 information is not motivated by a desire to suppress free speech, and that the interests of  
21 pursuing that investigation outweigh the important free speech rights of Twitter and its users.  
22 Defendants have not even attempted to meet that burden.

23 9. For these and other reasons discussed below, Twitter respectfully requests that  
24 this Court declare the summons unlawful and enjoin its enforcement.

### 25 **JURISDICTION AND VENUE**

26 10. This Court has jurisdiction under 28 U.S.C. § 1331 because this action arises  
27 under the First Amendment to the U.S. Constitution, the Administrative Procedure Act (“APA”),  
28 the Tariff Act of 1930, as amended, and other Federal statutes.



## FACTUAL BACKGROUND

### The Emergence And Popularity Of “Alternative Agency” Accounts On The Twitter Platform

20. President Donald J. Trump was inaugurated on January 20, 2017. That day the official Twitter account of the National Park Service retweeted an image comparing the crowd size at President Trump’s inauguration to the apparently larger crowd size at President Obama’s 2009 inauguration.

21. As the public began to remark on the agency’s retweet, the National Park Service abruptly shut down its own account and sent an internal email to agency employees explaining that “[a]ll bureaus and the department have been directed by [the] incoming administration to shut down Twitter platforms immediately until further notice.” And President Trump called the acting director of the National Park Service to complain about the agency retweeting an unflattering comparison of his inaugural crowd size. The day after the inauguration, the Park Service reactivated its official account and Tweeted an apology for “the mistaken [retweets] from our account yesterday.”<sup>1</sup>

22. Four days after the inauguration, on January 24, 2017, the official Twitter account for Badlands National Park began to Tweet a series of statements about climate change from the @BadlandsNPS account.



<sup>1</sup> Lisa Rein, *Interior Department Reactivates Twitter Accounts After Shutdown Following Inauguration*, WASH. POST (Jan. 21, 2017), [https://www.washingtonpost.com/news/powerpost/wp/2017/01/20/interior-department-banned-from-twitter-after-retweet-of-smaller-than-usual-trump-inauguration-crowd/?utm\\_term=.4e6d99996772](https://www.washingtonpost.com/news/powerpost/wp/2017/01/20/interior-department-banned-from-twitter-after-retweet-of-smaller-than-usual-trump-inauguration-crowd/?utm_term=.4e6d99996772).

1           23.     Press reports described the @BadlandsNPS account as having gone “rogue,” and  
2 the National Park Service explained that a former employee who still had access to the  
3 @BadlandsNPS account had been responsible for the Tweets. The Park Service quickly  
4 removed the unauthorized Tweets and blocked the former employee’s access.

5           24.     Shortly thereafter, a new wave of Twitter accounts began to appear on the  
6 Twitter platform: self-identified as expressing “alternative” ideas, views, and information about  
7 a particular federal agency. Although seemingly inspired by the National Park Service’s  
8 inauguration day Tweet or by the short-lived takeover of the @BadlandsNPS account, these new  
9 alternative agency accounts were not “official” accounts of any government agency. Instead,  
10 they operated under names such as @blm\_alt, @alt\_labor, and @RogueEPASTaff. Within  
11 weeks, dozens of such accounts had been created, many attracting tens of thousands of followers  
12 or more. In some cases, multiple alternative agency accounts appeared for a single agency.

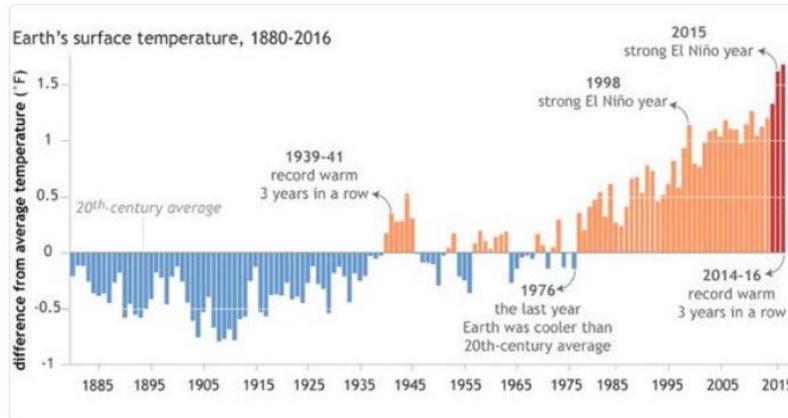
13           25.     While some of these alternative agency accounts appear to be run by former  
14 federal employees or activists with no connection to the government, many of the accounts  
15 claim, through their user-created account descriptions or the content of their Tweets, to be  
16 administered by individuals who are currently employed by the federal agency after which the  
17 account is named.

18           26.     These self-designated alternative agency accounts have tended to challenge views  
19 of the Administration and its policies, often (but not always) focusing on the policies of the  
20 particular agency for which the account was named. The styles of expression emanating from  
21 these accounts vary greatly.

1 27. Some accounts appear to equate the simple act of broadcasting facts as an  
2 expression of dissent.

3  **Rogue NOAA**  
4 @RogueNOAA Follow

5 El Niño event or not... This amount of warming  
6 is not normal #climatechange  
7 [go.usa.gov/x9yMe](http://go.usa.gov/x9yMe)



14 28. The accounts often have expressed disagreement with specific policies of the  
15 official agency.

16  **Rogue EPA Staff** @RogueEPASTaff · Mar 13

17 Great way to win voters - give more of their kids asthma due to dirty  
18 school buses

19 **Sammy Roth** @Sammy\_Roth

20 Another EPA program on the chopping block: Grants to slash pollution from  
21 old diesel engines: [eenews.net/greenwire/2017...](http://eenews.net/greenwire/2017...) #airpollution

22 2 10 22

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22  **Alternative CDC** @Alt\_CDC · Jan 25

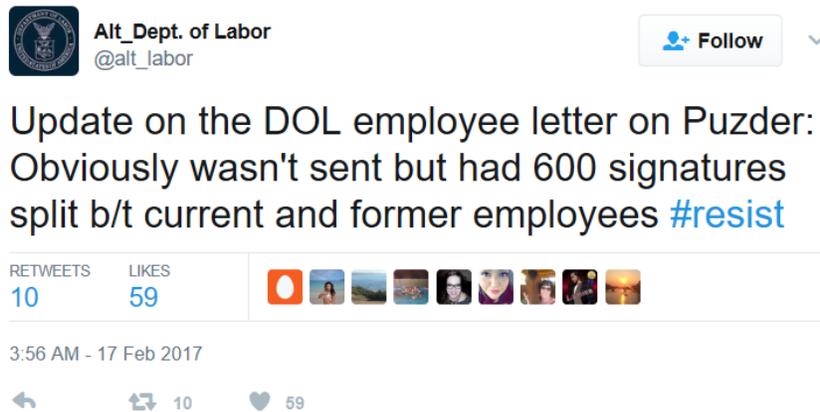
23 The mere existence of a "Vaccine Review Committee" would represent  
24 a serious threat to global public health.

25  **David Juurlink** @DavidJuurlink

26 Let's not forget Donald Trump's comments about vaccines  
27 and autism. Read @drflanders  
28 [kindercarespeditrics.ca/immunizations/...](http://kindercarespeditrics.ca/immunizations/)

29 11 312 326

1           29.     One of the many Tweets from the @alt\_labor account publicized a letter signed  
2 by 600 current and former Labor Department employees opposing the confirmation of the  
3 President's nominee for Labor Secretary, Andrew Puzder.



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11           30.     Like many online platforms, Twitter's platform offers users the choice between  
12 speaking in a self-identifying manner (for example, by selecting a user name that matches or is  
13 similar to the user's real name) or pseudonymously (through an account that has a user name and  
14 user description that do not disclose the speaker's real identity).

15           31.     Pseudonymity of the speaker(s) is a defining feature of the alternative agency  
16 accounts that have recently emerged on the Twitter platform. While the persons who establish  
17 and use these accounts sometimes provide highly general descriptions of themselves (for  
18 example, by stating in the account's biography that the user or users work or previously worked  
19 for a particular agency), they typically refrain from revealing their real names. The users appear  
20 to view and depend on preservation of their anonymity as crucial to their ability to express  
21 information and ideas that are contrary to the policies and objectives of the Administration and  
22 its agencies. Preserving anonymity appears to be especially important for users of these  
23 alternative agency accounts who are current federal employees, given the risk that such users  
24 could face retaliation, sanctions, or other negative repercussions from their federal employer if  
25 they were identified as the source of criticism of their agency.<sup>2</sup>

26

27 <sup>2</sup> Alleen Brown, *Rogue Twitter Accounts Fight To Preserve The Voice Of Government Science*,  
28 THE INTERCEPT (Mar. 11, 2017), <https://theintercept.com/2017/03/11/rogue-twitter-accounts-fight-to-preserve-the-voice-of-government-science> (reporting that several "alternative agency" accounts are administered by current agency employees and that those employees wish to

The @ALT\_USCIS Twitter Account

32. This case concerns one particular alternative agency account that, like many others, was created in late January 2017: @ALT\_USCIS.

33. As of the time Twitter received the CBP Summons, the public, user-provided description of the @ALT\_USCIS account described its user or users as “[o]fficial inside resistance.” As of then and now, the account description prominently declares that the account is “[n]ot [expressing] the views of DHS or USCIS.” The account’s profile image plays off USCIS’s official logo (displayed side-by-side below), further indicating a correspondence or relationship to the agency, albeit one that is unofficial, ideologically or politically averse, and/or “rogue.”<sup>3</sup> Tweets from this account use hashtags such as “#altgov,” expressly self-identifying as part of the broader alternative agency movement.



34. On several occasions, Tweets from the @ALT\_USCIS account have claimed that the person speaking through the account is a current federal employee of the United States Citizenship and Immigration Services (USCIS), an entity that reportedly has 19,000 employees and contractors. But beyond purporting to identify his or her employer, the person(s) using the account have chosen to remain pseudonymous.

35. In two months of existence, the @ALT\_USCIS account has attracted over 32,000 followers and has issued thousands of Tweets.

preserve their anonymity “out of fear of workplace retaliation and pressure to shut down their accounts”).

<sup>3</sup> The accountholder reworked the account’s description and profile image at some point after Twitter received the CBP Summons. The profile image displayed above is as it was when the summons was received.

1           36.     The @ALT\_USCIS account has expressed dissent in a range of different ways.  
2 One of the account's first Tweets asserted a fact about illegal immigration in the United States  
3 that the author apparently believed cast doubt on the Administration's immigration policy.

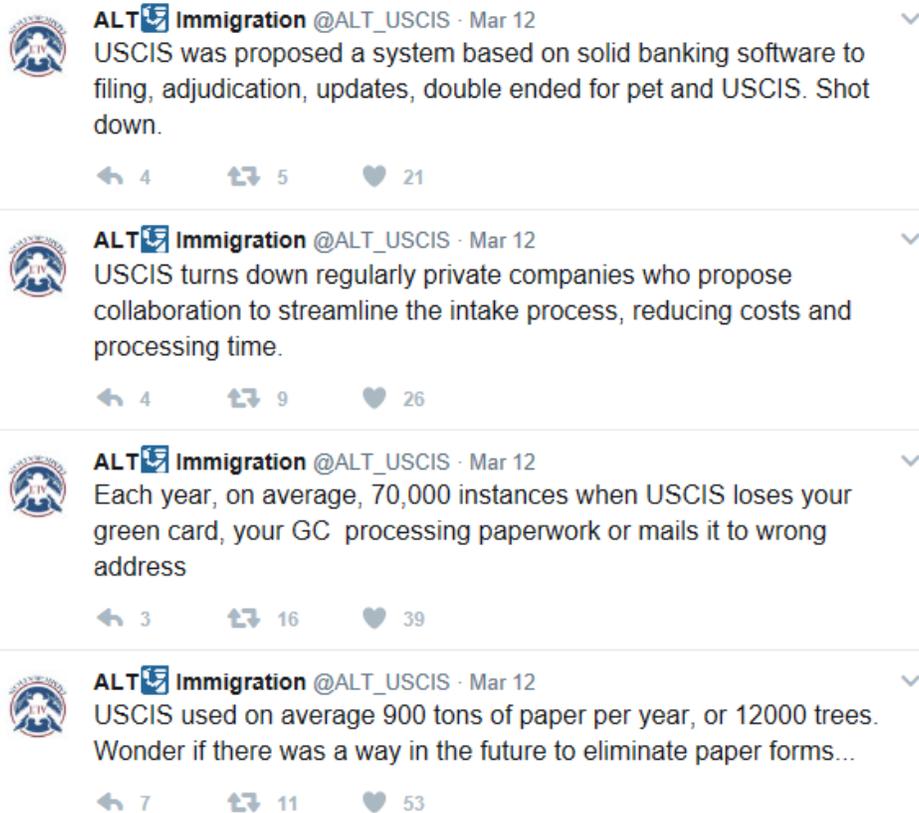


11           37.     The @ALT\_USCIS account has often criticized immigration policies with which  
12 the speaker apparently disagrees. The account was created on nearly the same day that the  
13 President issued his original immigration Executive Order. Tweets from the account have  
14 repeatedly criticized the Order—often referring to it as the “#MuslimBan.” Other Tweets have  
15 taken aim at the President's proposal to build a wall along the U.S.-Mexico border. For example,  
16 on March 11, 2017, the account used news that a fence-jumper had trespassed onto the White  
17 House grounds to argue that the Administration's proposed border fence will be ineffective.



25           38.     Tweets from the @ALT\_USCIS account have also purported to shine a light on  
26 historical and recent mismanagement at USCIS. For example, on March 12—two days before  
27 issuance of the CBP Summons challenged in this suit—a series of Tweets from the account  
28

1 decried what the author described as waste, inefficiency, and poor management in the agency’s  
 2 attempts to set up a new automated system for processing immigration applications.



22 39. The account has regularly leveled criticism at U.S. Customs and Border  
 23 Protection—the agency that issued the summons challenged by this lawsuit.



34 40. The account has also frequently tweeted disagreement with the current  
 35 Administration’s policies on subjects other than immigration—expressing opposition to efforts in

1 Congress to repeal the Affordable Care Act and urging Democrats to resist confirmation of  
2 Supreme Court nominee Neil Gorsuch, among many other issues.

3 41. Occasionally, the account has highlighted USCIS or DHS policies that the speaker  
4 appears to support. For example, the day DHS Secretary Kelly announced that the Department  
5 would continue to exempt from removal individuals covered by the prior Administration's  
6 Deferred Action for Childhood Arrivals policy (DACA), the account issued the following Tweet.



15 U.S. Customs And Border Protection Orders Twitter To Produce  
Records That Would Strip The @ALT\_USCIS Account Of Anonymity

16 42. On March 14, 2017, Defendant Adam Hoffman, an agent within U.S. Customs  
17 and Border Protection, transmitted to Twitter by fax a summons, ordering Twitter to produce  
18 certain records pertaining to the @ALT\_USCIS account. The CBP Summons invoked as  
19 authority 19 U.S.C. § 1509. It was signed by Defendant Stephen P. Caruso, a CBP Special  
20 Agent in Charge based in Miramar, Florida. A true and accurate copy of the CBP Summons, in  
21 the form it was received by Twitter, is attached as Exhibit A.

22 43. The CBP Summons states that Twitter is “required” to “produce[] for inspection”  
23 “[a]ll records regarding the [T]witter account @ALT\_USCIS to include, User names, account  
24 login, phone numbers, mailing addresses, and I.P. addresses.” The purpose of this request  
25 appears to be, and the effect of Twitter’s complying with it likely would be, to enable or help to  
26 enable Defendants to pierce the anonymity of the person or persons who established and use the  
27 @ALT\_USCIS account.

28

1           44.     The CBP Summons warned Twitter that “[f]ailure to comply with this summons  
2 will render you liable to proceedings in a U.S. District Court to enforce compliance with this  
3 summons as well as other sanctions.”

4           45.     The CBP Summons ordered Twitter to produce the records to a CBP office in  
5 Washington D.C. by 11:45 A.M. on March 13, 2017—the day *before* the CBP Summons was  
6 faxed to Twitter.

7           46.     The CBP Summons states generically that “production of the indicated records is  
8 required in connection with an investigation or inquiry to ascertain the correctness of entries, to  
9 determine the liability for duties, taxes, fines, penalties, or forfeitures, and/or to ensure  
10 compliance with the laws or regulations administered by CBP and ICE.” Beyond that boilerplate  
11 language, the CBP Summons provides no justification for issuance of a summons targeting the  
12 @ALT\_USCIS account.

13           47.     The CBP Summons further “requested”—but did not order or otherwise compel—  
14 Twitter “not to disclose the existence of this summons for an indefinite period of time.”

15           48.     Notwithstanding the request on the face of the CBP Summons that Twitter not  
16 disclose the existence of the CBP Summons to anyone, a “Summons Notice” included in the  
17 CBP Summons describes a procedure whereby the subject of the summons (i.e., the person  
18 whose “business transactions or affairs” are purportedly being investigated) supposedly could  
19 “object to the examination” of the requested records by “advis[ing] the person summoned [i.e.  
20 Twitter], in writing, not to comply with the summons” and “send[ing] a copy of that notice by  
21 registered or certified mail to the CBP Officer ... who issued the summons.” To be effective,  
22 any such objection would have to be sent “not later than the” deadline set by the CBP Summons  
23 for compliance—which, again, had already passed by the time the CBP Summons was served on  
24 Twitter. Neither the CBP Summons itself, nor the statute that supposedly authorizes issuance of  
25 the summons (*i.e.*, 19 U.S.C. § 1509), nor the regulations implementing that statute describe any  
26 procedure for Twitter to object to compliance with the summons.

27           49.     On March 28, 2017, counsel for Twitter contacted Defendant Hoffman to raise  
28 concerns regarding the request not to provide notice to the user and the legal basis for seeking

1 information about the identified account using a summons issued under 19 U.S.C. § 1509.  
2 Defendant Hoffman advised counsel for Twitter that CBP did not want the user notified and that  
3 he would discuss notice with his supervisors. With regard to the legal basis for the summons,  
4 Defendant Hoffman stated vaguely that he is conducting an investigation. But he did not identify  
5 any law or laws that he believed had been broken or point to any evidence substantiating any  
6 such belief—such as particular Tweets that he believes were unlawful. Defendant Hoffman took  
7 the position that the summons was an appropriate investigative tool, but he did not provide any  
8 specifics as to how a summons issued under 19 U.S.C. § 1509 could be an appropriate means for  
9 CBP’s Office of Professional Responsibility to be conducting this particular investigation. In  
10 fact, to the limited extent he did explain the nature of the investigation, it seemed to confirm that  
11 the investigation had nothing to do with obtaining records to assess whether appropriate duties  
12 and taxes had been paid on imported merchandise.

13 50. Twitter advised Defendant Hoffman that, unless he or his agency obtained a court  
14 order under the federal Stored Communications Act, 18 U.S.C. § 2705, directing Twitter not to  
15 disclose the CBP Summons to the @ALT\_USCIS accountholder(s), Twitter would, in  
16 accordance with its standard practices, notify the accountholder(s) of the existence and content of  
17 the CBP Summons. On March 31, 2017, Defendant Hoffman sent Twitter an email confirming  
18 that no such court order would be obtained. On April 2, 2017, Twitter stated in a response to  
19 Defendant Hoffman that it intended to notify the accountholder(s) the next day about the CBP  
20 Summons.

21 51. On April 4, 2017, Twitter notified the @ALT\_USCIS accountholder(s) about the  
22 existence and contents of the CBP Summons. At approximately the same time, Twitter also  
23 informed Defendant Hoffman of its intention to challenge the CBP Summons in court if it was  
24 not withdrawn within 48 hours. Later that day, counsel for Twitter sent Defendant Hoffman an  
25 email elaborating the bases for Twitter’s legal objections to the CBP Summons—namely that the  
26 summons falls outside the statutory parameters of 19 U.S.C. § 1509 and infringes on the First  
27 Amendment rights of Twitter’s users and Twitter itself—and reiterating Twitter’s intention to  
28 sue absent withdrawal of the summons.

1 52. As of today’s date, Defendants have not notified Twitter of any intent to withdraw  
2 the CBP Summons.

3 **COUNT I**  
4 **(19 U.S.C. § 1509; Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202;**  
5 **APA, 5 U.S.C. § 706)**

6 **THE SUMMONS EXCEEDS THE SCOPE**  
7 **OF CBP’S AUTHORITY UNDER 19 U.S.C. § 1509**

8 53. Plaintiff hereby incorporates by reference paragraphs 1-52 as if set forth fully  
9 herein.

10 54. The summons is unlawful because it demands production of records that CBP is  
11 not authorized to obtain under 19 U.S.C. § 1509.

12 55. The summons exceeds the scope of CBP’s authority under 19 U.S.C. § 1509 for  
13 two reasons. *First*, 19 U.S.C. § 1509 authorizes CBP to obtain documents only for investigations  
14 and inquiries relating to the importation of merchandise. *Second*, even if CBP issued the  
15 summons for a proper purpose, the summons seeks production of records that are not of the  
16 narrowly limited type that CBP is authorized to obtain under 19 U.S.C. § 1509. These two  
17 reasons are explained more fully below.

18 56. *First*, 19 U.S.C. § 1509 confers authority on the Secretary (or a delegate at or  
19 above the rank of district director or special agent in charge) to compel disclosure of records only  
20 in connection with “any investigation or inquiry conducted for the purpose of ascertaining the  
21 correctness of any entry, for determining the liability of any person for duty, fees and taxes due  
22 or duties, fees and taxes which may be due the United States, for determining liability for fines  
23 and penalties, or for insuring compliance with the laws of the United States administered by the  
24 United States Customs Service.” 19 U.S.C. § 1509(a). The first three items on the list clearly  
25 relate narrowly to imports, and the meaning of the fourth term is “cabin[ed]” by the first three.  
26 *See Yates v. United States*, 135 S. Ct. 1074, 1085 (2015) (applying “the principle of *noscitur a*  
27 *sociis*—a word is known by the company it keeps—to ‘avoid ascribing to one word a meaning so  
28 broad that it is inconsistent with its accompanying words, thus giving unintended breadth to the  
Acts of Congress.’” (quoting *Gustafson v. Alloyd Co.*, 513 U.S. 561, 575 (1995))).

1           57. Defendants could not plausibly establish that they issued the CBP Summons—  
2 which demands “[a]ll records regarding the [T]witter account @ALT\_USCIS to include User  
3 names, account login, phone numbers, mailing addresses, and I.P. addresses”—in any  
4 investigation or inquiry relating to the import of merchandise.

5           58. *Second*, § 1509 does not authorize the Defendants to compel production of the  
6 account-related records that the summons demands. The Secretary or his delegate can compel  
7 the production of only records that fall within a narrow category defined in 15 U.S.C.  
8 § 1509(d)(1)(A). *See* 15 U.S.C. § 1509(a)(2)(D) (“[T]he Secretary ... may ... summon ... any ...  
9 person he may deem proper ... to produce records, *as defined in subsection (d)(1)(A).*”).

10           59. Subsection 1509(d)(1)(A) limits the “records” whose production may be  
11 permissibly compelled through a summons to those (1) that are “required to be kept under  
12 section 1508 of this title” and (2) “regarding which there is probable cause to believe that they  
13 pertain to merchandise the importation of which into the United States is prohibited.” The  
14 records that the CBP Summons demands Twitter to disclose meet neither of these criteria.

15           60. Section 1508 requires importers to maintain certain records relating to their  
16 activity of importing merchandise. *See United States v. Frowein*, 727 F.2d 227, 233 (2d Cir.  
17 1984) (“Section 1508 ... imposes recordkeeping requirements on those who import or cause  
18 goods to be imported.”). Specifically, the entities that must maintain records under section 1508  
19 are limited to the following: any “owner, importer, consignee, importer of record, entry filer, or  
20 other party who—(A) imports merchandise into the customs territory of the United States, files a  
21 drawback claim, or transports or stores merchandise carried or held under bond, or  
22 (B) knowingly causes the importation or transportation or storage of merchandise carried or held  
23 under bond into or from the customs territory of the United States,” 19 U.S.C. § 1508(a)(1); *or*  
24 any “agent of any party described in paragraph (1),” *id.* § 1508(a)(2); *or* any “person whose  
25 activities require the filing of a declaration of entry, or both,” *id.* § 1508(a)(3). The records  
26 Section 1508 requires these entities to maintain are limited to records that both “pertain to any  
27 such activity, or to the information contained in the records required by this chapter in  
28

1 connection with any such activity” and “are normally kept in the ordinary course of business.” 19  
2 U.S.C. § 1508(a)(3).

3 61. Subsection 1509(d)(1)(A)(ii) likewise limits the scope of records whose  
4 production CBP may compel pursuant to a summons to records relating to the importation of  
5 merchandise—specifically, records “pertain[ing] to *merchandise the importation of which into*  
6 *the United States is prohibited.*”

7 62. The CBP Summons plainly does not request records relating to the importation of  
8 merchandise. It requests that Twitter produce information that pertains to the identity of the  
9 person(s) who established and use the @ALT\_USCIS account. And it is utterly implausible that  
10 Defendants’ interest in the person(s) who established and use the @ALT\_USCIS account stems  
11 from their importation of merchandise into the United States.

12 63. The CBP Summons also violates the Stored Communications Act (“SCA”),  
13 18 U.S.C. § 2701 *et seq.*, which “protects individuals’ privacy and proprietary interests,”  
14 “reflect[ing] Congress’s judgment that users have a legitimate interest in the confidentiality of  
15 communications in electronic storage at a communications facility.” *Theofel v. Farey-Jones*, 359  
16 F.3d 1066, 1072 (9th Cir. 2003). The SCA establishes legal processes that government agencies  
17 must follow in order to obtain certain types of information from a service provider such as  
18 Twitter, which have not been followed here. The basic subscriber information the CBP  
19 Summons seeks—such as the user’s name and address—can be obtained “us[ing] an  
20 administrative subpoena authorized by a Federal or State statute.” 18 U.S.C. § 2703(c)(2). But  
21 the CBP Summons is not a valid administrative subpoena because, among other defects, it  
22 exceeds the scope of CBP’s authority under 19 U.S.C. § 1509.

23 64. For the foregoing reasons, the Court should enjoin Defendants from taking any  
24 further action to enforce the CBP Summons and declare it to be an unlawful exercise of  
25 Defendants’ authority, in contravention of 15 U.S.C. § 1509 and the SCA. Such relief is  
26 warranted under, among other laws, the APA because issuance, service, and enforcement of the  
27 subpoena is “not in accordance with law” and “in excess of statutory jurisdiction, authority, or  
28 limitations.” 5 U.S.C. § 706(2)(A), (C).

COUNT II

(U.S. Const. amend. I; Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202;  
APA, 5 U.S.C. § 706)

**THE FIRST AMENDMENT BARS THE CBP SUMMONS ABSENT SATISFACTION  
OF THE STRINGENT STANDARD FOR UNMASKING ANONYMOUS SPEAKERS**

65. Plaintiff herein incorporates by reference paragraphs 1-64 as if set forth fully herein.

66. Twitter provides a platform for speech for hundreds of millions of users. Its users Tweet about a broad range of topics, from a favorite sports team to the birth of a child to the latest executive order. Many of Twitter’s users choose to express themselves on the platform pseudonymously.

67. The CBP Summons seeks to force Twitter to disclose information that would identify, or likely lead to the identification of, a person (or group of persons) who has chosen to criticize the government pseudonymously and whose speech is potentially valuable since the person—as a self-described public employee—may be in the best position to “know what ails the agenc[y] for which [he or she] work[s].” *Dahlia v. Rodriguez*, 735 F.3d 1060, 1066-1067 (9th Cir. 2013) (quoting *Waters v. Churchill*, 511 U.S. 661, 674 (1994)).

68. Compelled disclosure of the identities of Twitter users who have engaged in pseudonymous speech would chill their exercise of the constitutionally protected right to speak anonymously. Moreover, independent of its users’ rights, Twitter’s actions in providing a platform for the dissemination of its users’ speech—including its decision to permit the publication of pseudonymous speech—is fully protected by the First Amendment. *See, e.g., Marcus v. Search Warrants*, 367 U.S. 717, 731-732 (1961); *cf., e.g., Arkansas Educ. Television Comm’n v. Forbes*, 523 U.S. 666, 674 (1998). When rights of free speech—especially anonymous free speech—are at stake, courts generally permit an organization or business to assert those rights on behalf of its members or customers. *See, e.g., Virginia v. American Booksellers Ass’n, Inc.*, 484 U.S. 383, 392-393 (1988) (permitting booksellers to assert First Amendment rights of buyers of adult-oriented books); *Publius v. Boyer-Vine*, 2017 WL 772146,

1 at \*5 n.5 (E.D. Cal. Feb. 27, 2017) (collecting cases holding that entities such as websites can  
2 assert the First Amendment rights of their anonymous users).

3 69. The decision to speak anonymously or pseudonymously is protected by the First  
4 Amendment. As the Supreme Court has explained, “an author’s decision to remain anonymous,  
5 like other decisions concerning omissions or additions to the content of a publication, is an  
6 aspect of the freedom of speech protected by the First Amendment.” *McIntyre v. Ohio Elections*  
7 *Comm’n*, 514 U.S. 334, 342 (1995). “Anonymity is a shield from the tyranny of the majority. It  
8 thus exemplifies the purpose behind the Bill of Rights, and of the First Amendment in particular:  
9 to protect unpopular individuals from retaliation—and their ideas from suppression—at the hand  
10 of an intolerant society.” *Id.* at 357.

11 70. A time-honored tradition of pseudonymous free speech on matters of public  
12 moment runs deep in the political life of America. “Undoubtedly the most famous pieces of  
13 American political advocacy are *The Federalist Papers*, penned by James Madison, Alexander  
14 Hamilton, and John Jay, but published under the pseudonym ‘Publius.’” *In re Anonymous*  
15 *Online Speakers*, 661 F.3d 1168, 1172-73 (9th Cir. 2011) (citing *McIntyre*, 514 U.S. at 344 n.6).

16 71. The decision to maintain anonymity “may be motivated by fear of economic or  
17 official retaliation, by concern about social ostracism, or merely by a desire to preserve as much  
18 of one’s privacy as possible.” *Watchtower Bible and Tract Soc’y of New York, Inc. v. Village of*  
19 *Stratton*, 122 S. Ct. 2080, 2089-90 (2002) (internal citation omitted). In the present case, there is  
20 reason for concern that the CBP Summons itself may reflect the very sort of official retaliation  
21 that can result from speech that criticizes government officials and agencies. Because of the  
22 potential for retaliation and ostracism, “[t]here can be no doubt that [requiring identification of  
23 pseudonymous authors] would tend to restrict freedom to distribute information and thereby  
24 freedom of expression.” *Talley v. California*, 362 U.S. 60, 64-65 (1960); *see also (WIN)*  
25 *Washington Initiatives Now v. Rippie*, 213 F.3d 1132, 1139 (9th Cir. 2000) (“Depriving  
26 individuals of ... anonymity is ... ‘a broad intrusion, discouraging truthful, accurate speech by  
27 those unwilling to [disclose their identities] and applying regardless of the character or strength  
28 of an individual’s interest in anonymity.’”) (quoting *American Constitutional Law Found., Inc. v.*

1 *Meyer*, 120 F.3d 1092, 1103 (10th Cir. 1997)); *see also Am. Civil Liberties Union of Nevada v.*  
2 *Heller*, 378 F.3d 979, 988 (9th Cir. 2004).

3 72. These First Amendment interests are at their zenith when, as here, the speech at  
4 issue touches on matters of public political life. Political expression “occupies the core of the  
5 protection afforded by the First Amendment” and must be afforded the highest level of First  
6 Amendment protection. *McIntyre*, 514 U.S. at 346; *see also Mills v. Alabama*, 384 U.S. 214,  
7 218 (1966) (“[T]here is practically universal agreement that a major purpose of that Amendment  
8 was to protect the free discussion of governmental affairs.”); *New York Times Co. v. Sullivan*,  
9 376 U.S. 254, 270 (1964) (a case should be considered “against the background of a profound  
10 national commitment to the principle that debate on public issues should be uninhibited, robust,  
11 and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly  
12 sharp attacks on government and public officials.”).

13 73. These protections for anonymous and pseudonymous political speech are as  
14 robust on the Internet as any other mode of speech. The Supreme Court has unequivocally held  
15 that speech on the Internet is entitled to the highest form of First Amendment protection. *See*  
16 *Reno v. ACLU*, 521 U.S. 844, 870 (1997). As the Supreme Court aptly recognized, through the  
17 Internet and interactive services such as Twitter, “any person with a phone line can become a  
18 town crier with a voice that resonates farther than it could from any soapbox. Through the use of  
19 Web pages, mail exploders, and newsgroups, the same individual can become a pamphleteer.”  
20 *Id.*; *see also In re Anonymous Online Speakers*, 661 F.3d at 1173 (“Although the Internet is the  
21 latest platform for anonymous speech, online speech stands on the same footing as other  
22 speech.”). “As with other forms of expression, the ability to speak anonymously on the Internet  
23 promotes the robust exchange of ideas and allows individuals to express themselves freely  
24 without ‘fear of economic or official retaliation ... [or] concern about social ostracism.’” *In re*  
25 *Anonymous Online Speakers*, 661 F.3d at 1173 (quoting *McIntyre*, 514 U.S. at 341-342).

26 74. Compelling Twitter to disclose information that would identify or lead to the  
27 identification of the person(s) who established and use the @ALT\_USCIS account would chill  
28 the expression of particularly valuable political speech—namely speech by current or former

1 public employees, or others with special insight into operations of our government. The  
2 Constitution does not permit a government agency to suppress dissent voiced by current or  
3 former employees in their private capacity—especially when such efforts exceed the agency’s  
4 statutory authority. “[C]itizens do not surrender their First Amendment rights by accepting  
5 public employment.” *Lane v. Franks*, 134 S. Ct. 2369, 2374 (2014). Indeed, “[t]here is a  
6 significant First Amendment interest in encouraging public employees, who have special access  
7 to facts relevant to debates on issues of public concern, to speak freely and make that  
8 information available.” *Johnson v. Multnomah Cty., Or.*, 48 F.3d 420, 424 (9th Cir. 1995).  
9 “[S]peech by public employees on subject matter related to their employment holds special value  
10 precisely because those employees gain knowledge of matters of public concern through their  
11 employment.” *Franks*, 134 S. Ct. at 2378-2381. “It may often be the case that, unless public  
12 employees are willing to blow the whistle, government corruption and abuse would persist  
13 undetected and undeterred.” *Dahlia*, 735 F.3d at 1066-1067. “The interest at stake is as much  
14 the public’s interest in receiving informed opinion as it is the employee’s own right to  
15 disseminate it.” *San Diego v. Roe*, 543 U.S. 77, 82 (2004).

16 75. In light of the compelling First Amendment interests at stake, Defendants must  
17 satisfy “stringent standards” before using a subpoena or other compulsory legal process to  
18 attempt to unmask the identity of the person(s) who established and use the @ALT\_USCIS  
19 account. *Mason Awtry v. Glassdoor, Inc.*, 2016 WL 1275566, at \*1 (N.D. Cal. Apr. 1, 2016);  
20 *see In re Anonymous Online Speakers*, 661 F.3d at 1778 (“[T]he nature of the speech should be a  
21 driving force in choosing a standard by which to balance the rights of anonymous speakers”  
22 against the interests of those seeking disclosure, with political speech warranting “imposition of  
23 a heightened standard”). In particular, Defendants must demonstrate that (1) “there is a real  
24 evidentiary basis for believing” that some criminal or civil offense has been committed,  
25 *Highfields Capital Mgmt., L.P. v. Doe*, 385 F. Supp. 2d 969, 975-976 (N.D. Cal. 2005);  
26 (2) revealing the identity of the speaker(s) is “necessary”—that is, that it is the least restrictive  
27 means for investigating that offense, *Glassdoor, Inc.*, 2016 WL 1275566, at \*16; *Art of Living*  
28 *Foundation v. Does 1-10*, 2011 WL 5444622, \*10 (N.D. Cal. Nov. 9, 2011); (3) Defendants’

1 demand for this information is not motivated by a desire to suppress free speech; and (4) the  
2 interests of pursuing that investigation outweigh the important First Amendment rights of Twitter  
3 and its users, *Highfields*, 385 F. Supp. 2d at 975-976. *See also Doe No. 1 v. Cahill*, 884 A.2d  
4 451 (Del. 2005) (preventing disclosure of identity of anonymous online speaker); *Dendrite*  
5 *Intern., Inc. v. Doe No. 3*, 775 A.2d 756 (N.J. Super. 2001) (same). The heightened showing  
6 required for such compulsory legal process is not only supported by substantial judicial  
7 precedent, but also is consistent with the special procedures erected in other contexts to protect  
8 First Amendment rights. *E.g., Makaeff v. Trump Univ., LLC*, 736 F.3d 1180, 1182-1183 (9th  
9 Cir. 2013) (California’s anti-SLAPP statute “establish[es] a summary-judgment-like procedure  
10 available at an early stage of [a] litigation that poses a potential chilling effect on speech-related  
11 activities” (internal quotation omitted)); 28 C.F.R. § 50.10(c)(1) (requiring subordinates in the  
12 Department of Justice to obtain the authorization of the Attorney General to issue a subpoena to  
13 a member of the news media, or to use a subpoena to obtain from a third party communications  
14 records or business records of a member of the news media).

15 76. Defendants have satisfied none of these requirements. To meet the first  
16 requirement, Defendants must “adduce *competent evidence*” that “address[es] *all* of the  
17 inferences of fact that [Defendants] would need to prove in order to [substantiate] at least one of  
18 the” offenses that Defendants believe has been committed. *Highfields Capital Mgmt., L.P.*, 385  
19 F. Supp. at 975. Defendants have fallen far short of this standard, given that they have neither  
20 specified any offense they are purportedly investigating nor presented *any* evidence in support of  
21 any element of any such offense.

22 77. Defendants have likewise failed to demonstrate that unmasking the identity of the  
23 @ALT\_USCIS accountholder(s) is the least restrictive way to investigate any offense or offenses  
24 that they believe were committed. To establish that the CBP Summons is “necessary,”  
25 Defendants must explain why other investigatory tools they have deployed have fallen short,  
26 leaving Defendants with no choice but to pierce @ALT\_USCIS’s pseudonymity. *E.g.*,  
27 *Glassdoor, Inc.*, 2016 WL 1275566, at \*16; *Art of Living Foundation*, 2011 WL 5444622, at \*10.  
28 Defendants have not come close to making that showing.

1 78. Defendants’ failure to establish that some offense within the law enforcement  
2 purview of CBP was actually committed and that the CBP Summons is necessary to investigate  
3 that offense likewise confirms that Defendants have failed to demonstrate that the summons is  
4 not motivated by a desire to suppress free speech, or that Defendants’ need to unmask the  
5 identity of the @ALT\_USCIS account holder(s) outweighs the harm that doing so would cause to  
6 the First Amendment rights of Twitter and its users.

7 79. For the foregoing reasons, the Court should enjoin Defendants from taking any  
8 further action to enforce the CBP Summons and—absent the requisite showing—declare it to be  
9 a violation of the rights of Twitter and its users under the First Amendment. Such relief is  
10 warranted under, among other laws, the APA, because issuance, service, and enforcement of the  
11 CBP Summons is “contrary to constitutional right.” 5 U.S.C. § 706(2)(B).

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff respectfully requests that this Court grant the following relief:

14 a. Declare that the CBP Summons is unlawful and unenforceable because  
15 Defendants issued it for reasons not authorized by 19 U.S.C. § 1509 and because it demands  
16 production of documents that Defendants are not authorized to demand or obtain under 19  
17 U.S.C. § 1509, and further declare that the CBP Summons violates the Administrative Procedure  
18 Act as not in accordance with law, 5 U.S.C. § 706(2)(A), and “in excess of statutory jurisdiction,  
19 authority, or limitations,” *id.* § 706(2)(C).

20 b. Declare that the CBP Summons is unlawful and unenforceable because it violates  
21 the First Amendment rights of both Twitter and its users by seeking to unmask the identity of  
22 one or more anonymous Twitter users voicing criticism of the government on matters of public  
23 concern without Defendants having satisfied the stringent standards for piercing a speaker’s  
24 anonymity, and further declare that the CBP Summons violates the Administrative Procedure  
25 Act as “contrary to constitutional right,” 5 U.S.C. § 706(2)(B);

26 c. Issue an order vacating and nullifying the CBP Summons, enjoining Defendants  
27 or their agents from enforcing the CBP Summons, and declaring that Twitter has no obligation to  
28 comply with the CBP Summons;

- 1 d. Award Plaintiff its costs and reasonable attorney's fees as appropriate; and  
2 e. Grant such other relief as this Court may deem just and proper.

3 Dated: April 6, 2017

4 Respectfully submitted,

5 /s/ Mark D. Flanagan  
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26 *Counsel for Plaintiff Twitter, Inc.*

# **Exhibit A**



U.S. DEPARTMENT OF HOMELAND SECURITY  
Bureau of Customs and Border Protection

FACSIMILE TRANSMITTAL

CD 2110-035

Date:

Control Number:

<b>TO</b>	Name:	<i>Trust &amp; Safety - Legal Policy</i>
	Organization:	<i>Twitter Inc</i>
	Fax Number:	[REDACTED]
	Number of Pages (including cover):	<i>4</i>

<b>FROM</b>	Sender:	<i>SA</i> (b) (6), (b) (7)(C) [REDACTED]
	Originating Location:	<i>DHS Customs and Border Protection</i>
	Return FAX Number:	(b) (6), (b) (7)(C) [REDACTED]
	Voice Number:	[REDACTED]

<b>REMARKS</b>	<i>Please complete the Acknowledgment of Receipt and return to Fax # (b) (6), (b) (7)(C)</i>
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**Important:** This document may contain confidential and sensitive U.S. Government information. Please deliver it immediately only to the intended recipient(s) listed above. The Bureau of Customs and Border Protection has not approved the documents review, retransmission, dissemination or use by anyone other than the intended recipient(s).

<p>To (Name, Address, City, State, Zip Code)          Twitter, Inc.          c/o Trust &amp; Safety - Legal Policy          1355 Market Street, Suite 900          San Francisco, CA 94103</p>	<p>DEPARTMENT OF HOMELAND SECURITY</p> <p><b>SUMMONS NOTICE</b></p> <p><b>to Appear and/or Produce Records</b>          19 U.S.C. § 1509</p>
--	--

Attached is a copy of a summons served by U.S. Immigration and Customs Enforcement (ICE) or U.S. Customs and Border Protection (CBP), both agencies within the Department of Homeland Security (DHS), to examine records or to request testimony relating to records of your business transactions or affairs which have been made or kept by the person named in Block 1 of the summons.

If you object to the examination of these records, you may stay (prevent) examination of the records until a summons enforcement proceeding is commenced in court. Compliance with the summons will be stayed if, not later than the day before the date indicated in Block 2 of the summons, you advise the person summoned (the person named in Block 1), in writing, not to comply with the summons, and you send a copy of that notice by registered or certified mail to the CBP Officer or ICE Special Agent who issued the summons at the address shown in Block 6 of the summons.

CBP or ICE may begin an action to enforce the summons in the appropriate United States District Court. In such cases, you will be notified and you will have the right to intervene and present your objections before the court. The court will decide whether the person summoned should be required to comply with the summons.

If the court issues an order to comply with the summons and the person summoned fails to comply, the court may punish such failure as a contempt of court. Other sanctions may be provided by law.

If you have any questions regarding this matter, please contact the CBP Officer or ICE Special Agent before whom the summoned person is required to appear. The CBP Officer's or ICE Special Agent's name and telephone number are given in Block 2 of the summons.

<b>1. To (Name, Address, City, State, Zip Code)</b> Twitter, Inc. c/o Trust & Safety - Legal Policy 1355 Market Street, Suite 900 San Francisco, CA 94103	<b>DEPARTMENT OF HOMELAND SECURITY</b>  <b>SUMMONS</b>  <b>to Appear and/or Produce Records</b> <b>19 U.S.C. § 1509</b>
<b>Summons Number</b> (b) (7)(E)	<b>Case Number:</b> (b) (7)(E)

By the service of this subpoena upon you, **YOU ARE HEREBY SUMMONED AND REQUIRED TO:**

- (A)  **APPEAR** before the U.S. Customs and Border Protection (CBP) Officer or U.S. Immigration and Customs Enforcement (ICE) Special Agent named in Block 2 at the place, date, and time indicated to testify and give information.
- (B)  **PRODUCE** the records (including statements, declarations, and other documents) indicated in Block 3 before the CBP Officer or ICE Special Agent named in Block 2 at the place, date, and time indicated.

Your testimony and/or production of the indicated records is required in connection with an investigation or inquiry to ascertain the correctness of entries, to determine the liability for duties, taxes, fines, penalties, or forfeitures, and/or to ensure compliance with the laws or regulations administered by CBP and ICE.

Failure to comply with this summons will render you liable to proceedings in a U.S. District Court to enforce compliance with this summons as well as other sanctions.

<b>2. (A) CBP Officer or ICE Special Agent before whom you are required to appear</b> Name (b) (6), (b) (7)(C) Title Special Agent Address 1300 Pennsylvania Ave. N.W. Room 8.3 Washington D.C. 20229 Telephone Number (b) (6), (b) (7)(C)	<b>(B) Date</b> 03/13/2017  <b>(C) Time</b> 11:45 <input checked="" type="checkbox"/> a.m. <input type="checkbox"/> p.m.
---	---

**3. Records required to be produced for inspection**  
 All records regarding the twitter account @ALT\_USCIS to include, User names, account login, phone numbers, mailing addresses, and I.P addresses.

*You are requested not to disclose the existence of this summons for an indefinite period of time. Any such disclosure will impede this investigation and thereby interfere with the enforcement of federal law.*

Issued under authority of section 509, Tariff Act of 1930, as amended by Public law 95-410 (19 U.S.C. § 1509); 44 F.R. 2217; Homeland Security Act of 2002

<b>4. Name of person authorized to serve this summons or any other CBP Officer or ICE Special Agent</b> Special Agent (b) (6), (b) (7)(C)	<b>5. Date of issue</b> 03/14/2017 (b) (6), (b) (7)(C)
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If you have any questions regarding this summons, contact the CBP Officer or ICE Special Agent identified in Block 2.

**6. Name, title, address, and telephone number of person issuing this summons**  
 Name (b) (6), (b) (7)(C)  
 Title Special Agent in Charge  
 Address 11606 City Hall Promenade  
 Suite 400, Miramar, FL 33025  
 Telephone Number (b) (6), (b) (7)(C)

**CERTIFICATE OF SERVICE AND ACKNOWLEDGMENT OF RECEIPT**

**A. CERTIFICATE OF SERVICE OF SUMMONS**

I certify that I served the summons on the front of this form as follows:

<input type="checkbox"/> I delivered a copy of the summons to the person to whom it was directed, as follows:	Address or Location	Date
		Time <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.
<input checked="" type="checkbox"/> (For corporations, partnerships, and unincorporated associations which may be sued under a common name)  I delivered a copy of the summons to an officer, managing or general agent, or agent authorized to accept service of process as follows:	Address or Location Twitter, Inc. c/o Trust & Safety - Legal Policy 1355 Market Street, Suite 900 San Francisco, CA 94103	Date 03/13/2017
		Time 11:45 <input checked="" type="checkbox"/> a.m. <input type="checkbox"/> p.m.
Name of person to whom the summons was delivered		
Faxing to [REDACTED] (attn: Trust & Safety - Legal Policy)		
S: (b) (6), (b) (7)(C)		
T: [REDACTED] Special Agent		Date 03/13/2017

**B. ACKNOWLEDGMENT OF RECEIPT**

I acknowledge receipt of a copy of the summons on the front of this form.

Signature		
Title	Date	Time <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.

CIVIL COVER SHEET

The JS-CAND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)
(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS
County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED. Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
Table with columns: CITIZENSHIP, PTF, DEF

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 main columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation-Transfer, 8 Multidistrict Litigation-Direct File

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Brief description of cause:

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S), IF ANY (See instructions): JUDGE DOCKET NUMBER

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)
(Place an "X" in One Box Only) SAN FRANCISCO/OAKLAND SAN JOSE EUREKA-MCKINLEYVILLE

DATE: SIGNATURE OF ATTORNEY OF RECORD:

CIVIL COVER SHEET

Attachment

Part I (c) Attorneys for Plaintiffs (Firm Name, Address, and Telephone Number)

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[Redacted]

**Subject:** TRUMP TRUMP TRUMP TRUMP

**Date:** [Redacted]

**From:** [Redacted]

**To:** [Redacted]

TRUMP TRUMP TRUMP TRUMPTRUMP TRUMP TRUMP TRUMPTRUMP TRUMP TRUMP TRUMPTRUMP TRUMP  
TRUMP TRUMPTRUMP TRUMP TRUMP TRUMPTRUMP TRUMP TRUMP TRUMP!!  
MAGA

[Redacted]

[REDACTED]

---

**Subject:** Re: TRUMP TRUMP TRUMP TRUMP

**Date:** [REDACTED]

**From:** [REDACTED]

**To:** [REDACTED]

MAGA mother fucker. Here we come. we gonna be great again!

[REDACTED]

TRUMP TRUMP TRUMP TRUMPTRUMP TRUMP TRUMP TRUMPTRUMP TRUMP TRUMP TRUMPTRUMP TRUMP  
TRUMP TRUMPTRUMP TRUMP TRUMP TRUMPTRUMP TRUMP TRUMP TRUMP!!  
MAGA

[REDACTED]

---

**Subject:** Re: TRUMP TRUMP TRUMP TRUMP

**Date:** [REDACTED]

**From:** [REDACTED]

**To:** [REDACTED]

15000 more redneck bruh hunger games about to start

[REDACTED]

MAGA mother fucker. Here we come. we gonna be great again!

On [REDACTED]

TRUMP TRUMP TRUMP TRUMPTRUMP TRUMP TRUMP TRUMPTRUMP TRUMP TRUMP TRUMPTRUMP TRUMP  
TRUMP TRUMPTRUMP TRUMP TRUMP TRUMPTRUMP TRUMP TRUMP TRUMP!!  
MAGA

[REDACTED]

---

**Subject:** Re: TRUMP TRUMP TRUMP TRUMP

**Date:** [REDACTED]

**From:** [REDACTED]

**To:** [REDACTED]

this is me January 21st looking for carlos

[REDACTED]

15000 more redneck bruh hunger games about to start

[REDACTED]

MAGA mother fucker. Here we come. we gonna be great again!

[REDACTED]

TRUMP TRUMP TRUMP TRUMPTRUMP TRUMP TRUMP TRUMPTRUMP TRUMP TRUMP TRUMPTRUMP TRUMP  
TRUMP TRUMPTRUMP TRUMP TRUMP TRUMPTRUMP TRUMP TRUMP TRUMP!!  
MAGA

[REDACTED]

**Subject:** Re: TRUMP TRUMP TRUMP TRUMP

**Date:**

**From:**

**To:**

TRUMP is gonna make us great again! everyone gets a new lifted F250, you get an F250, you get an F250, you get an F250, you get an F250



[REDACTED]

---

**Subject:** Re: TRUMP TRUMP TRUMP TRUMP

**Date:** [REDACTED]

**From:** [REDACTED]

**To:** [REDACTED]

[REDACTED] BPA CBPO

did you see Killarys face on tv just now? do you think she knows the army of TRUMP and GOD is  
bout to be unleashed?

Fuck i wanna process and deport HUSSEIN OBAMER!

[REDACTED]

an F250, you get

Page 1 of 2

[REDACTED]

---

**Subject:** Re: TRUMP TRUMP TRUMP TRUMP

**Date:** [REDACTED]

**From:** [REDACTED]

**To:** [REDACTED]

40 thousand rednecks strong. America dont know we are about to go after brown wetback take their  
shit and ship the rats out in containers full of shit

[REDACTED]

GOD is

, you get

[REDACTED]

---

**Subject:** Re: TRUMP TRUMP TRUMP TRUMP

**Date:** [REDACTED]

**From:** [REDACTED]

**To:** [REDACTED]

Cleared in CASS. Do you think brandon judd will be secretary of state now?

[REDACTED]

take

GOD is

, you

[REDACTED]

---

**Subject:** Re: TRUMP TRUMP TRUMP TRUMP

**Date:** [REDACTED]

**From:** [REDACTED]

**To:** [REDACTED]

Judd will leave the union and get on that private contractor train building the wall and get rich.  
sucking up to trump and rudy giuliani was no accident

[REDACTED]

Page 1 of 2

[REDACTED]

---

**Subject:** Re: TRUMP TRUMP TRUMP TRUMP

**Date:** [REDACTED]

**From:** [REDACTED]

**To:** [REDACTED]

we in the wetback killing business and business will be boom'n. i wana go to their houses, deport them then go back [REDACTED] flat screen tv, you know they all have big ass tv's for the soccer shit. goal!!!!!!!!!!!!!!!!!!!!!!.

[REDACTED]

1 of 2

**Subject:** Re: TRUMP TRUMP TRUMP TRUMP

**Date:**

**From:**

**To:**

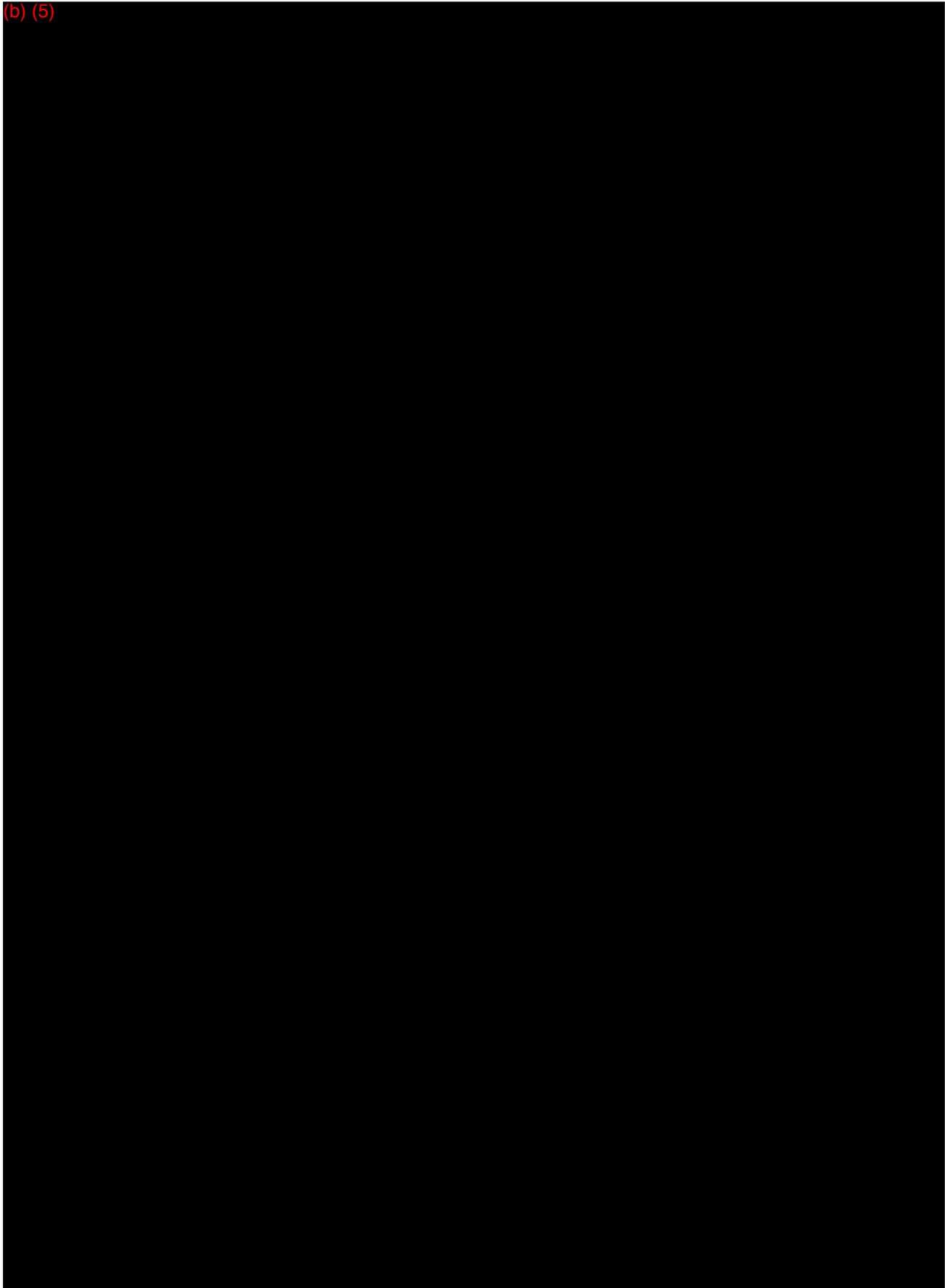
fuck u you know OFOs will be going back at night after to get ( evidence)

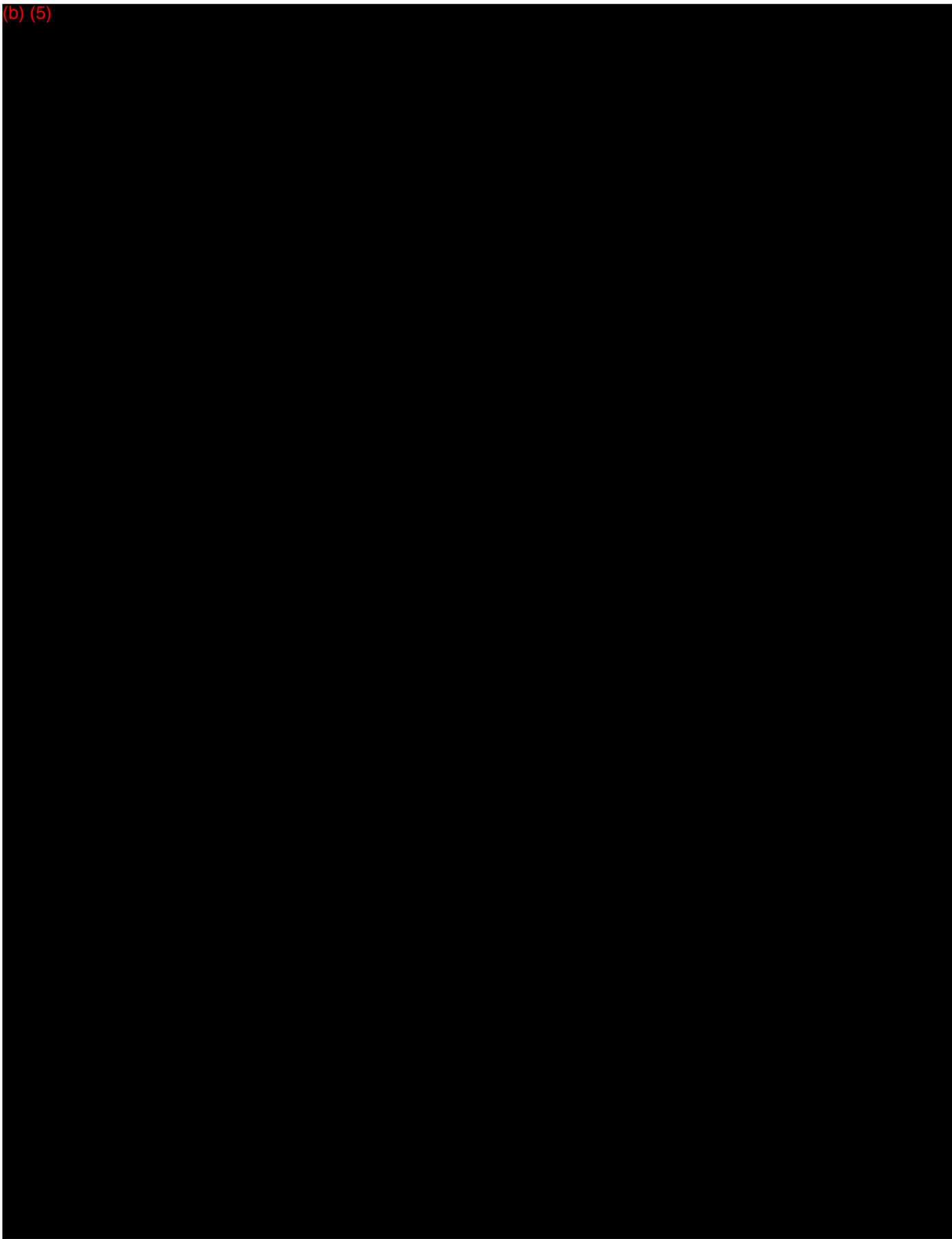
port  
cer

ch.

Page 1 of 2

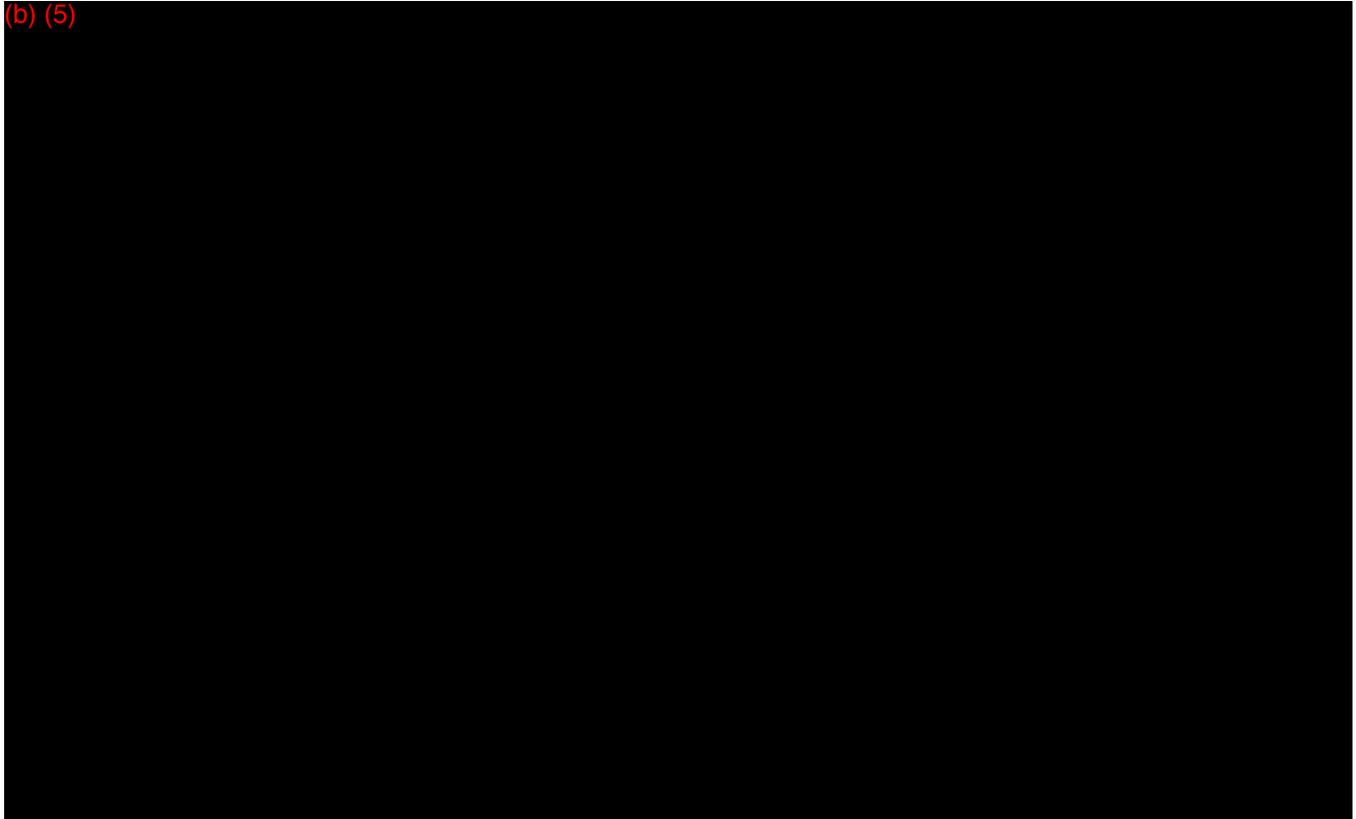
(b) (5)





**EXECUTIVE SUMMARY – Twitter handle @alt\_uscis**

(b) (5)



\*\*\* TRANSMISSION REPORT \*\*\*

**(b) (7)(E)**

Date/Time	3-14 15:56
Dialled number	(b) (6), (b) (7)(C)
Subscriber	
Durat.	0' 49"
Mode	NORMAL
Pages	4
Status	Correct



U.S. DEPARTMENT OF HOMELAND SECURITY  
Bureau of Customs and Border Protection

FACSIMILE TRANSMITTAL  
CD 2110-035

Date: \_\_\_\_\_ Control Number: \_\_\_\_\_

<b>TO</b>	Name:	<i>Trust + Safety - Legal Policy</i>
	Organization:	<i>Twitter Inc</i>
	Fax Number:	(b) (6), (b) (7)(C)
	Number of Pages (including cover):	<i>4</i>

<b>FROM</b>	Sender:	<i>SA Adam Hoffman</i>
	Originating Location:	<i>DHS Customs and Border Protection</i>
	Return FAX Number:	(b) (6), (b) (7)(C)
	Voice Number:	

<b>REMARKS</b>	<i>Please complete the Acknowledgment of Receipt and return to Fax # (b) (6), (b) (7)(C)</i>
----------------	--

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CBP Form 3 (05/03)



U.S. DEPARTMENT OF HOMELAND SECURITY  
Bureau of Customs and Border Protection

FACSIMILE TRANSMITTAL

CD 2110-035

Date:

Control Number:

<b>TO</b>	Name:	<i>Trust &amp; Safety - Legal Policy</i>
	Organization:	<i>Twitter Inc</i>
	Fax Number:	<b>(b) (6), (b) (7)(C)</b>
	Number of Pages (including cover):	<i>4</i>
<b>FROM</b>	Sender:	<b>(b) (6), (b) (7)(C)</b>
	Originating Location:	<i>DHS Customs and Border Protection</i>
	Return FAX Number:	<b>(b) (6), (b) (7)(C)</b>
	Voice Number:	<b>(b) (6), (b) (7)(C)</b>
<b>REMARKS</b>	<i>Please complete the Acknowledgment of Receipt and return to Fax # <b>(b) (6), (b) (7)(C)</b></i>	

Important: This document may contain confidential and sensitive U.S. Government information. Please deliver it immediately only to the intended recipient(s) listed above. The Bureau of Customs and Border Protection has not approved the documents review, retransmission, dissemination or use by anyone other than the intended recipient(s).

To (Name, Address, City, State, Zip Code)

Twitter, Inc.  
c/o Trust & Safety - Legal Policy  
1355 Market Street, Suite 900  
San Francisco, CA 94103

DEPARTMENT OF HOMELAND SECURITY

**SUMMONS NOTICE**

**to Appear and/or Produce Records**  
19 U.S.C. § 1509

Attached is a copy of a summons served by U.S. Immigration and Customs Enforcement (ICE) or U.S. Customs and Border Protection (CBP), both agencies within the Department of Homeland Security (DHS), to examine records or to request testimony relating to records of your business transactions or affairs which have been made or kept by the person named in Block 1 of the summons.

If you object to the examination of these records, you may stay (prevent) examination of the records until a summons enforcement proceeding is commenced in court. Compliance with the summons will be stayed if, not later than the day before the date indicated in Block 2 of the summons, you advise the person summoned (the person named in Block 1), in writing, not to comply with the summons, and you send a copy of that notice by registered or certified mail to the CBP Officer or ICE Special Agent who issued the summons at the address shown in Block 6 of the summons.

CBP or ICE may begin an action to enforce the summons in the appropriate United States District Court. In such cases, you will be notified and you will have the right to intervene and present your objections before the court. The court will decide whether the person summoned should be required to comply with the summons.

If the court issues an order to comply with the summons and the person summoned fails to comply, the court may punish such failure as a contempt of court. Other sanctions may be provided by law.

If you have any questions regarding this matter, please contact the CBP Officer or ICE Special Agent before whom the summoned person is required to appear. The CBP Officer's or ICE Special Agent's name and telephone number are given in Block 2 of the summons.

1. To (Name, Address, City, State, Zip Code) Twitter, Inc. c/o Trust & Safety - Legal Policy 1355 Market Street, Suite 900 San Francisco, CA 94103	DEPARTMENT OF HOMELAND SECURITY  <b>SUMMONS</b>  to Appear and/or Produce Records 19 U.S.C. § 1509
Summons Number (b) (7)(E)	Case Number: (b) (7)(E)

By the service of this subpoena upon you, **YOU ARE HEREBY SUMMONED AND REQUIRED TO:**

- (A)  **APPEAR** before the U.S. Customs and Border Protection (CBP) Officer or U.S. Immigration and Customs Enforcement (ICE) Special Agent named in Block 2 at the place, date, and time indicated to testify and give information.
- (B)  **PRODUCE** the records (including statements, declarations, and other documents) indicated in Block 3 before the CBP Officer or ICE Special Agent named in Block 2 at the place, date, and time indicated.

Your testimony and/or production of the indicated records is required in connection with an investigation or inquiry to ascertain the correctness of entries, to determine the liability for duties, taxes, fines, penalties, or forfeitures, and/or to ensure compliance with the laws or regulations administered by CBP and ICE.

Failure to comply with this summons will render you liable to proceedings in a U.S. District Court to enforce compliance with this summons as well as other sanctions.

2. (A) CBP Officer or ICE Special Agent before whom you are required to appear Name (b) (6), (b) (7)(C) Title Special Agent Address 1300 Pennsylvania Ave. N.W. Room 8.3 Washington D.C. 20229 Telephone Number (b) (6), (b) (7)(C)	(B) Date 03/13/2017  (C) Time 11:45 <input checked="" type="checkbox"/> a.m. <input type="checkbox"/> p.m.
--	---

3. Records required to be produced for inspection All records regarding the twitter account @ALT_USCIS to include, User names, account login, phone numbers, mailing addresses, and I.P addresses.
---

*You are requested not to disclose the existence of this summons for an indefinite period of time. Any such disclosure will impede this investigation and thereby interfere with the enforcement of federal law.*

Issued under authority of section 509, Tariff Act of 1930, as amended by Public law 95-410 (19 U.S.C. § 1509); 44 F.R. 2217; Homeland Security Act of 2002

4. Name of person authorized to serve this summons or any other CBP Officer or ICE Special Agent Special Agent (b) (6), (b) (7)(C)	5. Date of issue 03/14/2017  By (b) (6), (b) (7)(C)
---	---



If you have any questions regarding this summons, contact the CBP Officer or ICE Special Agent identified in Block 2.

6. Name, title, address, and telephone number of person issuing this summons Name (b) (6), (b) (7)(C) Title Special Agent in Charge Address 11606 City Hall Promenade Suite 400, Miramar, FL 33025 Telephone Number (b) (6), (b) (7)(C)
--

**CERTIFICATE OF SERVICE AND ACKNOWLEDGMENT OF RECEIPT**

<b>A. CERTIFICATE OF SERVICE OF SUMMONS</b>		
I certify that I served the summons on the front of this form as follows:		
<input type="checkbox"/> I delivered a copy of the summons to the person to whom it was directed, as follows:	Address or Location	Date
		Time <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.
<input checked="" type="checkbox"/> <i>(For corporations, partnerships, and unincorporated associations which may be sued under a common name)</i>  I delivered a copy of the summons to an officer, managing or general agent, or agent authorized to accept service of process as follows:	Address or Location Twitter, Inc. c/o Trust & Safety - Legal Policy 1355 Market Street, Suite 900 San Francisco, CA 94103	Date 03/13/2017
		Time 11:45 <input checked="" type="checkbox"/> a.m. <input type="checkbox"/> p.m.
Name of person to whom the summons was delivered		
(b) (6)		
Signature	(b) (6), (b) (7)(C)	
Title		Date
Special Agent		03/13/2017

<b>B. ACKNOWLEDGMENT OF RECEIPT</b>		
I acknowledge receipt of a copy of the summons on the front of this form.		
Signature		
Title	Date	Time <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.

(b) (6), (b) (7)(C)

---

**From:** (b) (6), (b) (7)(C)  
**Sent:** Thursday, February 23, 2017 11:17 AM  
**To:** KARISCH, RODOLFO  
**Subject:** FW: (No Subject)

Sir,

Can your staff follow-up on the below tweet.

Thank you.

V/R  
Patrick

[Patrick Flanagan](#)

(b) (6), (b) (7)(C)

~~Notice: FOR OFFICIAL USE ONLY - this transmission contains material covered by the Privacy Act of 1974 and should be viewed only by personnel having an official "need to know." If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the content of this information is prohibited. If you have received this communication in error, please notify me immediately by email and delete the original message.~~

---

**From:** (b) (6), (b) (7)(C)  
**Sent:** Thursday, February 23, 2017 10:39:26 AM  
**To:** MCALEENAN, KEVIN K  
**Subject:** RE: (No Subject)

First we have seen. Will engage OPR.

V/R  
Patrick

---

**From:** MCALEENAN, KEVIN K  
**Sent:** Thursday, February 23, 2017 2:54:48 AM  
**To:** FLANAGAN, PATRICK S  
**Subject:** FW: (No Subject)

What is this about?

---

**From:** (b) (6), (b) (7)(C)  
**Sent:** Wednesday, February 22, 2017 9:38:33 PM  
**To:** (b) (6), (b) (7)(C); MCALEENAN, KEVIN K  
**Subject:**

Is this something someone should investigate? I mean, I know that your officers and agents are often the targets of such things, but...



(b) (6), (b) (7)(C)

---

**From:** (b) (6), (b) (7)(C)  
**Sent:** Thursday, March 02, 2017 4:55 PM  
**To:** (b) (6), (b) (7)(C)  
**Subject:** RE: Adhoc report request - CBP open cases  
**Attachments:** CBP OPR - All NonClosed Cases with Days (b) (7)(E).xls

(b) (6), (b) (7)(C)

Attached is the report with the requested changes. BTW, I added the date (b) (7)(E)

(b) (6), (b) (7)(C)

---

**From:** (b) (6), (b) (7)(C) **On Behalf Of** ICE-OPR-CMS  
**Sent:** Thursday, March 02, 2017 1:15 PM  
**To:** (b) (6), (b) (7)(C)  
**Subject:** RE: Adhoc report request - CBP open cases

(b) (6), (b) (7)(C)

Attached is your requested report. Please let me know if you have any changes or corrections.

(b) (6), (b) (7)(C)

(b) (7)(E)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Supporting the Border Enforcement and Management Systems Division  
Office of Information and Technology  
U.S. Customs & Border Protection

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Washington, DC 20536-5501  
Attn: (b) (7)(E)

---

**From:** (b) (6), (b) (7)(C)  
**Sent:** Thursday, March 02, 2017 10:05 AM  
**To:** ICE-OPR-CMS  
**Subject:** Adhoc report request - CBP open cases

Help Desk,

Can you provide me a report for all open CBP cases?

Parameters:

- All cases

- Subject Type: CBP employee, contractor, civilian
- Status: all except for Closed

Report:

(b) (7)(E)

Any questions just let me know.

Thanks!

(b) (6), (b) (7)(C)

SUPERVISOR, JOINT INTAKE CENTER (JIC)  
CBP | OFFICE OF PROFESSIONAL RESPONSIBILITY | INVESTIGATIVE OPERATIONS DIVISION

(b) (6), (b) (7)(C)

Case #	Case Type	Status	Case Is	Incident City	Incident State	Group	Org	(b) (7)(E)	Subject Name	Subject Type	Subject Office	Summary	(b) (7)(E)	(b) (7)(E)	# Days	Created	Remarks	Lead Agy	Sppt Agcy	
(b) (7)(E)	Management Review	Open	Review in Progress	UNKNOWN	UNKNOWN-UNK	(b) (7)(E)	Pending	Unknown	(b) (7)(E)	UNKNOWN UNKNOWN	CBP Other/Unknown	Unknown	@ALT_USCIS Twitter account reportedly posting documents that appear to be CBP emails	(b) (7)(E)	(b) (7)(E)	0	23-FEB-17			

(b) (6), (b) (7)(C)

---

**From:** (b) (6), (b) (7)(C)  
**Sent:** Thursday, March 02, 2017 6:26 PM  
**To:** (b) (6), (b) (7)(C)  
**Subject:** Copy of CBP OPR - All NonClosed Cases as of 03022017.xls  
**Attachments:** Copy of CBP OPR - All NonClosed Cases as of 03022017.xls

Case #	Case Type	Status	Case Is	Incident City	Incident State	Group	Org	(b) (7)(E)	Subject Name	Subject Type	Subject Office	Summary	(b) (7)(E)	(b) (7)(E)	# Days	Created	Remarks	Lead Agcy	Sppt Agcy
(b) (7)(E)	Management Review	Open	Review in Progress	UNKNOWN	UNKNOWN UNK	(b) (7)(E) Pending	Unknown	(b) (7)(E)	UNKNOWN UNKNOWN	CBP Other/Unknown	Unknown	@ALT_USCIS Twitter account reportedly posting documents that appear to be CBP emails	(b) (7)(E)	(b) (7)(E)	0	23-FEB-17			

(b) (6), (b) (7)(C)

---

**From:** (b) (6), (b) (7)(C)  
**Sent:** Monday, April 10, 2017 5:45 AM  
**To:** (b) (6), (b) (7)(C)  
**Subject:** Big Brother Gets Big Finger From Twitter

CBP Target of Lawsuit by Twitter



**By Michael Kal**

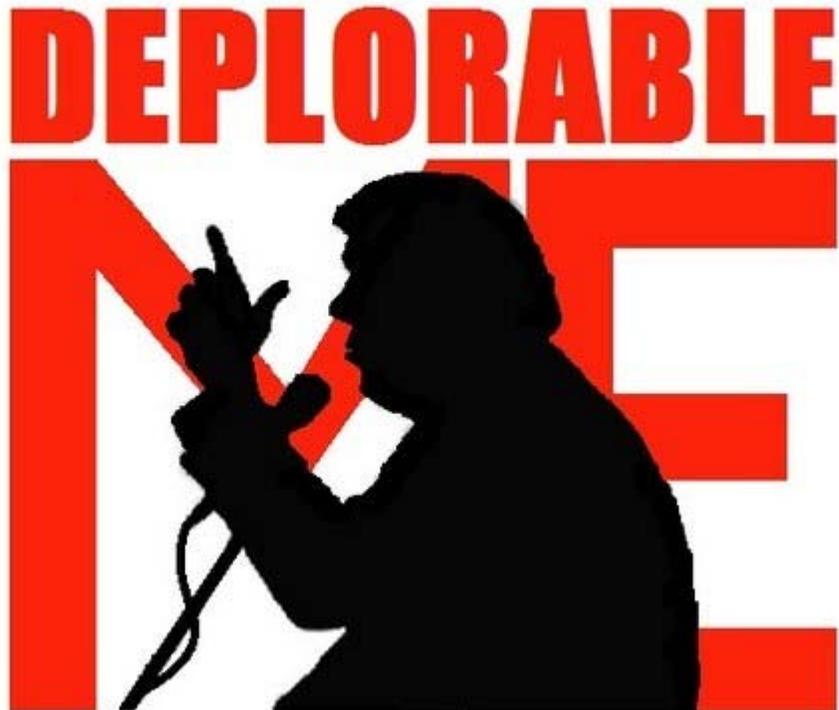
Friday Apr 07, 2017 · 4:33 AM EDT

2017/04/07 · 04:33

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6  
6



## Big Brother Gets Big Finger From Twitter

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6

6

6

## Big Brother Gets Big Finger From Twitter

### BREAKING NEWS;

Twitter filed suit against the US government for a summons it received last month on an alternative government website, @ALT\_uscis. The summons was sent last month from CBP and its parent agency, the Department of Homeland Security. Twitter responded by filing the suit in response to protect the identity of the anonymous users. The ACLU is also acting as representatives to the account holder. Both Twitter and the ACLU assert there was not strong justification to request the information.

In seeking the user names, login records, phone numbers, physical addresses and IP addresses of anyone associated with the account, it is believed to be a blatant attempt to chill first amendment rights, absent any real cause other than harassment. Alternative websites in parody to actual .gov websites, present data that was taken from the official sites after Trump ordered data restricted and limited access to citizens.

"In this case the government has given no reason at all, leading to concerns that it is simply trying to stifle dissent," said Nathan Freed Wessler, a lawyer with the ACLU's Speech, Privacy and Technology Project.

The @ALT\_uscis website tweets sharply critical comments about U.S. immigration policy and President Donald trump under the guise of disgruntled employees of U.S. Citizenship and Immigration Services. Protected action under our First Amendment is again under attack by the new gestapo operating under orders disguised as "National Security" for Hair Twitler. The original story can be found here



(b) (6), (b) (7)(C)

**From:** (b) (6)  
**Sent:** Thursday, April 06, 2017 10:30 PM  
**To:** (b) (6), (b) (7)(C)  
**Subject:** The government is demanding to know who this Trump critic is. Twitter is suing to keep it a secret. - The Washington Post

Please stop.

The firing squad needs a vacation.

[https://www.washingtonpost.com/news/the-switch/wp/2017/04/06/the-government-is-demanding-to-know-who-this-trump-critic-is-twitter-is-suing-to-keep-it-a-secret/?hpid=hp\\_rhp-banner-low\\_twittersuit-530pm%3Ahomepage%2Fstory&utm\\_term=.cc3371dfa5f5](https://www.washingtonpost.com/news/the-switch/wp/2017/04/06/the-government-is-demanding-to-know-who-this-trump-critic-is-twitter-is-suing-to-keep-it-a-secret/?hpid=hp_rhp-banner-low_twittersuit-530pm%3Ahomepage%2Fstory&utm_term=.cc3371dfa5f5)

# The government is demanding to know who this Trump critic is. Twitter is suing to keep it a secret.

## U.S. government targets critical Twitter user

Play Video0:56

Twitter filed a federal lawsuit on April 6 to block an order by the U.S. government demanding that it reveal who is behind an account opposed to President Trump's tough immigration policies. (Reuters)

Twitter filed a lawsuit Thursday to block an order from the Department of Homeland Security that seeks to reveal the user of an account who has been critical of the Trump administration's immigration policies.

Tweets from the account -- @ALT\_uscis -- indicate that it is run by someone who is an employee of the U.S. Citizenship and Immigration Services division of Homeland Security.

Free speech advocates said the DHS order appeared to be the first time the government has attempted to use its powers to expose an anonymous critic -- a development that, if successful, would have a "grave chilling effect on the speech of that account" as well as other accounts critical of the U.S. government, Twitter said.

*[One thing Trump has stopped doing on Twitter since inauguration]*

DHS is "unlawfully abusing a limited-purpose investigatory tool" to find out who is behind the @ALT\_uscis account, according to Twitter's court filings.

DHS spokeswoman Jenny Burke declined to comment, citing the pending litigation.

The case sets up a potential showdown over free speech between Silicon Valley and Washington, which has tussled over whether tech firms can resist government orders seeking the identity or personal information from criminals and suspected terrorists.

Apple, for instance, declined in early 2016 to unlock the phone of the shooter in San Bernardino, Calif., and has refused to build "back doors" that would enable law enforcement to break into smartphones. The move sparked a pitched battle between the company and the FBI, which eventually paid a private expert to unlock the device.

But the Homeland Security case struck free speech advocates as more remarkable because the information request was about the identity of a government critic, rather than public safety.

"Twitter has a pretty strong argument," said Andrew Crocker, a staff attorney for the Electronic Frontier Foundation. "It does look and smell like the government is going after a critic. There's nothing in the summons that CBP [Customs and Border Protection] sent to Twitter that authorizes this request under the power that they have."

The @ALT\_uscis account, which was created in January, has not held back in firing attacks against the Trump administration.

In a Jan. 26 tweet, the @ALT\_uscis account tweeted: "Fact: More than 40% of illegal aliens in the US are Visa overstays from other developed countries not sounding like MEXICO #TheResistance."

The account has also called attention to mismanagement in agency operations. In a March 12 tweet, it said that "USCIS turns down regularly private companies who propose collaboration to streamline the intake process, reducing costs and processing time."

The account's description stresses that its views are "Not the views of DHS or USCIS." As of the time of the court filing, the account had been active for two months and amassed more than 32,000 followers. By 8:15 p.m., that figure had grown to more than 86,000.

In its court filing with the U.S. District Court in the Northern District of California, Twitter said that DHS officials delivered an administrative summons to the social-networking site on March 14, via a CBP agent, demanding that the company provide records that would "unmask or likely lead to the unmasking" of the person or people behind the account.

Twitter maintains that CBP does not have jurisdiction to demand such information, which includes "names, account login, phone numbers, mailing addresses, and I.P. addresses," associated with the account.

But its primary objection, the company said, is that allowing the government to unmask Twitter critics violates the Constitution's First Amendment right to free speech. Twitter has defended its users' rights to free expression -- a position it has held for years, notably during the widespread Arab Spring protests in 2011. That right, the company said, is particularly important when discussing political speech.

"First Amendment interests are at their zenith when, as here, the speech at issue touches on matters of public political life," the filing said.

Twitter added that it feared the government wants to punish the person or people responsible for the account. The summons, Twitter said, "may reflect the very sort of official retaliation that can result from speech that criticizes government officials and agencies."

The company also has a lot at stake for its business, which could see a huge hit if anonymous users could suddenly be unmasked by the government. Unlike other social networks, Twitter allows its users to create accounts without publicly revealing their true identity.

This isn't the first time Twitter has tangled with officials over its users' personal information.

The company in 2012 appealed an order from the state of New York to reveal the identity of Occupy Wall Street protester Malcolm Harris. It lost that appeal. Twitter sued the Justice Department in 2014 for the right to make federal information requests for user data public. And it has lent its support to other companies' fights against the government, including Apple's opposition to the FBI order.

The American Civil Liberties Union, which is representing the user in the DHS case, expressed concern that the order is an attempt to curb free speech. "To unmask an anonymous speaker online, the government must have a strong justification," ACLU attorney Nathan Freed Wessler said in a statement. "But in this case the government has given no reason at all, leading to concerns that it is simply trying to stifle dissent."

ACLU said it plans to make its own filing in the court on behalf of the user in the next few days.

The Switch newsletter

The day's top stories on the world of tech.

"It's about the broader right to speak anonymously on the Internet," said Esha Bhandari, an ACLU staff attorney.

The @ALT\_uscis account is one of many "alternative government" accounts that have popped up since Donald Trump's election. Accounts apparently run by employees (or former employees) of the National Park Service, the National Weather Service, the Labor Department and other agencies have appeared to question the Trump administration's policies and fact-check its assertions on a variety of topics.

[\[National Weather Service has an 'alt' Twitter, and it already has over 71,000 followers\]](#)

The @ALT\_uscis account didn't respond to a tweet asking for comment on the suit, but was tweeting about the case and the account's new followers.

*Staff writer Craig Timberg contributed to this report*

**(b) (6)**

(b) (6), (b) (7)(C)

---

**From:** (b) (6), (b) (7)(C)  
**Sent:** Friday, April 07, 2017 10:04 AM  
**To:** (b) (6), (b) (7)(C)  
**Subject:** FW: Oops  
**Attachments:** AltTwitterSty040617.pdf

---

**From:** (b) (6), (b) (7)(C)  
**Sent:** Friday, April 07, 2017 9:57 AM  
**To:** (b) (6), (b) (7)(C)  
**Subject:** FW: Oops

OPR named here and (b) (6), (b) (7)(C). You know about this? Haven't read it all.

---

**From:** (b) (6), (b) (7)(C)  
**Sent:** Thursday, April 06, 2017 4:32:30 PM  
**To:** (b) (6), (b) (7)(C)  
**Subject:** Oops

Add this to your library of CBP OPR mistakes.

(b) (6), (b) (7)(C)  
Senior Special Agent  
U.S. Customs and Border Protection (CBP)  
Office of Professional Responsibility (OPR)

(b) (6), (b) (7)(C)  
San Francisco, CA  
(b) (6), (b) (7)(C)

1 SETH P. WAXMAN (*pro hac vice* pending) seth.waxman@wilmerhale.com  
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*Attorneys for Plaintiff*  
**TWITTER, INC.**

8 **UNITED STATES DISTRICT COURT**  
9 **NORTHERN DISTRICT OF CALIFORNIA**

10 TWITTER, INC.,

11 Plaintiff,

12 v.

13 U.S. DEPARTMENT OF HOMELAND  
14 SECURITY; U.S. CUSTOMS AND  
15 BORDER PROTECTION; JOHN F. KELLY,  
16 in his official capacity as Secretary of  
17 Homeland Security; KEVIN K.  
18 MCALEENAN, in his official capacity as  
19 Acting Commissioner, U.S. Customs and  
20 Border Protection; STEPHEN P. CARUSO,  
in his official capacity as Special Agent In  
Charge, U.S. Customs and Border Protection;  
and ADAM HOFFMAN, in his official  
capacity as Special Agent, U.S. Customs and  
Border Protection,

21 Defendants.

Case No. \_\_\_\_\_

22 **COMPLAINT**

23 Plaintiff Twitter, Inc. (“Twitter”), by and through its attorneys, hereby alleges:

24 **INTRODUCTION**

25 1. This is an action to prevent the U.S. Department of Homeland Security (“DHS”),  
26 U.S. Customs and Border Protection (“CBP”), and the individual Defendants from unlawfully  
27 abusing a limited-purpose investigatory tool to try to unmask the real identity of one or more  
28 persons who have been using Twitter’s social media platform, and specifically a Twitter account

1 named @ALT\_USCIS, to express public criticism of the Department and the current  
2 Administration. The rights of free speech afforded Twitter’s users and Twitter itself under the  
3 First Amendment of the U.S. Constitution include a right to disseminate such anonymous or  
4 pseudonymous political speech. In these circumstances, Defendants may not compel Twitter to  
5 disclose information regarding the real identities of these users without first demonstrating that  
6 some criminal or civil offense has been committed, that unmasking the users’ identity is the least  
7 restrictive means for investigating that offense, that the demand for this information is not  
8 motivated by a desire to suppress free speech, and that the interests of pursuing that investigation  
9 outweigh the important First Amendment rights of Twitter and its users. But Defendants have  
10 not come close to making any of those showings. And even if Defendants could otherwise  
11 demonstrate an appropriate basis for impairing the First Amendment interests of Twitter and its  
12 users, they certainly may not do so using the particular investigatory tool employed here—which  
13 Congress authorized solely to ensure compliance with federal laws concerning imported  
14 merchandise—because it is apparent that whatever investigation Defendants are conducting here  
15 does not pertain to imported merchandise.

16 2. In the days and weeks following the inauguration of President Donald J. Trump, a  
17 new and innovative class of American speakers emerged on Twitter’s ubiquitous online  
18 platform: speakers who purport to be current or former employees of federal agencies, or others  
19 with special insights about the agencies, who provide views and commentary that is often  
20 vigorously opposed, resistant, or “alternative” to the official actions and policies of the new  
21 Administration. Typically, these so-called “alternative agency” accounts are named and self-  
22 described by their users in a manner that both (a) identifies the particular federal agency that the  
23 user seeks primarily to criticize and with which the user purports to have significant knowledge,  
24 and (b) proclaims that the user is not an official voice or spokesperson for the agency. Examples  
25 of these accounts include @alt\_labor, which purports to provide informed but unofficial  
26 commentary on the U.S. Department Labor, and @blm\_alt, which does the same for the federal  
27 Bureau of Land Management. Dozens of such accounts have sprung up, and many of them are  
28 actively used to disseminate criticism of the Administration and its policies. Many of these

1 accounts have attracted large audiences of other Twitter users (“followers”), often numbering in  
2 the tens of thousands or more.

3 3. Like many Twitter users, those who speak through these “alternative agency”  
4 accounts do so pseudonymously, often going to considerable lengths to avoid disclosing their  
5 real identities. The motivations these users have for preserving their anonymity presumably  
6 include a desire to speak freely and without the fear of negative consequences that may flow  
7 from being identified as the source of controversial views and commentary concerning the  
8 Administration and its agencies. Such fears are likely to be especially great for users of  
9 “alternative agency” accounts who are currently employed by the very agency that is a principal  
10 target of the commentary, in light of the retaliation, harassment, or even loss of livelihood that  
11 might occur if their real identities became known to their superiors.

12 4. One such “alternative agency” account is @ALT\_USCIS. Like other accounts of  
13 this sort, @ALT\_USCIS claims to be run by one or more current government employees—in this  
14 case, employees of the United States Citizenship and Immigration Services (“USCIS”), a unit  
15 within the Defendant DHS. And as with other such accounts, the person or persons who  
16 established and speak through @ALT\_USCIS have identified themselves only by means of this  
17 pseudonymous account name. To the best of Twitter’s knowledge, they have not disclosed their  
18 real identities in any of their public communications through this account.

19 5. In the just over two months since it was created, @ALT\_USCIS has frequently  
20 criticized the immigration policies of the new Administration, highlighted what the user views as  
21 a history of waste and mismanagement within USCIS and DHS, and publicized facts that the  
22 account’s users portray as casting doubt on Administration policies.

23 6. The Defendants are now threatening the anonymity of the person(s) speaking  
24 through the @ALT\_USCIS account. Specifically, on March 14, 2017, they issued and delivered  
25 to Twitter an administrative summons (the “CBP Summons”) demanding that Twitter provide  
26 them records that would unmask, or likely lead to unmasking, the identity of the person(s)  
27 responsible for the @ALT\_USCIS account. The summons was issued by a Special Agent in  
28

1 Charge within U.S. Customs and Border Protection, another unit of DHS. The CBP Summons is  
2 unlawful and must be enjoined for two reasons.

3 7. *First*, the sole statutory authority CBP invoked in issuing the summons—19  
4 U.S.C. § 1509—authorizes the agency to compel production of only a narrow class of records  
5 relating to the importation of merchandise. But CBP’s investigation of the @ALT\_USCIS  
6 account plainly has nothing whatsoever to do with the importation of merchandise into the  
7 United States. Section 1509 thus provides CBP no power to compel Twitter to reveal  
8 information pertaining to the identity of the individual(s) behind the @ALT\_USCIS account.

9 8. *Second*, permitting CBP to pierce the pseudonym of the @ALT\_USCIS account  
10 would have a grave chilling effect on the speech of that account in particular and on the many  
11 other “alternative agency” accounts that have been created to voice dissent to government  
12 policies. The Supreme Court has long recognized the extraordinary value of the kind of speech  
13 emanating from these accounts—pure political speech criticizing government policies and  
14 highlighting government waste and mismanagement. And the Court has likewise recognized that  
15 anonymity is often essential to fostering such political speech where, as here, the speaker could  
16 face retaliation or retribution if his or her real identity were linked to the speech. In this context,  
17 the CBP Summons must be declared unlawful and enjoined absent an evidentiary showing by  
18 Defendants that some criminal or civil offense has been committed, that unmasking the users’  
19 identity is the least restrictive means for investigating that offense, that the demand for this  
20 information is not motivated by a desire to suppress free speech, and that the interests of  
21 pursuing that investigation outweigh the important free speech rights of Twitter and its users.  
22 Defendants have not even attempted to meet that burden.

23 9. For these and other reasons discussed below, Twitter respectfully requests that  
24 this Court declare the summons unlawful and enjoin its enforcement.

### 25 **JURISDICTION AND VENUE**

26 10. This Court has jurisdiction under 28 U.S.C. § 1331 because this action arises  
27 under the First Amendment to the U.S. Constitution, the Administrative Procedure Act (“APA”),  
28 the Tariff Act of 1930, as amended, and other Federal statutes.



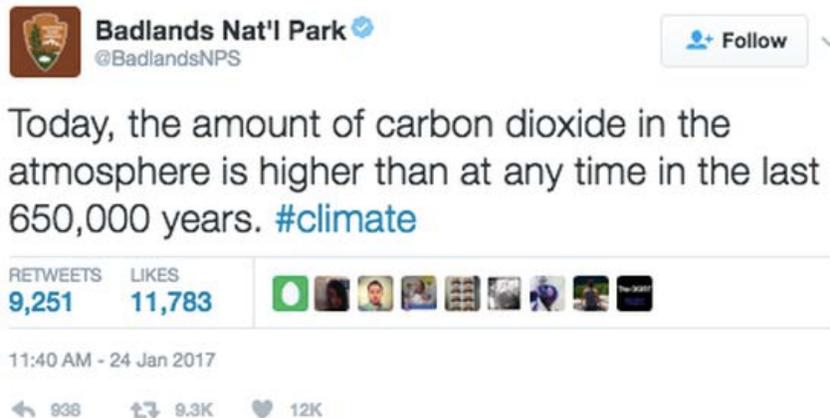
## FACTUAL BACKGROUND

### The Emergence And Popularity Of “Alternative Agency” Accounts On The Twitter Platform

20. President Donald J. Trump was inaugurated on January 20, 2017. That day the official Twitter account of the National Park Service retweeted an image comparing the crowd size at President Trump’s inauguration to the apparently larger crowd size at President Obama’s 2009 inauguration.

21. As the public began to remark on the agency’s retweet, the National Park Service abruptly shut down its own account and sent an internal email to agency employees explaining that “[a]ll bureaus and the department have been directed by [the] incoming administration to shut down Twitter platforms immediately until further notice.” And President Trump called the acting director of the National Park Service to complain about the agency retweeting an unflattering comparison of his inaugural crowd size. The day after the inauguration, the Park Service reactivated its official account and Tweeted an apology for “the mistaken [retweets] from our account yesterday.”<sup>1</sup>

22. Four days after the inauguration, on January 24, 2017, the official Twitter account for Badlands National Park began to Tweet a series of statements about climate change from the @BadlandsNPS account.



<sup>1</sup> Lisa Rein, *Interior Department Reactivates Twitter Accounts After Shutdown Following Inauguration*, WASH. POST (Jan. 21, 2017), [https://www.washingtonpost.com/news/powerpost/wp/2017/01/20/interior-department-banned-from-twitter-after-retweet-of-smaller-than-usual-trump-inauguration-crowd/?utm\\_term=.4e6d99996772](https://www.washingtonpost.com/news/powerpost/wp/2017/01/20/interior-department-banned-from-twitter-after-retweet-of-smaller-than-usual-trump-inauguration-crowd/?utm_term=.4e6d99996772).

1           23.     Press reports described the @BadlandsNPS account as having gone “rogue,” and  
2 the National Park Service explained that a former employee who still had access to the  
3 @BadlandsNPS account had been responsible for the Tweets. The Park Service quickly  
4 removed the unauthorized Tweets and blocked the former employee’s access.

5           24.     Shortly thereafter, a new wave of Twitter accounts began to appear on the  
6 Twitter platform: self-identified as expressing “alternative” ideas, views, and information about  
7 a particular federal agency. Although seemingly inspired by the National Park Service’s  
8 inauguration day Tweet or by the short-lived takeover of the @BadlandsNPS account, these new  
9 alternative agency accounts were not “official” accounts of any government agency. Instead,  
10 they operated under names such as @blm\_alt, @alt\_labor, and @RogueEPASTaff. Within  
11 weeks, dozens of such accounts had been created, many attracting tens of thousands of followers  
12 or more. In some cases, multiple alternative agency accounts appeared for a single agency.

13           25.     While some of these alternative agency accounts appear to be run by former  
14 federal employees or activists with no connection to the government, many of the accounts  
15 claim, through their user-created account descriptions or the content of their Tweets, to be  
16 administered by individuals who are currently employed by the federal agency after which the  
17 account is named.

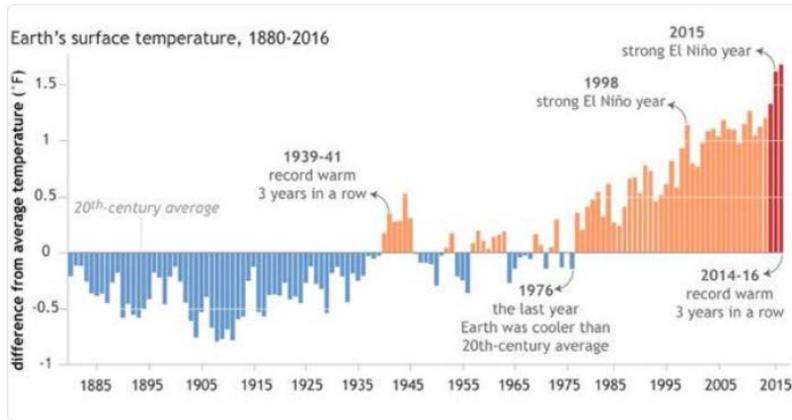
18           26.     These self-designated alternative agency accounts have tended to challenge views  
19 of the Administration and its policies, often (but not always) focusing on the policies of the  
20 particular agency for which the account was named. The styles of expression emanating from  
21 these accounts vary greatly.

22  
23  
24  
25  
26  
27  
28

1 27. Some accounts appear to equate the simple act of broadcasting facts as an  
2 expression of dissent.

3  **Rogue NOAA**  
4 @RogueNOAA Follow

5 El Niño event or not... This amount of warming  
6 is not normal #climatechange  
7 [go.usa.gov/x9yMe](http://go.usa.gov/x9yMe)



8 28. The accounts often have expressed disagreement with specific policies of the  
9 official agency.

10  **Rogue EPA Staff** @RogueEPASTaff · Mar 13

11 Great way to win voters - give more of their kids asthma due to dirty  
12 school buses

13 **Sammy Roth** @Sammy\_Roth

14 Another EPA program on the chopping block: Grants to slash pollution from  
15 old diesel engines: [eenews.net/greenwire/2017...](http://eenews.net/greenwire/2017...) #airpollution

16 2 10 22

17  **Alternative CDC** @Alt\_CDC · Jan 25

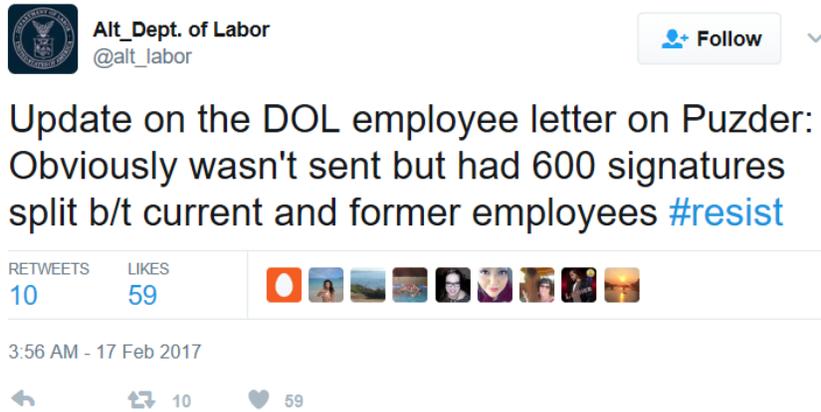
18 The mere existence of a "Vaccine Review Committee" would represent  
19 a serious threat to global public health.

20  **David Juurlink** @DavidJuurlink

21 Let's not forget Donald Trump's comments about vaccines  
22 and autism. Read @drflanders  
23 [kindercarepediatrics.ca/immunizations/...](http://kindercarepediatrics.ca/immunizations/)

24 11 312 326

1           29. One of the many Tweets from the @alt\_labor account publicized a letter signed  
2 by 600 current and former Labor Department employees opposing the confirmation of the  
3 President's nominee for Labor Secretary, Andrew Puzder.



12           30. Like many online platforms, Twitter's platform offers users the choice between  
13 speaking in a self-identifying manner (for example, by selecting a user name that matches or is  
14 similar to the user's real name) or pseudonymously (through an account that has a user name and  
15 user description that do not disclose the speaker's real identity).

16           31. Pseudonymity of the speaker(s) is a defining feature of the alternative agency  
17 accounts that have recently emerged on the Twitter platform. While the persons who establish  
18 and use these accounts sometimes provide highly general descriptions of themselves (for  
19 example, by stating in the account's biography that the user or users work or previously worked  
20 for a particular agency), they typically refrain from revealing their real names. The users appear  
21 to view and depend on preservation of their anonymity as crucial to their ability to express  
22 information and ideas that are contrary to the policies and objectives of the Administration and  
23 its agencies. Preserving anonymity appears to be especially important for users of these  
24 alternative agency accounts who are current federal employees, given the risk that such users  
25 could face retaliation, sanctions, or other negative repercussions from their federal employer if  
26 they were identified as the source of criticism of their agency.<sup>2</sup>

27 <sup>2</sup> Alleen Brown, *Rogue Twitter Accounts Fight To Preserve The Voice Of Government Science*,  
28 THE INTERCEPT (Mar. 11, 2017), <https://theintercept.com/2017/03/11/rogue-twitter-accounts-fight-to-preserve-the-voice-of-government-science> (reporting that several "alternative agency" accounts are administered by current agency employees and that those employees wish to

The @ALT\_USCIS Twitter Account

32. This case concerns one particular alternative agency account that, like many others, was created in late January 2017: @ALT\_USCIS.

33. As of the time Twitter received the CBP Summons, the public, user-provided description of the @ALT\_USCIS account described its user or users as “[o]fficial inside resistance.” As of then and now, the account description prominently declares that the account is “[n]ot [expressing] the views of DHS or USCIS.” The account’s profile image plays off USCIS’s official logo (displayed side-by-side below), further indicating a correspondence or relationship to the agency, albeit one that is unofficial, ideologically or politically averse, and/or “rogue.”<sup>3</sup> Tweets from this account use hashtags such as “#altgov,” expressly self-identifying as part of the broader alternative agency movement.



34. On several occasions, Tweets from the @ALT\_USCIS account have claimed that the person speaking through the account is a current federal employee of the United States Citizenship and Immigration Services (USCIS), an entity that reportedly has 19,000 employees and contractors. But beyond purporting to identify his or her employer, the person(s) using the account have chosen to remain pseudonymous.

35. In two months of existence, the @ALT\_USCIS account has attracted over 32,000 followers and has issued thousands of Tweets.

preserve their anonymity “out of fear of workplace retaliation and pressure to shut down their accounts”).

<sup>3</sup> The accountholder reworked the account’s description and profile image at some point after Twitter received the CBP Summons. The profile image displayed above is as it was when the summons was received.

1           36.     The @ALT\_USCIS account has expressed dissent in a range of different ways.  
2 One of the account's first Tweets asserted a fact about illegal immigration in the United States  
3 that the author apparently believed cast doubt on the Administration's immigration policy.

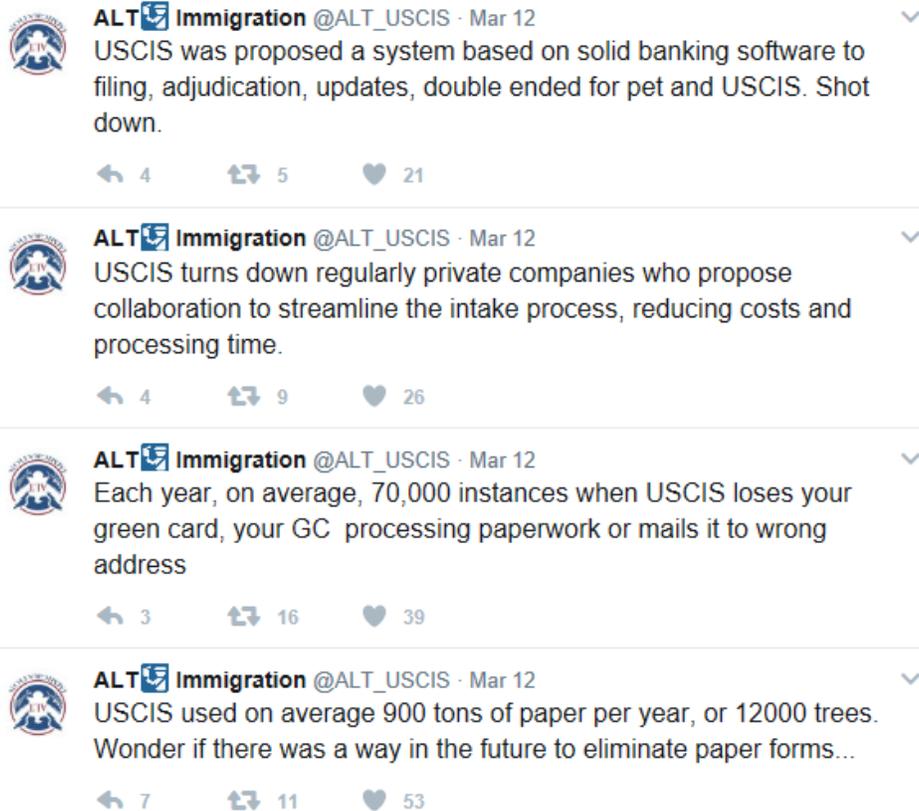


12           37.     The @ALT\_USCIS account has often criticized immigration policies with which  
13 the speaker apparently disagrees. The account was created on nearly the same day that the  
14 President issued his original immigration Executive Order. Tweets from the account have  
15 repeatedly criticized the Order—often referring to it as the “#MuslimBan.” Other Tweets have  
16 taken aim at the President's proposal to build a wall along the U.S.-Mexico border. For example,  
17 on March 11, 2017, the account used news that a fence-jumper had trespassed onto the White  
18 House grounds to argue that the Administration's proposed border fence will be ineffective.



27           38.     Tweets from the @ALT\_USCIS account have also purported to shine a light on  
28 historical and recent mismanagement at USCIS. For example, on March 12—two days before  
issuance of the CBP Summons challenged in this suit—a series of Tweets from the account

1 decried what the author described as waste, inefficiency, and poor management in the agency’s  
 2 attempts to set up a new automated system for processing immigration applications.



16 39. The account has regularly leveled criticism at U.S. Customs and Border  
 17 Protection—the agency that issued the summons challenged by this lawsuit.



27 40. The account has also frequently tweeted disagreement with the current  
 28 Administration’s policies on subjects other than immigration—expressing opposition to efforts in

1 Congress to repeal the Affordable Care Act and urging Democrats to resist confirmation of  
2 Supreme Court nominee Neil Gorsuch, among many other issues.

3 41. Occasionally, the account has highlighted USCIS or DHS policies that the speaker  
4 appears to support. For example, the day DHS Secretary Kelly announced that the Department  
5 would continue to exempt from removal individuals covered by the prior Administration's  
6 Deferred Action for Childhood Arrivals policy (DACA), the account issued the following Tweet.



15 U.S. Customs And Border Protection Orders Twitter To Produce  
16 Records That Would Strip The @ALT\_USCIS Account Of Anonymity

17 42. On March 14, 2017, Defendant Adam Hoffman, an agent within U.S. Customs  
18 and Border Protection, transmitted to Twitter by fax a summons, ordering Twitter to produce  
19 certain records pertaining to the @ALT\_USCIS account. The CBP Summons invoked as  
20 authority 19 U.S.C. § 1509. It was signed by Defendant Stephen P. Caruso, a CBP Special  
21 Agent in Charge based in Miramar, Florida. A true and accurate copy of the CBP Summons, in  
22 the form it was received by Twitter, is attached as Exhibit A.

23 43. The CBP Summons states that Twitter is “required” to “produce[] for inspection”  
24 “[a]ll records regarding the [T]witter account @ALT\_USCIS to include, User names, account  
25 login, phone numbers, mailing addresses, and I.P. addresses.” The purpose of this request  
26 appears to be, and the effect of Twitter’s complying with it likely would be, to enable or help to  
27 enable Defendants to pierce the anonymity of the person or persons who established and use the  
28 @ALT\_USCIS account.

1           44.     The CBP Summons warned Twitter that “[f]ailure to comply with this summons  
2 will render you liable to proceedings in a U.S. District Court to enforce compliance with this  
3 summons as well as other sanctions.”

4           45.     The CBP Summons ordered Twitter to produce the records to a CBP office in  
5 Washington D.C. by 11:45 A.M. on March 13, 2017—the day *before* the CBP Summons was  
6 faxed to Twitter.

7           46.     The CBP Summons states generically that “production of the indicated records is  
8 required in connection with an investigation or inquiry to ascertain the correctness of entries, to  
9 determine the liability for duties, taxes, fines, penalties, or forfeitures, and/or to ensure  
10 compliance with the laws or regulations administered by CBP and ICE.” Beyond that boilerplate  
11 language, the CBP Summons provides no justification for issuance of a summons targeting the  
12 @ALT\_USCIS account.

13           47.     The CBP Summons further “requested”—but did not order or otherwise compel—  
14 Twitter “not to disclose the existence of this summons for an indefinite period of time.”

15           48.     Notwithstanding the request on the face of the CBP Summons that Twitter not  
16 disclose the existence of the CBP Summons to anyone, a “Summons Notice” included in the  
17 CBP Summons describes a procedure whereby the subject of the summons (i.e., the person  
18 whose “business transactions or affairs” are purportedly being investigated) supposedly could  
19 “object to the examination” of the requested records by “advis[ing] the person summoned [i.e.  
20 Twitter], in writing, not to comply with the summons” and “send[ing] a copy of that notice by  
21 registered or certified mail to the CBP Officer ... who issued the summons.” To be effective,  
22 any such objection would have to be sent “not later than the” deadline set by the CBP Summons  
23 for compliance—which, again, had already passed by the time the CBP Summons was served on  
24 Twitter. Neither the CBP Summons itself, nor the statute that supposedly authorizes issuance of  
25 the summons (*i.e.*, 19 U.S.C. § 1509), nor the regulations implementing that statute describe any  
26 procedure for Twitter to object to compliance with the summons.

27           49.     On March 28, 2017, counsel for Twitter contacted Defendant Hoffman to raise  
28 concerns regarding the request not to provide notice to the user and the legal basis for seeking

1 information about the identified account using a summons issued under 19 U.S.C. § 1509.  
2 Defendant Hoffman advised counsel for Twitter that CBP did not want the user notified and that  
3 he would discuss notice with his supervisors. With regard to the legal basis for the summons,  
4 Defendant Hoffman stated vaguely that he is conducting an investigation. But he did not identify  
5 any law or laws that he believed had been broken or point to any evidence substantiating any  
6 such belief—such as particular Tweets that he believes were unlawful. Defendant Hoffman took  
7 the position that the summons was an appropriate investigative tool, but he did not provide any  
8 specifics as to how a summons issued under 19 U.S.C. § 1509 could be an appropriate means for  
9 CBP’s Office of Professional Responsibility to be conducting this particular investigation. In  
10 fact, to the limited extent he did explain the nature of the investigation, it seemed to confirm that  
11 the investigation had nothing to do with obtaining records to assess whether appropriate duties  
12 and taxes had been paid on imported merchandise.

13 50. Twitter advised Defendant Hoffman that, unless he or his agency obtained a court  
14 order under the federal Stored Communications Act, 18 U.S.C. § 2705, directing Twitter not to  
15 disclose the CBP Summons to the @ALT\_USCIS accountholder(s), Twitter would, in  
16 accordance with its standard practices, notify the accountholder(s) of the existence and content of  
17 the CBP Summons. On March 31, 2017, Defendant Hoffman sent Twitter an email confirming  
18 that no such court order would be obtained. On April 2, 2017, Twitter stated in a response to  
19 Defendant Hoffman that it intended to notify the accountholder(s) the next day about the CBP  
20 Summons.

21 51. On April 4, 2017, Twitter notified the @ALT\_USCIS accountholder(s) about the  
22 existence and contents of the CBP Summons. At approximately the same time, Twitter also  
23 informed Defendant Hoffman of its intention to challenge the CBP Summons in court if it was  
24 not withdrawn within 48 hours. Later that day, counsel for Twitter sent Defendant Hoffman an  
25 email elaborating the bases for Twitter’s legal objections to the CBP Summons—namely that the  
26 summons falls outside the statutory parameters of 19 U.S.C. § 1509 and infringes on the First  
27 Amendment rights of Twitter’s users and Twitter itself—and reiterating Twitter’s intention to  
28 sue absent withdrawal of the summons.

1 52. As of today’s date, Defendants have not notified Twitter of any intent to withdraw  
2 the CBP Summons.

3 **COUNT I**  
4 **(19 U.S.C. § 1509; Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202;**  
5 **APA, 5 U.S.C. § 706)**

6 **THE SUMMONS EXCEEDS THE SCOPE**  
7 **OF CBP’S AUTHORITY UNDER 19 U.S.C. § 1509**

8 53. Plaintiff hereby incorporates by reference paragraphs 1-52 as if set forth fully  
9 herein.

10 54. The summons is unlawful because it demands production of records that CBP is  
11 not authorized to obtain under 19 U.S.C. § 1509.

12 55. The summons exceeds the scope of CBP’s authority under 19 U.S.C. § 1509 for  
13 two reasons. *First*, 19 U.S.C. § 1509 authorizes CBP to obtain documents only for investigations  
14 and inquiries relating to the importation of merchandise. *Second*, even if CBP issued the  
15 summons for a proper purpose, the summons seeks production of records that are not of the  
16 narrowly limited type that CBP is authorized to obtain under 19 U.S.C. § 1509. These two  
17 reasons are explained more fully below.

18 56. *First*, 19 U.S.C. § 1509 confers authority on the Secretary (or a delegate at or  
19 above the rank of district director or special agent in charge) to compel disclosure of records only  
20 in connection with “any investigation or inquiry conducted for the purpose of ascertaining the  
21 correctness of any entry, for determining the liability of any person for duty, fees and taxes due  
22 or duties, fees and taxes which may be due the United States, for determining liability for fines  
23 and penalties, or for insuring compliance with the laws of the United States administered by the  
24 United States Customs Service.” 19 U.S.C. § 1509(a). The first three items on the list clearly  
25 relate narrowly to imports, and the meaning of the fourth term is “cabin[ed]” by the first three.  
26 *See Yates v. United States*, 135 S. Ct. 1074, 1085 (2015) (applying “the principle of *noscitur a*  
27 *sociis*—a word is known by the company it keeps—to ‘avoid ascribing to one word a meaning so  
28 broad that it is inconsistent with its accompanying words, thus giving unintended breadth to the  
Acts of Congress.’” (quoting *Gustafson v. Alloyd Co.*, 513 U.S. 561, 575 (1995))).

1           57. Defendants could not plausibly establish that they issued the CBP Summons—  
2 which demands “[a]ll records regarding the [T]witter account @ALT\_USCIS to include User  
3 names, account login, phone numbers, mailing addresses, and I.P. addresses”—in any  
4 investigation or inquiry relating to the import of merchandise.

5           58. *Second*, § 1509 does not authorize the Defendants to compel production of the  
6 account-related records that the summons demands. The Secretary or his delegate can compel  
7 the production of only records that fall within a narrow category defined in 15 U.S.C.  
8 § 1509(d)(1)(A). *See* 15 U.S.C. § 1509(a)(2)(D) (“[T]he Secretary ... may ... summon ... any ...  
9 person he may deem proper ... to produce records, *as defined in subsection (d)(1)(A).*”).

10           59. Subsection 1509(d)(1)(A) limits the “records” whose production may be  
11 permissibly compelled through a summons to those (1) that are “required to be kept under  
12 section 1508 of this title” and (2) “regarding which there is probable cause to believe that they  
13 pertain to merchandise the importation of which into the United States is prohibited.” The  
14 records that the CBP Summons demands Twitter to disclose meet neither of these criteria.

15           60. Section 1508 requires importers to maintain certain records relating to their  
16 activity of importing merchandise. *See United States v. Frowein*, 727 F.2d 227, 233 (2d Cir.  
17 1984) (“Section 1508 ... imposes recordkeeping requirements on those who import or cause  
18 goods to be imported.”). Specifically, the entities that must maintain records under section 1508  
19 are limited to the following: any “owner, importer, consignee, importer of record, entry filer, or  
20 other party who—(A) imports merchandise into the customs territory of the United States, files a  
21 drawback claim, or transports or stores merchandise carried or held under bond, or  
22 (B) knowingly causes the importation or transportation or storage of merchandise carried or held  
23 under bond into or from the customs territory of the United States,” 19 U.S.C. § 1508(a)(1); *or*  
24 any “agent of any party described in paragraph (1),” *id.* § 1508(a)(2); *or* any “person whose  
25 activities require the filing of a declaration of entry, or both,” *id.* § 1508(a)(3). The records  
26 Section 1508 requires these entities to maintain are limited to records that both “pertain to any  
27 such activity, or to the information contained in the records required by this chapter in  
28

1 connection with any such activity” and “are normally kept in the ordinary course of business.” 19  
2 U.S.C. § 1508(a)(3).

3 61. Subsection 1509(d)(1)(A)(ii) likewise limits the scope of records whose  
4 production CBP may compel pursuant to a summons to records relating to the importation of  
5 merchandise—specifically, records “pertain[ing] to *merchandise the importation of which into*  
6 *the United States is prohibited.*”

7 62. The CBP Summons plainly does not request records relating to the importation of  
8 merchandise. It requests that Twitter produce information that pertains to the identity of the  
9 person(s) who established and use the @ALT\_USCIS account. And it is utterly implausible that  
10 Defendants’ interest in the person(s) who established and use the @ALT\_USCIS account stems  
11 from their importation of merchandise into the United States.

12 63. The CBP Summons also violates the Stored Communications Act (“SCA”),  
13 18 U.S.C. § 2701 *et seq.*, which “protects individuals’ privacy and proprietary interests,”  
14 “reflect[ing] Congress’s judgment that users have a legitimate interest in the confidentiality of  
15 communications in electronic storage at a communications facility.” *Theofel v. Farey-Jones*, 359  
16 F.3d 1066, 1072 (9th Cir. 2003). The SCA establishes legal processes that government agencies  
17 must follow in order to obtain certain types of information from a service provider such as  
18 Twitter, which have not been followed here. The basic subscriber information the CBP  
19 Summons seeks—such as the user’s name and address—can be obtained “us[ing] an  
20 administrative subpoena authorized by a Federal or State statute.” 18 U.S.C. § 2703(c)(2). But  
21 the CBP Summons is not a valid administrative subpoena because, among other defects, it  
22 exceeds the scope of CBP’s authority under 19 U.S.C. § 1509.

23 64. For the foregoing reasons, the Court should enjoin Defendants from taking any  
24 further action to enforce the CBP Summons and declare it to be an unlawful exercise of  
25 Defendants’ authority, in contravention of 15 U.S.C. § 1509 and the SCA. Such relief is  
26 warranted under, among other laws, the APA because issuance, service, and enforcement of the  
27 subpoena is “not in accordance with law” and “in excess of statutory jurisdiction, authority, or  
28 limitations.” 5 U.S.C. § 706(2)(A), (C).

## COUNT II

(U.S. Const. amend. I; Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202;  
APA, 5 U.S.C. § 706)

**THE FIRST AMENDMENT BARS THE CBP SUMMONS ABSENT SATISFACTION  
OF THE STRINGENT STANDARD FOR UNMASKING ANONYMOUS SPEAKERS**

65. Plaintiff herein incorporates by reference paragraphs 1-64 as if set forth fully herein.

66. Twitter provides a platform for speech for hundreds of millions of users. Its users Tweet about a broad range of topics, from a favorite sports team to the birth of a child to the latest executive order. Many of Twitter’s users choose to express themselves on the platform pseudonymously.

67. The CBP Summons seeks to force Twitter to disclose information that would identify, or likely lead to the identification of, a person (or group of persons) who has chosen to criticize the government pseudonymously and whose speech is potentially valuable since the person—as a self-described public employee—may be in the best position to “know what ails the agenc[y] for which [he or she] work[s].” *Dahlia v. Rodriguez*, 735 F.3d 1060, 1066-1067 (9th Cir. 2013) (quoting *Waters v. Churchill*, 511 U.S. 661, 674 (1994)).

68. Compelled disclosure of the identities of Twitter users who have engaged in pseudonymous speech would chill their exercise of the constitutionally protected right to speak anonymously. Moreover, independent of its users’ rights, Twitter’s actions in providing a platform for the dissemination of its users’ speech—including its decision to permit the publication of pseudonymous speech—is fully protected by the First Amendment. *See, e.g., Marcus v. Search Warrants*, 367 U.S. 717, 731-732 (1961); *cf., e.g., Arkansas Educ. Television Comm’n v. Forbes*, 523 U.S. 666, 674 (1998). When rights of free speech—especially anonymous free speech—are at stake, courts generally permit an organization or business to assert those rights on behalf of its members or customers. *See, e.g., Virginia v. American Booksellers Ass’n, Inc.*, 484 U.S. 383, 392-393 (1988) (permitting booksellers to assert First Amendment rights of buyers of adult-oriented books); *Publius v. Boyer-Vine*, 2017 WL 772146,

1 at \*5 n.5 (E.D. Cal. Feb. 27, 2017) (collecting cases holding that entities such as websites can  
2 assert the First Amendment rights of their anonymous users).

3 69. The decision to speak anonymously or pseudonymously is protected by the First  
4 Amendment. As the Supreme Court has explained, “an author’s decision to remain anonymous,  
5 like other decisions concerning omissions or additions to the content of a publication, is an  
6 aspect of the freedom of speech protected by the First Amendment.” *McIntyre v. Ohio Elections*  
7 *Comm’n*, 514 U.S. 334, 342 (1995). “Anonymity is a shield from the tyranny of the majority. It  
8 thus exemplifies the purpose behind the Bill of Rights, and of the First Amendment in particular:  
9 to protect unpopular individuals from retaliation—and their ideas from suppression—at the hand  
10 of an intolerant society.” *Id.* at 357.

11 70. A time-honored tradition of pseudonymous free speech on matters of public  
12 moment runs deep in the political life of America. “Undoubtedly the most famous pieces of  
13 American political advocacy are *The Federalist Papers*, penned by James Madison, Alexander  
14 Hamilton, and John Jay, but published under the pseudonym ‘Publius.’” *In re Anonymous*  
15 *Online Speakers*, 661 F.3d 1168, 1172-73 (9th Cir. 2011) (citing *McIntyre*, 514 U.S. at 344 n.6).

16 71. The decision to maintain anonymity “may be motivated by fear of economic or  
17 official retaliation, by concern about social ostracism, or merely by a desire to preserve as much  
18 of one’s privacy as possible.” *Watchtower Bible and Tract Soc’y of New York, Inc. v. Village of*  
19 *Stratton*, 122 S. Ct. 2080, 2089-90 (2002) (internal citation omitted). In the present case, there is  
20 reason for concern that the CBP Summons itself may reflect the very sort of official retaliation  
21 that can result from speech that criticizes government officials and agencies. Because of the  
22 potential for retaliation and ostracism, “[t]here can be no doubt that [requiring identification of  
23 pseudonymous authors] would tend to restrict freedom to distribute information and thereby  
24 freedom of expression.” *Talley v. California*, 362 U.S. 60, 64-65 (1960); *see also (WIN)*  
25 *Washington Initiatives Now v. Rippie*, 213 F.3d 1132, 1139 (9th Cir. 2000) (“Depriving  
26 individuals of ... anonymity is ... ‘a broad intrusion, discouraging truthful, accurate speech by  
27 those unwilling to [disclose their identities] and applying regardless of the character or strength  
28 of an individual’s interest in anonymity.’”) (quoting *American Constitutional Law Found., Inc. v.*

1 *Meyer*, 120 F.3d 1092, 1103 (10th Cir. 1997)); *see also Am. Civil Liberties Union of Nevada v.*  
2 *Heller*, 378 F.3d 979, 988 (9th Cir. 2004).

3 72. These First Amendment interests are at their zenith when, as here, the speech at  
4 issue touches on matters of public political life. Political expression “occupies the core of the  
5 protection afforded by the First Amendment” and must be afforded the highest level of First  
6 Amendment protection. *McIntyre*, 514 U.S. at 346; *see also Mills v. Alabama*, 384 U.S. 214,  
7 218 (1966) (“[T]here is practically universal agreement that a major purpose of that Amendment  
8 was to protect the free discussion of governmental affairs.”); *New York Times Co. v. Sullivan*,  
9 376 U.S. 254, 270 (1964) (a case should be considered “against the background of a profound  
10 national commitment to the principle that debate on public issues should be uninhibited, robust,  
11 and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly  
12 sharp attacks on government and public officials.”).

13 73. These protections for anonymous and pseudonymous political speech are as  
14 robust on the Internet as any other mode of speech. The Supreme Court has unequivocally held  
15 that speech on the Internet is entitled to the highest form of First Amendment protection. *See*  
16 *Reno v. ACLU*, 521 U.S. 844, 870 (1997). As the Supreme Court aptly recognized, through the  
17 Internet and interactive services such as Twitter, “any person with a phone line can become a  
18 town crier with a voice that resonates farther than it could from any soapbox. Through the use of  
19 Web pages, mail exploders, and newsgroups, the same individual can become a pamphleteer.”  
20 *Id.*; *see also In re Anonymous Online Speakers*, 661 F.3d at 1173 (“Although the Internet is the  
21 latest platform for anonymous speech, online speech stands on the same footing as other  
22 speech.”). “As with other forms of expression, the ability to speak anonymously on the Internet  
23 promotes the robust exchange of ideas and allows individuals to express themselves freely  
24 without ‘fear of economic or official retaliation ... [or] concern about social ostracism.’” *In re*  
25 *Anonymous Online Speakers*, 661 F.3d at 1173 (quoting *McIntyre*, 514 U.S. at 341-342).

26 74. Compelling Twitter to disclose information that would identify or lead to the  
27 identification of the person(s) who established and use the @ALT\_USCIS account would chill  
28 the expression of particularly valuable political speech—namely speech by current or former

1 public employees, or others with special insight into operations of our government. The  
2 Constitution does not permit a government agency to suppress dissent voiced by current or  
3 former employees in their private capacity—especially when such efforts exceed the agency’s  
4 statutory authority. “[C]itizens do not surrender their First Amendment rights by accepting  
5 public employment.” *Lane v. Franks*, 134 S. Ct. 2369, 2374 (2014). Indeed, “[t]here is a  
6 significant First Amendment interest in encouraging public employees, who have special access  
7 to facts relevant to debates on issues of public concern, to speak freely and make that  
8 information available.” *Johnson v. Multnomah Cty., Or.*, 48 F.3d 420, 424 (9th Cir. 1995).  
9 “[S]peech by public employees on subject matter related to their employment holds special value  
10 precisely because those employees gain knowledge of matters of public concern through their  
11 employment.” *Franks*, 134 S. Ct. at 2378-2381. “It may often be the case that, unless public  
12 employees are willing to blow the whistle, government corruption and abuse would persist  
13 undetected and undeterred.” *Dahlia*, 735 F.3d at 1066-1067. “The interest at stake is as much  
14 the public’s interest in receiving informed opinion as it is the employee’s own right to  
15 disseminate it.” *San Diego v. Roe*, 543 U.S. 77, 82 (2004).

16 75. In light of the compelling First Amendment interests at stake, Defendants must  
17 satisfy “stringent standards” before using a subpoena or other compulsory legal process to  
18 attempt to unmask the identity of the person(s) who established and use the @ALT\_USCIS  
19 account. *Mason Awtry v. Glassdoor, Inc.*, 2016 WL 1275566, at \*1 (N.D. Cal. Apr. 1, 2016);  
20 *see In re Anonymous Online Speakers*, 661 F.3d at 1778 (“[T]he nature of the speech should be a  
21 driving force in choosing a standard by which to balance the rights of anonymous speakers”  
22 against the interests of those seeking disclosure, with political speech warranting “imposition of  
23 a heightened standard”). In particular, Defendants must demonstrate that (1) “there is a real  
24 evidentiary basis for believing” that some criminal or civil offense has been committed,  
25 *Highfields Capital Mgmt., L.P. v. Doe*, 385 F. Supp. 2d 969, 975-976 (N.D. Cal. 2005);  
26 (2) revealing the identity of the speaker(s) is “necessary”—that is, that it is the least restrictive  
27 means for investigating that offense, *Glassdoor, Inc.*, 2016 WL 1275566, at \*16; *Art of Living*  
28 *Foundation v. Does 1-10*, 2011 WL 5444622, \*10 (N.D. Cal. Nov. 9, 2011); (3) Defendants’

1 demand for this information is not motivated by a desire to suppress free speech; and (4) the  
2 interests of pursuing that investigation outweigh the important First Amendment rights of Twitter  
3 and its users, *Highfields*, 385 F. Supp. 2d at 975-976. *See also Doe No. 1 v. Cahill*, 884 A.2d  
4 451 (Del. 2005) (preventing disclosure of identity of anonymous online speaker); *Dendrite*  
5 *Intern., Inc. v. Doe No. 3*, 775 A.2d 756 (N.J. Super. 2001) (same). The heightened showing  
6 required for such compulsory legal process is not only supported by substantial judicial  
7 precedent, but also is consistent with the special procedures erected in other contexts to protect  
8 First Amendment rights. *E.g., Makaeff v. Trump Univ., LLC*, 736 F.3d 1180, 1182-1183 (9th  
9 Cir. 2013) (California’s anti-SLAPP statute “establish[es] a summary-judgment-like procedure  
10 available at an early stage of [a] litigation that poses a potential chilling effect on speech-related  
11 activities” (internal quotation omitted)); 28 C.F.R. § 50.10(c)(1) (requiring subordinates in the  
12 Department of Justice to obtain the authorization of the Attorney General to issue a subpoena to  
13 a member of the news media, or to use a subpoena to obtain from a third party communications  
14 records or business records of a member of the news media).

15 76. Defendants have satisfied none of these requirements. To meet the first  
16 requirement, Defendants must “adduce *competent evidence*” that “address[es] *all* of the  
17 inferences of fact that [Defendants] would need to prove in order to [substantiate] at least one of  
18 the” offenses that Defendants believe has been committed. *Highfields Capital Mgmt., L.P.*, 385  
19 F. Supp. at 975. Defendants have fallen far short of this standard, given that they have neither  
20 specified any offense they are purportedly investigating nor presented *any* evidence in support of  
21 any element of any such offense.

22 77. Defendants have likewise failed to demonstrate that unmasking the identity of the  
23 @ALT\_USCIS accountholder(s) is the least restrictive way to investigate any offense or offenses  
24 that they believe were committed. To establish that the CBP Summons is “necessary,”  
25 Defendants must explain why other investigatory tools they have deployed have fallen short,  
26 leaving Defendants with no choice but to pierce @ALT\_USCIS’s pseudonymity. *E.g.*,  
27 *Glassdoor, Inc.*, 2016 WL 1275566, at \*16; *Art of Living Foundation*, 2011 WL 5444622, at \*10.  
28 Defendants have not come close to making that showing.

1 78. Defendants’ failure to establish that some offense within the law enforcement  
2 purview of CBP was actually committed and that the CBP Summons is necessary to investigate  
3 that offense likewise confirms that Defendants have failed to demonstrate that the summons is  
4 not motivated by a desire to suppress free speech, or that Defendants’ need to unmask the  
5 identity of the @ALT\_USCIS account holder(s) outweighs the harm that doing so would cause to  
6 the First Amendment rights of Twitter and its users.

7 79. For the foregoing reasons, the Court should enjoin Defendants from taking any  
8 further action to enforce the CBP Summons and—absent the requisite showing—declare it to be  
9 a violation of the rights of Twitter and its users under the First Amendment. Such relief is  
10 warranted under, among other laws, the APA, because issuance, service, and enforcement of the  
11 CBP Summons is “contrary to constitutional right.” 5 U.S.C. § 706(2)(B).

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff respectfully requests that this Court grant the following relief:

14 a. Declare that the CBP Summons is unlawful and unenforceable because  
15 Defendants issued it for reasons not authorized by 19 U.S.C. § 1509 and because it demands  
16 production of documents that Defendants are not authorized to demand or obtain under 19  
17 U.S.C. § 1509, and further declare that the CBP Summons violates the Administrative Procedure  
18 Act as not in accordance with law, 5 U.S.C. § 706(2)(A), and “in excess of statutory jurisdiction,  
19 authority, or limitations,” *id.* § 706(2)(C).

20 b. Declare that the CBP Summons is unlawful and unenforceable because it violates  
21 the First Amendment rights of both Twitter and its users by seeking to unmask the identity of  
22 one or more anonymous Twitter users voicing criticism of the government on matters of public  
23 concern without Defendants having satisfied the stringent standards for piercing a speaker’s  
24 anonymity, and further declare that the CBP Summons violates the Administrative Procedure  
25 Act as “contrary to constitutional right,” 5 U.S.C. § 706(2)(B);

26 c. Issue an order vacating and nullifying the CBP Summons, enjoining Defendants  
27 or their agents from enforcing the CBP Summons, and declaring that Twitter has no obligation to  
28 comply with the CBP Summons;

- 1 d. Award Plaintiff its costs and reasonable attorney's fees as appropriate; and  
2 e. Grant such other relief as this Court may deem just and proper.

3 Dated: April 6, 2017

4 Respectfully submitted,

5 /s/ Mark D. Flanagan

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26 *Counsel for Plaintiff Twitter, Inc.*

# **Exhibit A**



U.S. DEPARTMENT OF HOMELAND SECURITY  
Bureau of Customs and Border Protection

FACSIMILE TRANSMITTAL

CD 2110-035

Date:

Control Number:

<b>TO</b>	Name:	<i>Trust &amp; Safety - Legal Policy</i>
	Organization:	<i>Twitter Inc</i>
	Fax Number:	[REDACTED]
	Number of Pages (including cover):	<i>4</i>
<b>FROM</b>	Sender:	<i>SA</i> [REDACTED]
	Originating Location:	<i>DHS Customs and Border Protection</i>
	Return FAX Number:	[REDACTED]
	Voice Number:	[REDACTED]
<b>REMARKS</b>	<i>Please complete the Acknowledgment of Receipt and return to Fax # [REDACTED]</i>	

**Important:** This document may contain confidential and sensitive U.S. Government information. Please deliver it immediately only to the intended recipient(s) listed above. The Bureau of Customs and Border Protection has not approved the documents review, retransmission, dissemination or use by anyone other than the intended recipient(s).

<p>To (Name, Address, City, State, Zip Code)</p> <p>Twitter, Inc.  c/o Trust &amp; Safety - Legal Policy  1355 Market Street, Suite 900  San Francisco, CA 94103</p>	<p>DEPARTMENT OF HOMELAND SECURITY</p> <p><b>SUMMONS NOTICE</b></p> <p><b>to Appear and/or Produce Records</b>  19 U.S.C. § 1509</p>
<p>Attached is a copy of a summons served by U.S. Immigration and Customs Enforcement (ICE) or U.S. Customs and Border Protection (CBP), both agencies within the Department of Homeland Security (DHS), to examine records or to request testimony relating to records of your business transactions or affairs which have been made or kept by the person named in Block 1 of the summons.</p> <p>If you object to the examination of these records, you may stay (prevent) examination of the records until a summons enforcement proceeding is commenced in court. Compliance with the summons will be stayed if, not later than the day before the date indicated in Block 2 of the summons, you advise the person summoned (the person named in Block 1), in writing, not to comply with the summons, and you send a copy of that notice by registered or certified mail to the CBP Officer or ICE Special Agent who issued the summons at the address shown in Block 6 of the summons.</p> <p>CBP or ICE may begin an action to enforce the summons in the appropriate United States District Court. In such cases, you will be notified and you will have the right to intervene and present your objections before the court. The court will decide whether the person summoned should be required to comply with the summons.</p> <p>If the court issues an order to comply with the summons and the person summoned fails to comply, the court may punish such failure as a contempt of court. Other sanctions may be provided by law.</p> <p>If you have any questions regarding this matter, please contact the CBP Officer or ICE Special Agent before whom the summoned person is required to appear. The CBP Officer's or ICE Special Agent's name and telephone number are given in Block 2 of the summons.</p>	

<b>1. To (Name, Address, City, State, Zip Code)</b> Twitter, Inc. c/o Trust & Safety - Legal Policy 1355 Market Street, Suite 900 San Francisco, CA 94103	DEPARTMENT OF HOMELAND SECURITY  <b>SUMMONS</b>  to Appear and/or Produce Records 19 U.S.C. § 1509
Summons Number [REDACTED]	Case Number: [REDACTED]

By the service of this subpoena upon you, **YOU ARE HEREBY SUMMONED AND REQUIRED TO:**

- (A)  **APPEAR** before the U.S. Customs and Border Protection (CBP) Officer or U.S. Immigration and Customs Enforcement (ICE) Special Agent named in Block 2 at the place, date, and time indicated to testify and give information.
- (B)  **PRODUCE** the records (including statements, declarations, and other documents) indicated in Block 3 before the CBP Officer or ICE Special Agent named in Block 2 at the place, date, and time indicated.

Your testimony and/or production of the indicated records is required in connection with an investigation or inquiry to ascertain the correctness of entries, to determine the liability for duties, taxes, fines, penalties, or forfeitures, and/or to ensure compliance with the laws or regulations administered by CBP and ICE.

Failure to comply with this summons will render you liable to proceedings in a U.S. District Court to enforce compliance with this summons as well as other sanctions.

<b>2. (A) CBP Officer or ICE Special Agent before whom you are required to appear</b> Name [REDACTED] Title Special Agent Address 1300 Pennsylvania Ave. N.W. Room 8.3 Washington D.C. 20229 Telephone Number [REDACTED]	<b>(B) Date</b> 03/13/2017  <b>(C) Time</b> 11:45 <input checked="" type="checkbox"/> a.m. <input type="checkbox"/> p.m.
---	---

**3. Records required to be produced for inspection**  
 All records regarding the twitter account @ALT\_USCIS to include, User names, account login, phone numbers, mailing addresses, and I.P addresses.

*You are requested not to disclose the existence of this summons for an indefinite period of time. Any such disclosure will impede this investigation and thereby interfere with the enforcement of federal law.*

Issued under authority of section 509, Tariff Act of 1930, as amended by Public law 95-410 (19 U.S.C. § 1509); 44 F.R. 2217; Homeland Security Act of 2002

<b>4. Name of person authorized to serve this summons or any other CBP Officer or ICE Special Agent</b> Special Agent [REDACTED]	<b>5. Date of issue</b> 03/14/2017 [REDACTED]
---	--



If you have any questions regarding this summons, contact the CBP Officer or ICE Special Agent identified in Block 2.

**6. Name, title, address, and telephone number of person issuing this summons**  
 Name [REDACTED]  
 Title Special Agent in Charge  
 Address 11606 City Hall Promenade  
 Suite 400, Miramar, FL 33025  
 Telephone Number [REDACTED]

**CERTIFICATE OF SERVICE AND ACKNOWLEDGMENT OF RECEIPT**

<b>A. CERTIFICATE OF SERVICE OF SUMMONS</b>		
I certify that I served the summons on the front of this form as follows:		
<input type="checkbox"/> I delivered a copy of the summons to the person to whom it was directed, as follows:	Address or Location	Date
		Time <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.
<input checked="" type="checkbox"/> (For corporations, partnerships, and unincorporated associations which may be sued under a common name)  I delivered a copy of the summons to an officer, managing or general agent, or agent authorized to accept service of process as follows:	Address or Location Twitter, Inc. c/o Trust & Safety - Legal Policy 1355 Market Street, Suite 900 San Francisco, CA 94103	Date 03/13/2017
		Time 11:45 <input checked="" type="checkbox"/> a.m. <input type="checkbox"/> p.m.
Name of person to whom the summons was delivered		
Faxing to [REDACTED] (attn: Trust & Safety - Legal Policy)		
S	[REDACTED]	
T	[REDACTED]	Date 03/13/2017
Special Agent		

<b>B. ACKNOWLEDGMENT OF RECEIPT</b>		
I acknowledge receipt of a copy of the summons on the front of this form.		
Signature		
Title	Date	Time <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.

CIVIL COVER SHEET

The JS-CAND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)
(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS
County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED. Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
PTF DEF
Citizen of This State 1 1
Citizen of Another State 2 2
Citizen or Subject of a Foreign Country 3 3

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation-Transfer
8 Multidistrict Litigation-Direct File

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Brief description of cause:

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S), IF ANY (See instructions): JUDGE DOCKET NUMBER

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2) (Place an "X" in One Box Only) SAN FRANCISCO/OAKLAND SAN JOSE EUREKA-MCKINLEYVILLE

DATE: SIGNATURE OF ATTORNEY OF RECORD:

CIVIL COVER SHEET

Attachment

Part I (c) Attorneys for Plaintiffs (Firm Name, Address, and Telephone Number)

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