

1 MORGAN, LEWIS & BOCKIUS LLP
Eric Meckley, Bar No. 168181
2 eric.meckley@morganlewis.com
Brian D. Berry, Bar No. 229893
3 brian.berry@morganlewis.com
Kassia Stephenson, Bar No. 336175
4 kassia.stephenson@morganlewis.com
One Market, Spear Street Tower
5 San Francisco, CA 94105-1596
Tel: +1.415.442.1000
6 Fax: +1.415.442.1001

7 MORGAN, LEWIS & BOCKIUS LLP
Ashlee N. Cherry, Bar No. 312731
8 ashlee.cherry@morganlewis.com
1400 Page Mill Road
9 Palo Alto, CA 94304
Tel: +1.650.843.4000
10 Fax: +1.650.843.4001

11 Attorneys for Respondents
TWITTER, INC.; X HOLDINGS I, INC.;
12 X HOLDINGS CORP.; X CORP.; ELON MUSK

13
14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA

16
17 SARAH ANOKE, CATHERINE BONN,
ISABELLE CANNELL, MELANIE
18 EUSEBIO, SAMANTHA FESTEJO,
CARLOS MOISES ORTIZ GOMEZ, DAWN
19 HOISE, WAYNE KRUG, LAURENT LUCE,
PATRICK O’CONNELL, JENNIFER RYAN,
20 JAIME SENA, JAMES SHOBE, KARYN
THOMPSON, and CRISTIAN ZAPATA,

21
22 Petitioners,

23 v.

24 TWITTER, INC., X HOLDINGS I, INC.,
X HOLDINGS CORP, X CORP, and ELON
25 MUSK,

26 Respondents.
27
28

Case No. 3:23-cv-02217

**RESPONDENTS’ NOTICE OF
REMOVAL OF ACTION TO THE
UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF
CALIFORNIA**

[28 U.S.C. §§ 1331, 1367(a), 1441, 1446]

Petition Filed: April 27, 2023

1 **TO THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF**
2 **CALIFORNIA AND TO PETITIONERS AND THEIR ATTORNEYS OF RECORD:**

3 **PLEASE TAKE NOTICE** that pursuant to 28 U.S.C. Sections 1331, 1441(a) and 1446,
4 Respondents X HOLDINGS CORP., ON ITS OWN BEHALF AND AS SUCCESSOR IN
5 INTEREST TO NAMED RESPONDENT X HOLDINGS I, INC. (“X HOLDINGS”), X CORP.,
6 ON ITS OWN BEHALF AND AS SUCCESSOR IN INTEREST TO NAMED RESPONDENT
7 TWITTER, INC. (“TWITTER”), and ELON MUSK (“Respondents”) hereby remove the above-
8 entitled action from San Francisco County Superior Court to the United States District Court for
9 the Northern District of California.

10 1. On April 27, 2023, Petitioners Sarah Anoke, Catherine Bonn, Isabelle Cannell,
11 Melanie Eusebio, Samantha Festejo, Carlos Moises Ortiz Gomez, Dawn Hoise, Wayne Krug,
12 Laurent Luce, Patrick O’Connell, Jennifer Ryan, Jaime Sena, James Shobe, Karyn Thompson,
13 and Cristian Zapata (“Petitioners”) filed a Petition to Compel Arbitration in San Francisco County
14 Superior Court against Respondents, as their initial pleading in an action entitled *Sarah Anoke et*
15 *al v. Twitter, Inc., et al*, Case No. CPF23518034.

16 2. On April 27, 2023, Petitioners served Respondents (via service on Respondents’
17 counsel of record in the arbitrations) with the Petition. A copy of the Petition and supporting
18 papers, as well as all process, pleadings, notices and orders filed in the State Court action are
19 attached hereto as **Exhibit A**. Because Respondents have filed this Notice of Removal within
20 thirty (30) days of service of the Petition, removal is timely pursuant to 29 U.S.C. Section
21 1446(b).

22 **I. REMOVAL IS PROPER BASED UPON FEDERAL QUESTION JURISDICTION**

23 3. Federal district courts have original jurisdiction over all civil actions arising under
24 the Constitution, laws, or treaties of the United States. 28 U.S.C. § 1331. If a federal court has
25 original jurisdiction over an action filed in state court, a defendant may remove the action to the
26 federal court for the district and division embracing the place where the action is pending. 28
27 U.S.C. § 1441(a); *see also Schafer v. Sea-Land Serv., Inc.*, 11 F. App’x 951, 953 (9th Cir. 2001)
28 (“Removal to federal district court is proper if the action could have been brought originally in

1 federal court, 28 U.S.C. § 1441(a).”)

2 4. As set forth below, this Court has original jurisdiction here because this action
3 includes claims that arise under federal statutes. *See* 28 U.S.C. § 1331 (federal question
4 jurisdiction). This Court may properly exercise supplemental jurisdiction over the other claims in
5 this action because they are part of the same case or controversy as the claims over which this
6 Court has original jurisdiction. *See* 28 U.S.C. § 1367(a). Accordingly, this entire action is one
7 that Respondents may remove to this Court. *See* 28 U.S.C. § 1441(b).

8 5. On February 24, 2023, Petitioners submitted demands for arbitration to JAMS,
9 alleging violations of various federal and state law claims related to the termination of their
10 employment at Twitter. *See* Declaration of Eric Meckley (“Meckley Decl.”), ¶¶ 2-18, Exs. A-O.
11 Each of Petitioners’ demands for arbitration allege claims for violations of the federal Worker
12 Adjustment and Retraining Notification (“WARN”) Act pursuant to 29 U.S.C. § 2101 *et seq.*, as
13 well as claims of employment discrimination pursuant to Title VII (42 U.S.C. § 2000e). *See id.*
14 Petitioners Cannell’s, Eusebio’s, Gomez’s, and Sena’s demands for arbitration also allege
15 violations of the Americans with Disabilities Act (“ADA”) pursuant to 2 U.S.C. § 12101 *et seq.*
16 *See id.*, ¶¶ 6, 7, 9, 15, Exs. C, D, F, L. Petitioners Festego’s and Shobe’s demands for arbitration
17 also allege violations of the Family and Medical Leave Act (“FMLA”) pursuant to 29 U.S.C.
18 § 2615(a). *See id.*, ¶¶ 8, 16, Exs. E, M. Petitioner Thompson’s demand for arbitration also
19 alleges age discrimination in violation of 29 U.S.C. § 621 *et seq.* *See id.*, ¶ 17, Ex. N.

20 6. A federal court has original jurisdiction over a petition to compel arbitration when
21 it has original jurisdiction over the claims that the petition seeks to arbitrate. *See Vaden v.*
22 *Discover Bank*, 556 U.S. 49, 62 (2009) (“A federal court may ‘look through’ a [petition to compel
23 arbitration] to determine whether it is predicated on an action that ‘arises under’ federal law”); *see*
24 *also, e.g., Ameriprise Fin. Servs. Inc. v. Ekweani*, No. CV-14-00935-PHX-DGC, 2015 WL
25 1737417, at *3 (D. Ariz. Apr. 16, 2015), *aff’d*, 683 F. App’x 641 (9th Cir. 2017) (finding that
26 “[t]he underlying suit involves claims of unlawful discrimination and retaliation in violation of
27 42 U.S.C. §§ 1981 and 2000e,” and holding that because “[t]hese claims clearly arise under
28 federal law, [...] a motion to compel arbitration of these claims would satisfy jurisdictional

1 requirements”); *Serv. Emps. Int’l Union, Loc. 1021 v. Priv. Indus. Council of Solano Cnty., Inc.*,
2 No. CIV. 2:13-01670 WBS, 2013 WL 5569990, at *3 (E.D. Cal. Oct. 9, 2013) (exercising
3 jurisdiction over a motion to compel arbitration filed in Solano County Superior Court that the
4 defendant removed to federal court under the court’s federal question jurisdiction pursuant to
5 28 U.S.C. § 1441(a)).

6 7. Here, Petitioners have asserted federal claims that they seek to compel into
7 arbitration, including claims for violation of the WARN Act, Title VII, FMLA, the ADA, and the
8 ADEA. *See* Meckley Decl. ¶¶ 2-18, Exs. A-O. Removal is therefore proper because this Court
9 has original jurisdiction over the federal claims. *See* 28 U.S.C. Section 1441; *Vaden*, 556 U.S.
10 62. And this Court has supplemental jurisdiction over the other claims that arise from the same
11 case or controversy related to the termination of their employment. *See* 28 U.S.C. § 1441(b).

12 **II. THE OTHER PREREQUISITES FOR REMOVAL HAVE BEEN SATISFIED**

13 8. Because this Notice of Removal is filed within thirty days of service of the Petition
14 upon Defendant, the removal is timely under 28 U.S.C. Section 1446(b).

15 9. As Petitioners filed this action in the Superior Court of the State of California,
16 County of San Francisco, removal to the United States District Court, Northern District of
17 California, is proper under 28 U.S.C. Section 1441(a).

18 10. As required by 28 U.S.C. Section 1446(b), all named Respondents, X Holdings,
19 Twitter, and Elon Musk, have consented to and have joined the removal of this action to federal
20 court.

21 11. As required by 28 U.S.C. Section 1446(d), Respondents will provide notice of this
22 removal to Petitioners through their attorneys of record.

23 12. As required by 28 U.S.C. Section 1446(d), a copy of this Notice will be filed with
24 the Superior Court of the State of California, County of San Francisco.

25 13. Respondents have sought no similar relief in this action.

26 14. If any question arises as to the propriety of the removal of this action, then
27 Respondents request the opportunity to present further briefing and additional evidence in support
28 of its position that this case is removable.

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WHEREFORE, Respondents, desiring to remove this case to the United States District Court for the Northern District of California, pray that the filing of this Notice of Removal shall cause the removal of this action to this Court.

Dated: May 5, 2023

MORGAN, LEWIS & BOCKIUS LLP

By /s/ Eric Meckley

Eric Meckley
Brian D. Berry
Ashlee N. Cherry
Kassia Stephenson

Attorneys for Respondents
TWITTER, INC.; X HOLDINGS I, INC.;
X HOLDINGS CORP.; X CORP.; and
ELON MUSK