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 8 *Samantha Gongora, Julia Steele,*
 9 *Omolade Ogunsanya, Nanci Sills,*
 10 *Krista Bessinger, and Ikuhiro Ihara,*
on behalf of themselves and others
similarly situated

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 12 **UNITED STATES DISTRICT COURT**
 13 **NORTHERN DISTRICT OF CALIFORNIA**
 14 **SAN FRANCISCO DIVISION**

15 NHU WEINBERG, SAMANTHA GONGORA,
 16 JULIA STEELE, OMOLADE OGUNSANYA,
 17 NANCI SILLS, KRISTA BESSINGER,
 18 IKUHIRO IHARA, and others similarly
 situated,

19 Plaintiffs,

20 v.

21 TWITTER, INC., and X CORP.,

22 Defendants

23 **CLASS ACTION COMPLAINT AND**
 24 **JURY DEMAND**

- 25 1. VIOLATION OF THE FAMILY AND
 MEDICAL LEAVE ACT, 29 U.S.C.
 §2601, *et seq.*
- 26 2. SEX DISCRIMINATION IN
 VIOLATION OF TITLE VII,
 42 U.S.C. § 2000e, *et seq.*
- 27 3. RACE DISCRIMINATION IN
 VIOLATION OF TITLE VII,
 42 U.S.C. § 2000e, *et seq.*
- 28 4. DISCRIMINATION IN VIOLATION
 OF THE ADEA, 29 U.S.C. § 621,
et seq.

1 **I. INTRODUCTION**

2 1. This case is brought by Plaintiffs Nhu Weinberg, Samantha Gongora, Julia Steele,
3 Omolade Ogunsanya, Nanci Sills, Krista Bessinger, and Ikuhiro Ihara, on behalf of themselves
4 and others similarly situated, against Defendants Twitter, Inc. and X Corp. (collectively,
5 “Twitter”), for discrimination and violations of the federal Family and Medical Leave Act
6 (“FMLA”), 29 U.S.C. § 2601, *et seq.*, related to Plaintiffs’ separations from employment with
7 Twitter during the chaotic days following multi-billionaire Elon Musk’s purchase of the
8 company.

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10 2. Plaintiff Weinberg, who had taken family leave in recent years, and was separated
11 from Twitter shortly after returning from a medical leave, brings claims on behalf of herself and
12 other similarly situated employees who have taken or applied to take a family or medical leave,
13 for violations of the FMLA, challenging the company’s termination, or constructive termination,
14 of employees who had taken, or applied to take, a medical or family leave of absence.

15 3. Plaintiffs Weinberg, Gongora, Steele, Sills, and Bessinger, who are female, bring
16 claims of discrimination under Title VII, 42 U.S.C. § 2000e, *et seq.*, challenging their
17 terminations following Elon Musk’s acquisition of the company as the product of unlawful sex
18 discrimination against female employees.

19 4. Plaintiff Ogunsanya, who is Black, brings a claim of discrimination under Title
20 VII, 42 U.S.C. § 2000e, *et seq.*, challenging his termination following Elon Musk’s acquisition
21 of the company as the product of unlawful race-based discrimination against Black employees.
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23 5. Plaintiffs Bessinger and Ihara, who are age fifty (50) or older, bring claims of
24 discrimination under the Age Discrimination in Employment Act of 1967 (“ADEA”), 29 U.S.C.
25 § 621, *et seq.*, challenging their terminations following Elon Musk’s acquisition of the company
26 as the product of unlawful age discrimination against employees age fifty (50) or older.
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1 6. As described in further detail below, shortly after Elon Musk completed his
2 purchase of Twitter, he immediately began laying off well more than half of its workforce.

3 7. Twitter’s mass termination has impacted employees in a number of protected
4 categories to a much greater degree than other employees. These categories include female,
5 Black, and older employees, as well as employees who had recently taken or were preparing to
6 take family or medical leave.

7 8. Plaintiffs thus file this complaint alleging sex, race, and age discrimination claims,
8 as well as class action claims for violations of the FMLA.¹

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10 **II. PARTIES**

11 9. Plaintiff Nhu Weinberg is an adult resident of Piedmont, California, who worked
12 for Twitter from October 15, 2012, until November 4, 2022. She was employed by Twitter as a
13 Staff Software Engineer. Throughout her employment with Twitter, Weinberg’s performance
14 met the Company’s expectations.

15 10. Plaintiff Samantha Gongora is an adult resident of Boulder, Colorado, who
16 worked for Twitter from February 1, 2012, until November 4, 2022. She was employed by
17 Twitter as a Software Engineer II. Throughout her employment with Twitter, Gongora’s
18 performance met the Company’s expectations.

19 11. Plaintiff Julia Steele is an adult resident of Dallas, Texas, who worked for Twitter
20 from September 2018 until November 4, 2022. She was employed by Twitter as the Head of
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23 ¹ Similar class discrimination claims have already been filed on behalf of female
24 employees in Strifling et al v. Twitter, Inc., C.A. No. 22-cv-7739 (N.D. Cal.), and older
25 employees in Zeman v. Twitter, Inc., C.A. No. 23-cv-01786 (N.D. Cal.). Another class
26 discrimination case, Borodaenko et al v. Twitter, Inc., No. 22-cv-7226 (N.D. Cal.), was also filed
27 on behalf of disabled employees and employees raising FMLA claims. However, the lead
28 plaintiff in the Borodaenko case who brought an FMLA claim was bound by an arbitration
agreement and thus is pursuing his claim in arbitration. The class FMLA claim raised here thus
effectively replaces that class claim from the Borodaenko case.

1 Global Internal Communications. Throughout her employment with Twitter, Steele's
2 performance met the Company's expectations.

3 12. Plaintiff Omolade Ogunsanya is an adult resident of San Francisco, California,
4 who worked for Twitter from September 14, 2020, until November 4, 2022. He was employed
5 by Twitter as the Curation Desk Lead and also served as the Global Co-Chair of Blackbirds, an
6 employee resource group for African American employees. Throughout his employment with
7 Twitter, Ogunsanya's performance met the Company's expectations.
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9 13. Plaintiff Nanci Sills is an adult resident of Palmetto Bay, Florida, who worked for
10 Twitter from September 6, 2013, until November 4, 2022. She was employed by Twitter as the
11 Director of Market Research. Throughout her employment with Twitter, Sills's performance met
12 the Company's expectations.

13 14. Plaintiff Krista Bessinger is an adult resident of Piedmont, California, who
14 worked for Twitter from October 28, 2013, until November 4, 2022. She was employed by
15 Twitter as the Vice President of Investor Relations. Throughout her employment with Twitter,
16 Bessinger's performance met the Company's expectations.

17 15. Plaintiff Ikuhiro Ihara is an adult resident of New York, New York, who worked
18 for Twitter from October 2, 2012, until November 23, 2022. He was employed by Twitter as a
19 Staff Machine Learning Engineer. Throughout his employment with Twitter, Ihara's
20 performance met the Company's expectations.

21 16. Defendant Twitter, Inc. is a Delaware corporation, headquartered in San
22 Francisco, California.

23 17. Defendant X Corp. is a Nevada corporation, headquartered in San Francisco,
24 California.
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1 18. In or about March 2023, Twitter merged with X Corp., and as a result Twitter and
2 X Corp. are a single entity. X Corp. has successor liability for Twitter’s unlawful acts. Twitter
3 and X Corp. are referred to herein as “Twitter”.

4 **III. JURISDICTION**

5 19. This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. § 1331, as
6 it is a civil action arising under the Constitution, laws, or treaties of the United States.

7 20. This Court has personal jurisdiction over Twitter, as it is headquartered in this
8 District and conducts substantial business operations in this District.

9 **IV. STATEMENT OF FACTS**

10 21. Twitter is a social media company that used to employ thousands of people across
11 the United States.

12 22. In April 2022, it was announced that multi-billionaire Elon Musk would be
13 purchasing the company.

14 23. Following Elon Musk’s purchase of Twitter in late October 2022, Musk
15 immediately began a mass layoff that affected well more than half of Twitter’s workforce. See
16 Kate Conger, Ryan Mac, and Mike Isaac, Confusion and Frustration Reign as Elon Musk Cuts
17 Half of Twitter’s Staff, NEW YORK TIMES (November 4, 2022),
18 <https://www.nytimes.com/2022/11/04/technology/elon-musk-twitter-layoffs.html>.

19 24. The decisions regarding which employees would be laid off were made under
20 extremely hurried circumstances, with little if any regard given to employees’ job performance,
21 qualifications, experience, and abilities. Indeed, decisions regarding laying off thousands of
22 employees were made in a period of just days after Musk’s acquisition of the company.

23 25. Most laid off employees (including all Plaintiffs other than Ihara) were notified of
24 their layoff on November 4, 2022. Other employees were notified of their layoffs in the
25 following weeks, including Plaintiff Ihara, who was notified on November 23, 2022.

1 he required that employees agree by November 17, 2022, to being “extremely hardcore” and
2 “working long hours at high intensity”.

3 **B. Sex Discrimination**

4 31. Widely circulated pictures of Twitter employees before and after the November 4,
5 2022, layoff raised observations about the stark contrast in the number of women who appeared
6 to be employed at the company before and after Musk’s acquisition. Rachna Manojkumar
7 Dhanrajani, Curious case of Twitter’s missing women: Before and after pictures shock the
8 internet, Business Today (November 21, 2022), [Curious case of Twitter's missing women:](#)
9 [Before and after pictures of Twitter office shock the internet - BusinessToday](#); Kanishka Sarkar,
10 [Where have all the women gone from Elon Musk's Twitter? 'Before & after' office photos shock internet,](#)
11 [CNBC](#) (November 21, 2022), [Where Have All The Women Gone From Elon Musk'S Twitter?](#)
12 ['Before & After' Office Photos Shock Internet \(cnbctv18.com\)](#).

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14 32. The data from these layoffs bear out these observations.

15 33. According to a spreadsheet showing which Twitter employees in the United
16 States were retained and which were laid off on November 4, 2022, approximately 2,621 out of
17 5,134 employees were notified that day they were being laid off.

18 34. Prior to the layoffs that day, Twitter employed approximately 2,234 female
19 employees and 2,900 male employees in the United States. Of those employees, approximately
20 1,271 females and 1,350 males were notified that day they were being laid off.

21 35. Thus, 57% of female employees were laid off on November 4, 2022, while 47%
22 of male employees were laid off.

23 36. Not only is this a large percentage difference, but it is also extremely statistically
24 significant.

1 37. According to Dr. Mark Killingsworth, a professor in the Department of
2 Economics at Rutgers University,² a chi square statistical analysis reveals that this distribution in
3 layoffs by sex is 7.3491 standard deviations away from a normal distribution. In other words,
4 the odds that this disparity between women and men being laid off is due only to chance
5 is .00000000000001 (or, put another way, 9.977 out of 100 trillion).

6 38. Further, the disparity between women and men being laid off cannot be explained
7 based upon a justification that Musk intended to retain more employees in engineering-related
8 roles.

9 39. According to the spreadsheet, prior to the layoffs that day, Twitter employed
10 approximately 863 female and 1,834 male employees in engineering-related roles in the United
11 States. Of those employees, approximately 507 females and 826 males were notified that day
12 they were being laid off. Thus, 59% of females in engineering-related roles were laid off on
13 November 4, 2022, while 45% of male employees in engineering-related were laid off.

14 40. This disparity is also extremely statistically significant. According to Dr.
15 Killingsworth, a chi square test reveals that this distribution in layoffs by sex is 7.6380 standard
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19 ² A federal court has described Dr. Killingsworth’s qualifications as follows:

20 Dr. Killingsworth is a labor economist with more than 40 years of experience and has a
21 substantial record as an expert witness in federal and state litigation. He is the author of
22 *Labor Supply* and *The Economics of Comparable Worth*, and has also authored numerous
23 publications in the areas of comparable worth, pay equity, employment discrimination,
24 and wage differentials. Also, Dr. Killingsworth has testified in front of United States
25 Congressional Committees and the General Assembly of Pennsylvania. In addition, he
26 has been a consultant to United States District Judge Robert L. Carter, the Canadian
27 Department of Justice, and the United States Departments of Justice and Labor. Dr.
28 Killingsworth graduated from the University of Michigan and received M.Phil. and
D.Phil. degrees from the University of Oxford, where he was a Rhodes Scholar.

Artunduaga v. Uni. Of Chicago Med. Ctr., 2016 WL 7384432, at *2-3 (N.D. Ill. Dec. 21, 2016)
(citing cases).

1 deviations away from a normal distribution. The odds that this disparity between women and
 2 men in engineering-related roles being laid off is due only to chance is .00000000000001 (or, put
 3 another way, 1.103 out of 100 trillion).

4 41. There is also a great disparity in the layoff rates between women and men in non-
 5 engineering roles. Prior to the layoffs that day, Twitter employed approximately 1,371 female
 6 and 1,066 male employees in non-engineering-related roles in the United States. Of those
 7 employees, approximately 764 females and 524 males were notified that day they were being
 8 laid off. Thus, 56% of females in non-engineering-related roles were laid off on November 4,
 9 2022, while 49% of male employees in non-engineering-related were laid off. A chi square test
 10 performed by Dr. Killingsworth revealed that this distribution in layoffs by sex is 4.0309
 11 standard deviations away from a normal distribution. The odds that this disparity between
 12 women and men in non-engineering-related roles being laid off is due only to chance is .00001
 13 (or, put another way, 2.778 out of 100 thousand).

14 42. These results are summarized in the following chart:

		Laid off	Not laid off	Total	% laid off	Standard deviations from normal	Probability of this distribution being based on chance
ALL EMPLOYEES	Female	1271	963	2234	0.57	7.3491	9.977 × 10 ⁻¹⁴ (9.977 chances out of 100 trillion)
	Male	1350	1550	2900	0.47		
	TOTAL	2621	2513	5134			
EMPLOYEES IN ENGINEERING-RELATED POSITIONS	Female	630	373	1003	0.63	7.638	1.103 × 10 ⁻¹⁴ (1.103 chances out of 100 trillion)
	Male	1037	1113	2150	0.48		
EMPLOYEES IN NON-ENGINEERING-RELATED POSITIONS	Female	545	517	1062	0.51	4.0309	2.778 × 10 ⁻⁵ (2.778 chances out of 100 thousand)
	Male	312	436	748	0.42		

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 23 43. Thus, it is clear that women were far more likely than men to be laid off from
 24 Twitter, and those differences are highly statistically significant.

25 44. The fact that more women than men were laid off is not surprising given Musk's
 26 history of making sexist, demeaning, and hostile comments against women. Such comments
 27 show his discriminatory animus against women. As Twitter's new owner and CEO, who

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oversaw and closely managed the employees who were making layoff decisions and implementing his policies, Musk’s discriminatory animus is imputed to Twitter.

45. Examples of Musk’s discriminatory and demeaning comments about women include his posting of tweets on Twitter in which he joked about naming a school using the acronym “TITS” and making other jokes about women’s breasts. See Chandra Steele, [Elon Musk is a Misogynist and It Matters](#), PCMag (December 13, 2021), [Elon Musk Is a Misogynist and It Matters | PCMag](#) (quoting Musk’s tweet: “Am thinking of starting new university: Texas Institute of Technology & Science”); Jon Christian, [Elon Musk Deletes Sexist Tweets](#), The Byte (October 31, 2021), [Elon Musk Deletes Sexist Tweets \(futurism.com\)](#); [Stock Joker on Twitter: "@ZJAYres @PhilKoopman Now deleted, but only D cups need apply https://t.co/40NBcDTonb" / Twitter](#)); Ananya Bhattacharya, [In one tweet, Elon Musk captures the everyday sexism faced by women in STEM](#), Quarz (November 1, 2021), [Elon Musk's tweet captures everyday sexism faced by women in STEM \(qz.com\)](#).

46. Shortly before acquiring Twitter, Musk, who has been vocal about promoting women having a lot of babies (presumably disseminating the message that is more important than keeping Thier jobs), tweeted: “Being a Mom is just as important as any career.” Twitter (August 17, 2022), <https://twitter.com/elonmusk/status/1559823434028400640>. Within weeks of announcing the layoffs, Musk tweeted “Testosterone rocks ngl”. Twitter (December 4, 2022), <https://twitter.com/elonmusk/status/1599345615443746817>

47. More recently, Musk had the “w” on the sign of the corporate headquarters painted white so that the company’s name appeared to be “Titter.” See Twitter (April 9, 2023), <https://twitter.com/elonmusk/status/1645266104351178752?ext=HHwWgIC-7cGzINUtAAAA>.

1 59. For example, in a 2022 interview with the CEO of the publishing company Axel
2 Springer, Musk commented:

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4 I don't think we should try to have people live for a really long time. That
5 it would cause asphyxiation of society because the truth is, most people
6 don't change their mind, ...they just die. So, if they don't die, we will be
7 stuck with old ideas and society wouldn't advance . . . [a]nd it is just
8 impossible to stay in touch with the people if you are many generations
9 older than them.

10 [https://www.foxbusiness.com/lifestyle/lonely-elon-musk-humans-shouldnt-live-longer-
11 asphyxiate-society.](https://www.foxbusiness.com/lifestyle/lonely-elon-musk-humans-shouldnt-live-longer-asphyxiate-society)

12 **V. EXHAUSTION OF ADMINISTRATIVE REMEDIES**

13 60. Plaintiffs have all filed administrative charges of discrimination with the Equal
14 Employment Opportunity Commission and have received Right to Sue letters to pursue these
15 claims in court.

16 **COUNT I**

17 **Family and Medical Leave Act,
18 29 U.S.C. § 2601, *et seq.***

19 Plaintiff Weinberg and other employees who have taken or were prepared to take a
20 family or medical leave have been entitled to the protections of the Family and Medical Leave
21 Act (“FMLA”), 29 U.S.C. § 2601, *et seq.* Under the FMLA, employees are entitled to take up to
22 twelve weeks of unpaid leave during a twelve-month period in order to care for themselves or a
23 spouse or child with a serious health condition, or to care for a newborn child. The FMLA
24 prohibits employers “from interfering with, restraining, or denying the exercise of their
25 employees’ rights under the statute,” and from discharging or in any other manner discriminating
26 against “any individual for opposing any practice made unlawful by [the statute].” 29 U.S.C. §
27 2615.

1 As set forth above, Twitter’s layoffs following Musk’s acquisition of the company have
2 disproportionately impacted employees like Weinberg who have taken or who were preparing to
3 take family or medical leave. Twitter has thus violated the FMLA with respect to these
4 employees.

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6 **COUNT II**

7 **Sex Discrimination in Violation of Title VII,
8 42 U.S.C. § 2000e, et seq.**

9 Plaintiffs Weinberg, Gongora, Steele, Sills, and Bessinger have been entitled to the
10 protections of Title VII, 42 U.S.C. § 2000e, et seq., which prohibits discrimination on the basis
11 of sex. Twitter’s conduct in conducting layoffs that affected a higher proportion of women than
12 men constitutes unlawful discrimination against Plaintiffs on the basis of sex in violation of Title
13 VII.

14 **COUNT III**

15 **Race Discrimination in Violation of Title VII,
16 42 U.S.C. § 2000e, et seq.**

17 Plaintiff Ogunsanya has been entitled to the protections of Title VII, 42 U.S.C. § 2000e,
18 et seq., which prohibits discrimination on the basis of race. Twitter’s conduct in conducting
19 layoffs that affected a higher proportion of Black employees than other employees constitutes
20 unlawful discrimination against Plaintiff on the basis of race in violation of Title VII.

21 **COUNT IV**

22 **Age Discrimination in Employment Act,
23 29 U.S.C. § 621, et seq.**

24 Plaintiffs Bessinger and Ihara are entitled to the protections of the ADEA, 29 U.S.C.
25 §621, which prohibits discrimination on the basis of age. Twitter’s conduct in conducting layoffs
26 that affected a higher proportion of older employees (age fifty (50) and over) constitutes
27 unlawful discrimination against Plaintiffs Bessinger and Ihara on the basis of age in violation of
28 the ADEA.

JURY DEMAND

Plaintiffs request a trial by jury on the claims asserted here.

WHEREFORE, Plaintiffs request that this Court enter the following relief:

61. Certify this case as a class action on behalf of employees, who were laid off by Twitter following Musk’s acquisition of the company who had recently taken, or were preparing to take, a family or medical leave, under the FMLA;

62. Declare and find that Twitter is liable to Plaintiff Weinberg and other similarly situated employees, who have taken or were preparing to take a family or medical leave, under the FMLA;

63. Declare and find that Twitter is liable to Plaintiffs Weinberg, Gongora, Steele, Sills, and Bessinger for sex discrimination under Title VII, 42 U.S.C. § 2000e, *et seq.*;

64. Declare and find that Twitter is liable to Plaintiff Ogunsanya for race discrimination under Title VII, 42 U.S.C. § 2000e, *et seq.*;

65. Declare and find that Twitter is liable to Plaintiffs Bessinger and Ihara for age discrimination under the ADEA, 29 U.S.C. § 621, *et seq.*;

66. Reinstate female, Black, and older employees who wish to return to their jobs, as well as employees who were terminated in violation of the FMLA;

67. Award compensatory and any other appropriate damages under the FMLA, Title VII, and ADEA;

68. Award emotional distress and punitive damages under Title VII;

69. Award liquidated damages under the ADEA;

70. Award pre- and post-judgment interest;

71. Award reasonable attorneys’ fees, costs, and expenses; and

