ORIGINAL

Laurence M. Rosen, Esq. (SBN 219683)
THE ROSEN LAW FIRM, P.A.
355 South Grand Avenue, Suite 2450
Los Angeles, CA 90071
Telephone: (213) 785-2610
Facsimile: (213) 226-4684
Email: lrosen@rosenlegal.com

SARRAF GENTILE LLP
Ronen Sarraf
Joseph Gentile
14 Bond Street, Suite 212
Great Neck, New York
(516) 699-8890

Attorneys for Plaintiffs

FILED
SAN MATEO COUNTY
NOV - 4 2016
Clerk of the Superior Court
By _____ DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN MATEO 16CIV08888

BY FAX

JOHNNY HOSEY and GEORGE SHILLIARE, individually and on behalf of all others similarly situated,

Plaintiffs,

vs.

RICHARD COSTOLO, MIKE GUPTA, LUCA BARATTA, JACK DORSEY, PETER CHERNIN, PETER CURRIE, PETER FENTON, DAVID ROSENBLATT, EVAN WILLIAMS, GOLDMAN, SACHS & CO., MORGAN STANLEY & CO. LLC, J.P. MORGAN SECURITIES LLC, TWITTER, INC., MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED, DEUTSCHE BANK SECURITIES INC., ALLEN & COMPANY LLC, and CODE ADVISORS LLC,

Defendants.

Case No.: _____

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

16-CIV02228
CMP
Complaint Filed
244520

Plaintiffs Johnny Hosey ("Hosey") and George Shilliare ("Shilliare")(collectively "Plaintiffs") make the following allegations, individually and on behalf of all others similarly situated, based upon the investigation by Plaintiffs' counsel, which included among other things, an analysis of publicly available news articles, reports, corporate webcasts with analysts, public filings made with the Securities and Exchange Commission ("SEC"), and securities analysts' reports about Twitter, Inc. ("Twitter" or the "Company"). Many additional facts and documents supporting the allegations herein are known only to Defendants and/or are within their exclusive custody and control. Plaintiffs believe that additional evidentiary support for the allegations herein will emerge after a reasonable opportunity to conduct discovery of Defendants and non-parties.

INTRODUCTION

1. This is a securities class action on behalf of all persons who purchased Twitter common stock in and/or traceable to Twitter's November 7, 2013 initial stock offering (the "IPO"), seeking to pursue remedies under the Securities Act of 1933 (the "Securities Act").

2. On or about October 3, 2013, Twitter filed with the SEC a registration statement on Form S-1, which was followed by several amendments, the last of which was filed with the SEC on November 4, 2013 (Registration No. 333-191552), which became effective on November 6, 2013, and which was later issued to the public in connection with the IPO (the "Registration Statement"). On or about November 6, 2013, Twitter and the Underwriter Defendants priced the IPO at $26 per share. On or about November 7, 2013, the Company filed with the SEC the final prospectus for the IPO (the "Prospectus"), dated November 6, 2013, which forms part of the Registration Statement (the Prospectus and Registration Statement are collectively referred to herein as the "Registration Statement").

3. The Registration Statement described the Company's business and registered an aggregate of 80,500,000 share of its common stock, including 10,500,000 shares registered to cover

an option to purchase additional shares that the Company granted to its IPO underwriters. On or about November 13, 2013, the Company closed its IPO and sold 80,500,000 shares of its common stock ordinary shares to the public. In all, the Company raised approximately $2.09 billion in the IPO, incurred approximately $5.2 million in expenses and paid the underwriters approximately $68 million, resulting in net offering proceeds of approximately $2.02 billion.

4. Unbeknownst to investors who purchased shares in the Company's IPO, however, the Company's Registration Statement contained untrue statements of material facts, omitted to state other facts necessary to make the statements made not misleading and/or was not prepared in accordance with the rules and regulations governing their preparation. Specifically, the Registration Statement failed to disclose the unusual scope, industry-leading nature of, and substantial risks posed by the Company's employee compensation system. That compensation system was (and remains) heavily reliant on Company stock. Because of this heavy reliance, compensation of Twitter employees would be materially reduced if the Company's stock price were to fall (or not increase). Given this unique compensation system, a falling (or stagnant) stock price represented two material undisclosed risks for Twitter. *First*, the Company might be unable to competitively compensate its staff, making it difficult to retain and hire talented employees, and causing a loss of intellectual capital. *Second*, any potential acquirer of Twitter might be discouraged or deterred by the high cost that would be added to Twitter's price tag as a result of the accelerated vesting of employee stock a "change in control" provision would trigger in the case of a Company sale or buyout. These material risks materialized. Plaintiffs and the class have been harmed as a result of the material omissions and false Registration Statement.

JURISDICTION AND VENUE

5. The claim asserted herein arises under Sections 11 and 15 of the Securities Act of 1933, 15 U.S.C. §§ 77k and 77o. Jurisdiction is conferred by Section 22 of the Securities Act and

venue is proper pursuant to Section 22 of the Securities Act. Section 22 of the Securities Act explicitly states that "[e]xcept as provided in section 16(c), no case arising under this title and brought in any State court of competent jurisdiction shall be removed to any court in the United States." Section 16(c) refers to "covered class actions," which are defined as lawsuits brought as class actions or brought on behalf of more than 50 persons asserting claims under state or common law. This is an action asserting federal law claims. Thus, this action does not fall within the definition of a "covered class action" under section 16(b)-(c) and is therefore not removable to federal court under the Securities Litigation Uniform Standards Act of 1998 or otherwise.

6. This Court has personal jurisdiction over each of the Defendants named herein because they conducted business, resided in and/or were citizens of California at the time of the IPO. The violations of law complained of herein also occurred in California, including the preparation and dissemination of the materially false and misleading Registration Statement complained of herein, which statements were disseminated in California. Twitter, the Underwriter Defendants and all of the Individual Defendants conducted extensive business in this County. Additional facts in support of this Court's personal jurisdiction over each of the Defendants named herein are as follows: (i) Twitter is located and does substantial business in California; (ii) the Company's underwriters are located or do substantial business in California; (iii) the Individual Defendants all signed the Registration Statement and caused it to be transmitted into California and directed sales of the Company's IPO stock to people and entities located in California; and, (iv) the closing of the Company's IPO occurred in San Mateo County, California.

7. Finally, venue is proper in this Court because Defendants' acts giving rise to Plaintiffs' claims arose in and emanated from this County.

THE PARTIES

8. Plaintiffs Hosey and Shilliare purchased Twitter common stock pursuant and/or traceable to the IPO and were damaged thereby.

9. Defendant Twitter is a Delaware corporation with headquarters at 1355 Market Street, Suite 900, San Francisco, California 94103.

10. Defendant Richard Costolo ("Costolo") signed the Registration Statement as the Company's Chief Executive Officer and Director.

11. Defendant Mike Gupta ("Gupta") signed the Registration Statement as the Company's Chief Financial Officer.

12. Defendant Luca Baratta ("Baratta") signed the Registration Statement as the Company's Vice President, Finance.

13. Defendant Jack Dorsey ("Dorsey") signed the Registration Statement as the Company's Chairman of the Board of Directors (the "Board").

14. Defendant Peter Chernin ("Chernin") signed the Registration Statement as a Company Director.

15. Defendant Peter Currie ("Currie") signed the Registration Statement as a Company Director.

16. Defendant Peter Fenton ("Fenton") signed the Registration Statement as a Company Director.

17. Defendant David Rosenblatt ("Rosenblatt") signed the Registration Statement as a Company Director.

18. Defendant Evan Williams ("Williams") signed the Registration Statement as a Company Director.

19. Defendants Costolo, Gupta, Baratta, Dorsey, Chernin, Currie, Fenton, Rosenblatt and Williams are referred to herein as the "Individual Defendants."

20. Defendant Goldman, Sachs & Co. ("Goldman Sachs") is a financial services company with locations in California at: 4085 Campbell Avenue, Menlo Park, CA 94025; 555 California Street, 45th Floor, San Francisco, CA 94101; and, Fox Plaza, Suite 2600, 2121 Avenue of the Stars, Los Angeles, CA 90067.

21. Defendant Morgan Stanley & Co. LLC ("Morgan Stanley") is a financial services company with locations in California at: 2725 Sand Hill Road, Suite 200, Menlo Park CA 94025; 555 California Street, San Francisco CA 94104; and, 1999 Avenue of the Stars, Suite 2400, Los Angeles CA 90067.

22. Defendant J.P. Morgan Securities LLC ("JP Morgan") is a financial services company with locations in California at: 560 Mission Street, Suite 2400, San Francisco CA 94105; 2029 Century Park East, suite 3700, Los Angeles CA 90067; 601 South Figueroa Street, Suite 3550, Los Angeles, CA 90017; and, 660 Newport Center Drive, Suite 750, Newport Beach, CA 92660.

23. Defendant Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch") is a financial services company with locations in California at: 3075 B Hansen Way, Palo Alto, CA 94304; 701 B Street, San Diego CA 92101, 101 California Street, Suite 1400, San Francisco CA 94111; 10877 Wilshire Boulevard, Suite 1900, Los Angeles, CA 90024; and, 17700 Castleton Street, Suite 488, City of Industry CA 91748.

24. Defendant Deutsche Bank Securities Inc. ("Deutsche Bank") is a financial services company with locations in California at: 2400 Sand Hill Road, Menlo Park CA 94025; 535 Anton Boulevard, MetroCenter at South Coast Costa Mesa CA 92626; 2000 Avenue of the Stars, North Tower Los Angeles CA 90067; 2650 Birch Street, Palo Alto CA 94306; 101 California Street, San

Francisco CA 94111; 1801 E. St. Andrews Place, Santa Ana CA 92705; and, 2185 N. California Blvd, Mt. Diablo Plaza, Walnut Creek CA 94596.

25. Defendant Allen & Company LLC ("Allen") is a financial services company located at 711 Fifth Avenue, New York, New York 10022.

26. Defendant Code Advisors LLC ("Code Advisors") is a financial services company located at 101 Second Street, Suite 2225, San Francisco CA 94105.

27. Defendants Goldman Sachs, Morgan Stanley, JP Morgan, Merrill Lynch, Deutsche Bank, Allen and Code Advisors served as underwriters of the IPO, helping to draft and disseminate the offering documents and to sell the Company's IPO stock to the investing public, including Plaintiffs. These defendants are referred to herein as the "Underwriter Defendants." The Underwriter Defendants were represented by Davis Polk & Wardwell LLP ("DPW") in connection with the IPO. Twitter and the Underwriter Defendants designated DPW's office, located at 1600 El Camino Real, Menlo Park, CA 94025, to serve as the "Closing Location" for the IPO. Pursuant to the Securities Act of 1933, the Underwriter Defendants are liable for the materially false and misleading statements in the Registration Statement as follows:

a. The Underwriter Defendants are investment banking houses which specialize in, among others, underwriting public offerings of securities.

b. By the close of the IPO on November 13, 2013, the Company announced the sale of 80.5 million shares at $26 per share, generating gross proceeds of $2.09 billion or net proceeds of $2.09 billion (after deducting expenses and underwriting discounts).

c. The Underwriter Defendants underwrote the IPO and shared roughly $68 million in fees collectively.

d. The Underwriter Defendants demanded and obtained an agreement from Twitter that Twitter would indemnify and hold the Underwriter Defendants harmless from any liability under the federal securities laws.

e. Representatives of the Underwriter Defendants assisted Twitter and the Individual Defendants in planning the IPO, and had continual access to confidential corporate information concerning Twitter's operations and financial prospects.

f. The Underwriter Defendants caused the Registration Statement to be filed with the SEC and declared effective in connection with offers and sales thereof, including to Plaintiffs and the Class.

SUBSTANTIVE ALLEGATIONS

Background

28. Twitter was founded in 2007 to serve as a public platform where any user can create a Tweet and any user can follow other users. Each Tweet is limited to 140 characters of text, but can also contain rich media, including photos, videos and application.

29. The Company's principal business model is to attract users to its platform and generate revenue from advertisers seeking to market and sell their products on that platform. According to Twitter's Form 10-K for the year ending 2015 ("2015 Form 10-K"), approximately 90% of the Company's 2014 and 2015 revenue was generated from advertising.

> ...[S]ince our initial public offering, our revenue growth has been primarily driven by increases in the number of our users and increases in our ad load driven by strong advertiser demand as well as other factors. To date, our available advertising inventory has been greater than demand. Our future revenue growth, however, may be limited on certain days by available advertising inventory for specific ad types if we do not increase the number of our users, their engagement or monetize our larger global audience.

2015 Form 10-K at 12.

> We believe that our future revenue growth will depend on, among other factors, our ability to attract new users, increase user engagement and ad engagement, increase

> our brand awareness, compete effectively, maximize our sales efforts, demonstrate a positive return on investment for advertisers, successfully develop new products and services and expand internationally.

2015 Form 10-K at 17.

The Materially False And Misleading Registration Statement

30. The Registration Statement contained untrue statements of material facts, omitted to state other facts necessary to make the statements made not misleading, and/or was not prepared in accordance with the rules and regulations governing their preparation.

31. Purporting to provide a business overview and the basis for Twitter's success as a public company, the Registration Statement discussed, among others, the importance of identifying, hiring and retaining its employees. In describing the factors affecting future performance, the Registration Statement includes this description:

> *Investment in Talent.* We intend to invest in hiring and retaining talented employees to grow our business and increase our revenue. As of September 30, 2013, we had over 2,300 full-time employees, an increase of over 1,100 full-time employees, or approximately 87%, from September 30, 2012. We expect to grow headcount for the foreseeable future as we continue to invest in our business. We have also made and intend to continue to make acquisitions that add engineers, designers, product managers and other personnel with specific technology expertise. In addition, <u>we must retain our high-performing personnel in order to continue to develop, sell and market our products and services and manage our business</u>.

Registration Statement at 71-72 (emphasis underlined). And in presenting the risk factors to the business, the Registration Statement stated:

> ***We depend on highly skilled personnel to grow and operate our business, and if we are unable to hire, retain and motivate our personnel, we may not be able to grow effectively.***
>
> Our future success will depend upon our continued ability to identify, hire, develop, motivate and retain highly skilled personnel, including senior management, engineers, designers and product managers. Our ability to execute efficiently is dependent upon contributions from our employees, in particular our senior management team. We do not have employment agreements other than offer letters with any member of our senior management or other key employee, and we do not maintain key person life insurance for any employee. In addition, from time to time,

> there may be changes in our senior management team that may be disruptive to our business. If our senior management team, including any new hires that we may make, fails to work together effectively and to execute our plans and strategies on a timely basis, our business could be harmed.
>
> Our growth strategy also depends on our ability to expand and retain our organization with highly skilled personnel. Identifying, recruiting, training and integrating qualified individuals will require significant time, expense and attention. In addition to hiring new employees, we must continue to focus on retaining our best employees. Many of our employees may be able to receive significant proceeds from sales of our equity in the public markets after this offering, which may reduce their motivation to continue to work for us. Competition for highly skilled personnel is intense, particularly in the San Francisco Bay Area, where our headquarters is located. We may need to invest significant amounts of cash and equity to attract and retain new employees and we may never realize returns on these investments. If we are not able to effectively add and retain employees, our ability to achieve our strategic objectives will be adversely impacted, and our business will be harmed.

Registration Statement at 38-39 (emphasis underlined).

> We face significant competition for employees, particularly engineers, designers and product managers, from other Internet and high-growth companies, which include both publicly-traded and privately-held companies, and we may not be able to hire new employees quickly enough to meet our needs. To attract highly skilled personnel, we have had to offer, and believe we will need to continue to offer, highly competitive compensation packages.

Registration Statement at 26 (emphasis underlined).

32. The Registration Statement highlights in numerous places the importance of the Company's employees, engineers, designers and managers. For example: (i) the Company's ability to compete effectively for users depends on, among others, "[its] ability to attract, retain and motivate talented employees, particularly engineers, designers and product managers," Registration Statement at 19; (ii) the Company's costs may increase as it expends substantial financial resources on, among others, "attracting and retaining talented employees," Registration Statement at 24; and, (iii) the Company's international operations present additional risks including, among others, "recruiting and retaining talented and capable employees in foreign countries and maintaining our company culture across all of our offices," Registration Statement at 29.

33. The Registration Statement also discussed employee compensation and included the following disclosures:

> ***If currency exchange rates fluctuate substantially in the future, our operating results, which are reported in U.S. dollars, could be adversely affected.***
>
> As we continue to expand our international operations, we will become more exposed to the effects of fluctuations in currency exchange rates. We incur expenses for employee compensation and other operating expenses at our international locations in the local currency, and accept payment from advertisers or data partners in currencies other than the U.S. dollar. Since we conduct business in currencies other than U.S. dollars but report our operating results in U.S. dollars, we face exposure to fluctuations in currency exchange rates. Consequently, exchange rate fluctuations between the U.S. dollar and other currencies could have a material impact on our operating results.

Registration Statement at 42 (emphasis underlined). Such employee compensation includes stock-based compensation or restricted stock units or RSUs. In a section entitled "Factors Affecting Our Future Performance" the Registration Statement reads:

> *Stock-Based Compensation Expense.* Since May 2011, we have been granting RSUs to our employees. The Pre-2013 RSUs vest upon the satisfaction of both a service condition and a performance condition. The service condition for a majority of the Pre-2013 RSUs is satisfied over a period of four years. The performance condition will be satisfied on the earlier of (i) the date that is the earlier of (x) six months after the effective date of this offering or (y) March 8th of the calendar year following the effective date of this offering (which we may elect to accelerate to February 15th); and (ii) the date of a change in control. As of September 30, 2013, no stock-based compensation expense had been recognized for the Pre-2013 RSUs because a qualifying event as described above was not probable. In the quarter in which this offering is completed, we will begin recording stock-based compensation expense based on the grant-date fair value of the Pre-2013 RSUs using the accelerated attribution method, net of estimated forfeitures. If this offering had been completed on September 30, 2013, we would have recorded $385.2 million of cumulative stock-based compensation expense related to the Pre-2013 RSUs on that date, and an additional $199.6 million of unrecognized stock-based compensation expense related to the Pre-2013 RSUs, net of estimated forfeitures, would be recognized over a weighted-average period of approximately three years. In addition to stock-based compensation expense associated with the Pre-2013 RSUs, as of September 30, 2013, we had unrecognized stock-based compensation expense of approximately $698.3 million related to other outstanding equity awards, after giving effect to estimated forfeitures, which we expect to recognize over a weighted-average period of approximately four years. Further, we made grants of equity awards after September 30, 2013, and we have unrecognized stock-based compensation expense of $108.7 million related to such equity awards, after giving effect to estimated

forfeitures, which we expect to recognize over a weighted-average period of approximately four years.

On the settlement dates for the Pre-2013 RSUs, we may choose to allow our employees who are not executive officers to sell shares of our common stock received upon the vesting and settlement of Pre-2013 RSUs in the public market to satisfy their income tax obligations related to the vesting and settlement of such awards, or we may choose to undertake a net settlement of these awards and withhold shares and remit income taxes on behalf of the holders of the Pre-2013 RSUs at the applicable minimum statutory rates. We expect the applicable minimum statutory rates to be approximately 40% on average, and the income taxes due would be based on the then-current value of the underlying shares of our common stock. Based on the number of Pre-2013 RSUs outstanding as of September 30, 2013 for which the service condition had been satisfied on that date, and assuming (i) the performance condition had been satisfied on that date and (ii) that the price of our common stock at the time of settlement was equal to $24.00, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, we estimate that this tax obligation on the initial settlement date would be approximately $113.8 million in the aggregate. The amount of this obligation could be higher or lower, depending on the price of shares of our common stock, and the actual number of Pre-2013 RSUs outstanding for which the service condition has been satisfied, on the initial settlement date for the Pre-2013 RSUs. To settle these Pre-2013 RSUs on the initial settlement date, assuming a 40% tax withholding rate, if we choose to undertake a net settlement of all of these awards rather than allowing our employees who are not executive officers to sell shares of our common stock in the public market to satisfy their income tax obligations related to the vesting and settlement of Pre-2013 RSUs, we would expect to deliver an aggregate of approximately 7.1 million shares of our common stock to Pre-2013 RSU holders after withholding an aggregate of approximately 4.8 million shares of our common stock. In connection with these net settlements, we would withhold and remit the tax liabilities on behalf of the Pre-2013 RSU holders to the relevant tax authorities in cash.

Registration Statement at 72-73. And in a section entitled "Cost of Revenue and Operating Expenses," the Registration Statement reads:

Cost of Revenue

Cost of revenue consists primarily of data center costs related to our co-located facilities, which include lease and hosting costs, related support and maintenance costs and energy and bandwidth costs, as well as depreciation of our servers and networking equipment, and personnel-related costs, including salaries, benefits and stock-based compensation, for our operations teams. Cost of revenue also includes allocated facilities and other supporting overhead costs, amortization of acquired intangible assets and capitalized labor costs. Many of the elements of our cost of revenue are relatively fixed, and cannot be reduced in the near term to offset any decline in our revenue.

We plan to continue increasing the capacity and enhancing the capability and reliability of our infrastructure to support user growth and increased activity on our platform. We anticipate a significant increase in cost of revenue in the year ending December 31, 2013 as a result of the stock-based compensation expense associated with the Pre-2013 RSUs as described in the section titled "—Factors Affecting Our Future Performance—Stock-Based Compensation Expense." We expect that cost of revenue will increase in dollar amount for the foreseeable future and vary in the near term from period to period as a percentage of revenue.

Research and Development

Research and development expenses consist primarily of personnel-related costs, including salaries, benefits and stock-based compensation, for our engineers and other employees engaged in the research and development of our products and services. In addition, research and development expenses include allocated facilities and other supporting overhead costs.

We plan to continue to hire employees for our engineering, product management and design teams to support our research and development efforts. We anticipate a significant increase in research and development expenses in the year ending December 31, 2013 as a result of the stock-based compensation expense associated with the Pre-2013 RSUs as described in the section titled "—Factors Affecting Our Future Performance—Stock-Based Compensation Expense." We expect that research and development costs will increase in dollar amount for the foreseeable future and vary in the near term from period to period as a percentage of revenue.

Sales and Marketing

Sales and marketing expenses consist primarily of personnel-related costs, including salaries, benefits and stock-based compensation for our employees engaged in sales, sales support, commissions, business development and media, marketing, corporate communications and customer service functions. In addition, marketing and sales-related expenses also include market research, tradeshows, branding, marketing and public relations costs, as well as allocated facilities and other supporting overhead costs.

We plan to continue to invest in sales and marketing to expand internationally, grow our advertiser base and increase our brand awareness. We anticipate a significant increase in sales and marketing expenses in the year ending December 31, 2013 as a result of the stock-based compensation expense associated with the Pre-2013 RSUs as described in the section titled "—Factors Affecting Our Future Performance—Stock-Based Compensation Expense." We expect that sales and marketing expenses will increase in dollar amount for the foreseeable future and vary in the near term from period to period as a percentage of revenue.

General and Administrative

General and administrative expenses consist primarily of personnel-related costs, including salaries, benefits and stock-based compensation, for our executive, finance, legal, information technology, human resources and other administrative employees. In addition, general and administrative expenses include fees and costs for professional services, including consulting, third-party legal and accounting services and facilities and other supporting overhead costs that are not allocated to other departments.

We plan to continue to expand our business both domestically and internationally, and expect to increase the size of our general and administrative function to help grow our business. We expect that we will incur additional general and administrative expenses as a result of being a publicly-traded company. We also anticipate a significant increase in general and administrative expenses in the year ending December 31, 2013 as a result of the stock-based compensation expense associated with the Pre-2013 RSUs as described in the section titled "—Factors Affecting Our Future Performance—Stock-Based Compensation Expense." We expect that general and administrative expenses will increase in dollar amount for the foreseeable future and vary in the near term from period to period as a percentage of revenue.

Provision (Benefit) for Income Taxes

Provision for income taxes consists of federal and state income taxes in the United States and income taxes in certain foreign jurisdictions, and deferred income taxes and changes in related valuation allowance reflecting the net tax effects of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes.

As of December 31, 2012, we had $298.8 million of federal and $216.7 million of state net operating loss carryforwards available to reduce future taxable income. These net operating loss carryforwards will begin to expire for federal income tax purposes and state income tax purposes in 2027 and 2017, respectively. We expect our net operating loss carryforwards to increase in the quarter in which we initially settle a portion of the Pre-2013 RSUs as a result of the vesting of such RSUs. We also have research credit carryforwards of $6.6 million and $10.5 million for federal and state income tax purposes, respectively. The federal research credit carryforward will begin to expire in 2027. The state research credit carryforward has no expiration date. Utilization of the net operating loss carryforwards and research carryforwards credit may be subject to an annual limitation due to the ownership change limitations set forth in the Code, and similar state provisions. Any annual limitation may result in the expiration of net operating losses and research credits before utilization.

Registration Statement at 75-76.

34. The Registration Statement also disclosed the Company's use of RSUs and the relevant "change in control" provisions regarding the Company's stock-based compensation system. Specifically, in describing the Company's 2013 Equity Incentive Plan, the Registration Statement disclosed:

> Our board of directors adopted, and our stockholders have approved, our 2013 Plan. Our 2013 Plan became effective on the business day immediately prior to the effective date of the registration statement of which this prospectus forms a part. Our 2013 Plan provides for the grant of incentive stock options, within the meaning of Section 422 of the Code, to our employees and any parent and subsidiary corporations' employees, and for the grant of nonstatutory stock options, restricted stock, RSUs, stock appreciation rights, performance units and performance shares to our employees, directors and consultants and our parent and subsidiary corporations' employees and consultants.
>
> . . . .
>
> *RSUs.* RSUs may be granted under our 2013 Plan. RSUs are bookkeeping entries representing an amount equal to the fair market value of one share of our common stock. Subject to the provisions of our 2013 Plan, the administrator determines the terms and conditions of RSUs, including the vesting criteria (which may include accomplishing specified performance criteria or continued service to us) and the form and timing of payment. Notwithstanding the foregoing, the administrator, in its sole discretion, may accelerate the time at which any restrictions will lapse or be removed.
>
> . . . .
>
> *Merger or Change in Control.* Our 2013 Plan provides that in the event of a merger or change in control, as defined under our 2013 Plan, each outstanding award will be treated as the administrator determines, except that if a successor corporation or its parent or subsidiary does not assume or substitute an equivalent award for any outstanding award, then such award will fully vest, all restrictions on such award will lapse, all performance goals or other vesting criteria applicable to such award will be deemed achieved at 100% of target levels and such award will become fully exercisable, if applicable, for a specified period prior to the transaction. The award will then terminate upon the expiration of the specified period of time. If the service of an outside director is terminated on or following a change in control, other than pursuant to a voluntary resignation, his or her options, RSUs and stock appreciation rights, if any, will vest fully and become immediately exercisable, all restrictions on his or her restricted stock will lapse and all performance goals or other vesting requirements for his or her performance shares and units will be deemed achieved at 100% of target levels, and all other terms and conditions met.

Registration Statement 135-138.

35. The Registration Statement also disclosed certain facts that would, among others, delay, defer or discourage acquirers of the Company:

> The provisions of Delaware law, our amended and restated certificate of incorporation and our amended and restated bylaws, which are summarized below, may have the effect of delaying, deferring or discouraging another person from acquiring control of our company. They are also designed, in part, to encourage persons seeking to acquire control of us to negotiate first with our board of directors. We believe that the benefits of increased protection of our potential ability to negotiate with an unfriendly or unsolicited acquirer outweigh the disadvantages of discouraging a proposal to acquire us because negotiation of these proposals could result in an improvement of their terms.

Registration Statement at 158.

> Our amended and restated bylaws will provide advance notice procedures for stockholders seeking to bring business before our annual meeting of stockholders or to nominate candidates for election as directors at our annual meeting of stockholders. Our amended and restated bylaws will also specify certain requirements regarding the form and content of a stockholder's notice. These provisions might preclude our stockholders from bringing matters before our annual meeting of stockholders or from making nominations for directors at our annual meeting of stockholders if the proper procedures are not followed. We expect that these provisions may also discourage or deter a potential acquirer from conducting a solicitation of proxies to elect the acquirer's own slate of directors or otherwise attempting to obtain control of our company.

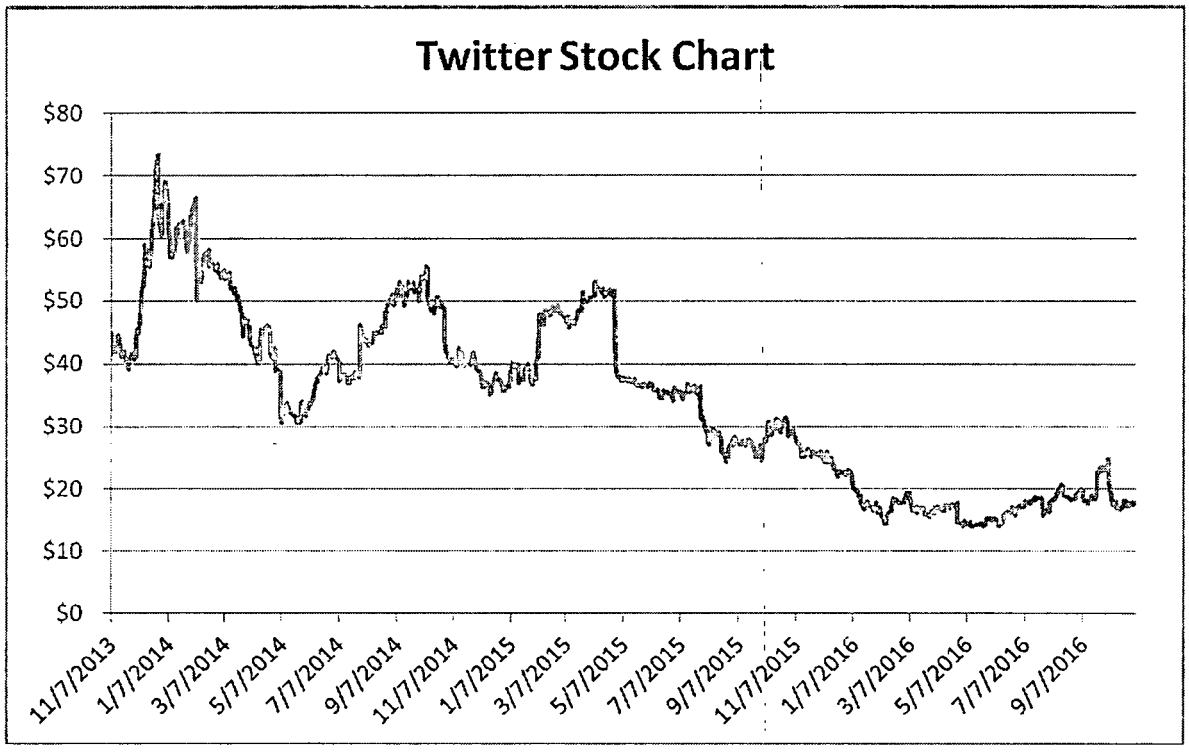
Registration Statement at 159.

36. The Registration Statement, including the above quoted excerpts, was false and misleading because it failed to disclose material facts necessary to make the statements made not misleading, as discussed below.

The Undisclosed Truth

37. Since its founding in 2007, Twitter has failed to be profitable. Nevertheless, the Company consistently grew for some time – adding users, increasing revenue, hiring employees, etc. That consistent growth led to its IPO in 2013. Its continued growth after it became a public company resulted in its stock price exceeding $60 per share during 2014. Eventually, however, that growth leveled off, causing its stock price to fall. By the spring of 2015, following disappointing results, the

Company's stock fell from approximately $50 per share to less than $40 per share. By the beginning of 2016, the stock was valued at less than $20 per share (below its $26 per share IPO price). A stock chart of the Company from the date of its IPO to the present is as follows:



38. Unbeknownst to investors who purchased the Company's IPO stock, however, Twitter's steep stock price drop reflects more than a challenging business environment. It significantly challenged Twitter's ability to perform a key function, namely, to retain and hire talented employees. That is because Twitter largely compensates its employees with Company stock. With an increasing stock price, Twitter's compensation system is designed to attract top talent. However, when Twitter's stock price falls or fails to increase, compensation is substantially reduced. When that happens, employees resign in favor of higher paying employment elsewhere. Hiring replacement employees then becomes difficult because prospective recruits are being offered pay packages that rely heavily on stock that is falling in value. This loss of intellectual capital (including

the failure to replenish it) harms the Company's platform, user experience and brand, forcing the stock price to fall even further and creating another round of departures and hiring challenges. Ultimately a "death spiral" ensues: departing employees weaken the Company's competitiveness; a less competitive Company results in lower user growth which hurts the growth of advertising revenue; the Company's poor performance causes its stock price to fall; a falling stock price results in reduced compensation to current and prospective employees causing them to leave for better prospects, which in turn further weakens the Company. This was precisely the predicament facing Twitter in early 2016, as described in a March 10, 2016, article in *The Wall Street Journal*:

> Twitter Inc. is sweetening its employee compensation packages to stem a talent drain, a pressing move that may be followed by other tech companies with sinking stock prices.
>
> Over the past month, the social media company has been offering additional restricted stock to employees companywide, extending from the upper ranks to junior-level employees, people familiar with the matter said.
>
> In an unusual move, Twitter has granted varying amounts of restricted stock depending on when the employees started working, intending to make up for the value they lost since joining the company, these people said.
>
> Since the fall, the company has also been doling out cash bonuses to some employees ranging from $50,000 to $200,000 as an incentive to keep employees around for another six months to a year, according to other people close to the company.
>
> Together, the payouts show how Twitter is trying to allay employee jitters about a stock price that has fallen about 60% in the past 12 months. Since Jack Dorsey was named chief executive in early October, the stock has fallen by roughly one-third, with investors remaining concerned about stalled user growth. Mr. Dorsey himself announced not long after he took over as CEO that he would be giving roughly one-third of his Twitter stock to the company's employee equity pool. That donation is still subject to shareholder approval.
>
> More broadly, Twitter's moves speak to the realities of keeping pace with Silicon Valley's talent wars, pressure that has intensified as the public markets have soured on Twitter and other tech companies in recent months. Companies with spiraling stock prices, such as LinkedIn Corp. and VMware Inc., have recently sought to beef up employee equity packages, and compensation experts say others are likely to follow suit.

"This is a fairly unique approach to dealing with this particular issue [at Twitter], but it will nowhere be the only unique approach we see in the next six to 12 months because the market has been ugly for these companies," said Dan Walter, CEO of Performensation, a compensation consulting firm that focuses on equity.

"Developing, retaining, and recruiting top talent is critical to Twitter's business success and building shareholder value," Twitter said in a statement. "Competitive compensation, strong leadership, and a confidence in the direction of the company are all key elements to having top talent. We are investing in all three areas to ensure we maintain these employees."

The offers at Twitter came over the past month at around the time Twitter granted additional compensation to three executive officers that could be worth nearly $55.4 million for taking on heavier workloads amid a reorganization of the management team.

These latest compensation packages to rank-and-file employees haven't been uniform, however. According to current employees and others close to the company, the guiding principle in calculating roughly how much additional stock is offered was predicated on how much the estimated value of an employee's restricted stock has fallen since they joined.

In other words, someone who joined around the time Twitter's stock soared to an all-time closing high of $73.31 on Dec. 26, 2013, the month after the company's initial public offering, is likely to have received more restricted stock than a veteran employee who joined before it went public.

The compensation bump has been the latest in a series of morale-boosting efforts by Mr. Dorsey after slashing up to 8% of the workforce in October to narrow Twitter's focus. Several senior executives have left in recent months and the company has also continued to lose employees to up-and-coming startups such as work-collaboration software maker Slack Inc. and ride-hailing service Lyft Inc., according to employee announcements and changes to LinkedIn profiles.

Over the past year, Twitter's stock has continued to slide, at one point in February reaching an all-time low close of $14.31. On Wednesday, Twitter shares fell 3.7% to $17.66.

As team leaders pulled various employees into one-on-one meetings over the past month, workers were told that the additional shares were meant to bump them back up to where they had started, according to one of the people familiar with the matter.

Compensation experts say Twitter's measures are unusual in their extent and in the way the grants have been structured.

"To do it across a whole group and to do it for this reason is shocking and highly effective," said Valerie Frederickson, founder and CEO of Frederickson Pribula Li, a

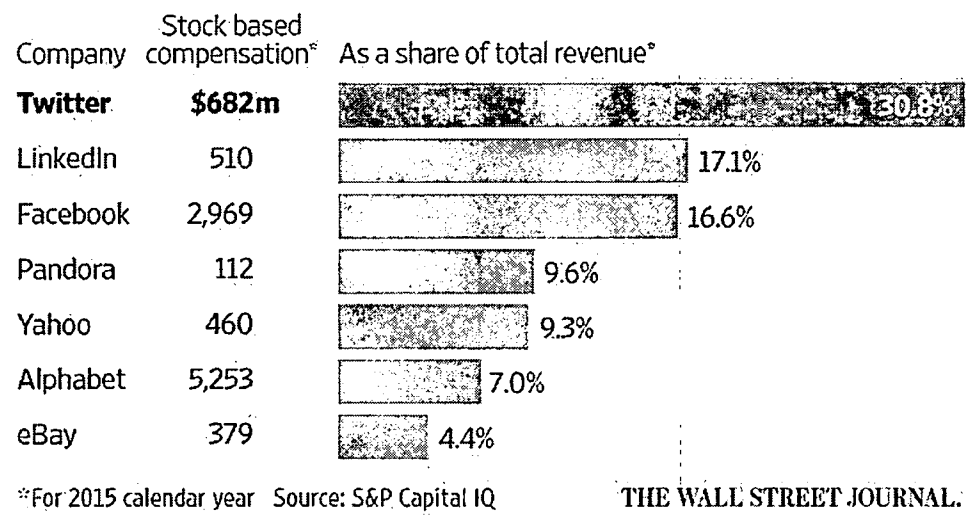
> Silicon Valley-based human-resources executive consulting firm. "It's effective at keeping employees on a sinking ship."
>
> Still, it is a risky move, especially considering Twitter's already unusually high stock-based compensation costs. Of the 172 U.S. tech companies with at least $1 billion in revenue last year, Twitter had the highest stock-based compensation costs as a percentage of its revenue at 30.8%, according to data provided by S&P Capital IQ. That is nearly double Facebook's 16.6% and four times Google parent Alphabet Inc.'s 7%.
>
> Twitter isn't alone in its attempts to retain employees as other tech stocks have suffered in recent months. LinkedIn said earlier this month that CEO Jeff Weiner will distribute his annual equity package, valued at about $14 million, to the employee pool.
>
> VMware, an EMC Corp.-controlled seller of data center software, has also been handing out extra shares to employees. In November, VMware issued restricted stock units and cash bonuses to encourage employees to stay there through various periods in 2016, according to a former employee.
>
> The cash bonuses were $60,000 in some cases, targeting engineers and executives within the company's cloud-computing group, according to the former employee who was there at the time.

Yoree Koh, "Twitter Bets on Payouts to Rein in Talent Flight," *The Wall Street Journal*, March 10, 2016 (emphasis underlined).

39. The Registration Statement failed to disclose the material risk that should the Company's stock price fall or fail to increase in value, the Company would be essentially cutting its employee compensation and harming its ability to retain and hire new employees. This material omission is based on two essential and undisputed factors: (1) Twitter's "critical" need for talent (which the Company concedes); and, (2) Twitter's industry-leading reliance on employee stock compensation (which *The Wall Street Journal* confirmed).

40. First, Twitter's employees are "critical" to its operation. Indeed, the Company's intellectual capital, innovativeness and ability to increase its user base, are its principal assets. Without a robust, effective and highly competitive employee hiring and retention system, the Company could not survive.

41. Second, Twitter's reliance on stock (as opposed to cash) in compensating its employees is industry-leading. Indeed, a study by *The Wall Street Journal* found that Twitter leads its industry in the amount of stock it uses to pay its employees, as demonstrated by the chart below that the paper published:



42. In addition to creating the risk of (and eventually causing) a Company-wide death spiral, the Company's industry-leading stock-based compensation system presented a second undisclosed risk factor – discouraging a potential suitor from acquiring the Company. That is because any acquisition of the Company by a third party would cause all compensation-based Company stock to automatically vest, thus increasing the cost of acquiring all of the Company's outstanding shares. Any potential corporate acquirer would therefore be discouraged from buying the Company in light of the additional acquisition costs imposed by Twitter's industry-leading stock-based compensation system. This was the problem facing Twitter in mid-2016, as described in a September 26, 2016 *New York Times* article:

Buying Twitter would be a challenge for a number of reasons. Among the lesser-explored ones: The struggling social network pays out so much stock to its employees.

Even among its Silicon Valley peers, which have drawn closer scrutiny from investors recently because of their generous stock-based compensation practices, Twitter is notable for how much equity it doles out.

And those grants of restricted stock units or options, which would have to be covered to some degree by any buyer, simply add to the purchase price of any deal.

According to Twitter's most recent annual filing, the company racked up $682 million in stock-based compensation last year. By comparison, the company's adjusted earnings before interest, taxes, depreciation and amortization — which also excludes stock-based compensation — for the year was $557.8 million.

Factoring in the payouts would have pushed Twitter well into the red for the year.

By way of comparison, the company reported $2.2 billion in revenue for 2015 — meaning that it paid out 31 cents in stock-based compensation for every dollar of sales it collected.

Twitter's stock-based compensation has been high since the company went public: Such payouts totaled nearly $632 million in 2014 and $600 million in 2013. So notable has been its practice that the company was called out as one of the most aggressive users of equity grants by Mark Mahaney, a veteran stock analyst with RBC Capital Markets.

By comparison, LinkedIn paid out 17 percent of its revenue in stock-based grants last year, or about $510 million. Salesforce.com, which along with Google has expressed interest in buying Twitter, paid out 8 percent of sales in such packages, or $593.6 million, over the same time period.

Tech companies that do not factor stock-based compensation into their preferred earnings metrics, such as Twitter, argue that such payouts are not cash and do not reflect the underlying health of core businesses.

(Not all tech companies urge investors and analysts to ignore stock-based compensation. Facebook and Amazon are among those that factor in those grants as a real expense.)

But a new owner would need to compensate its newest employees by either paying cash or doling out yet more equity. Ignoring those grants, particularly ones made to the most desirable employees like top engineers, is simply impossible for a buyer.

Those costs have apparently not diminished the interest of some potential buyers. Shares of Twitter were up about 1 percent after Bloomberg reported that Walt Disney was working with a financial adviser to weigh a possible bid.

> Still, questions remain about whether Twitter is already valued too richly — its market capitalization as of Monday afternoon was more than $16 billion. The equity compensation costs just make the company even more expensive.

Michael J. de la Merced, "Twitter's Steep Premium: The Cost of Employee Stock Grants," *The New York Times*, April 26, 2016 (emphasis underlined).

43. Accordingly, while the Registration Statement concedes the critical importance of the Company's employees and discloses the use of Company stock to compensate them, it failed to disclose the scope, industry-leading nature of, and risks posed by such a stock-based compensation system. Those material undisclosed risks included the probability of the death spiral as described above, caused by a falling stock price in which employee compensation is effectively slashed, resignations swell, replacements are not hired and mounting losses to the Company's intellectual capital prove fatal to its ability to perform and generate revue. That death spiral would eventually compel the need for a corporate suitor to save cash-strapped Twitter. However, any suitor otherwise interested in Twitter would be dissuaded from paying substantially increased acquisition costs arising from the automatic vesting of Twitter's huge amount of employee stock grants. These material risks were not disclosed in the Registration Statement and have now materialized and caused a decline in Twitter's share price.

LOSS CAUSATION

44. The existence of the undisclosed material risks detailed above was slowly revealed piecemeal as Company employees began to depart in alarming numbers following a stagnant user base, sluggish revenue and a falling stock price. The simultaneous revelation and materialization of these risks took a further toll on the Company's stock price.

45. The first indication that Twitter was suffering from low user growth and excessive employee departures was reported in early 2016, when the departure of several top Company executives was announced. According to a January 24, 2016, *Bloomberg* article (and updated on

January 26, 2016) entitled "Twitter Falls on Executive Exists as Turnaround Seen Delayed" by Sarah Frier:

> Twitter Inc. fell after the company lost four members of its executive leadership team, including its product and engineering chiefs, signaling any attempts to boost growth at the struggling social media company will be delayed.
>
> The quartet of executives, including product head Kevin Weil and head of engineering Alex Roetter, chose to leave the company and take some time off, Chief Executive Officer Jack Dorsey said in a Twitter post. Twitter's head of media, Katie Jacobs Stanton, and human resources vice president Brian "Skip" Schipper are also leaving the San Francisco-based company, Dorsey said.
>
> The exodus comes as the company has failed to improve its site quickly enough to reverse a slowdown in user growth, according to people familiar with the matter. Weil had been interviewing for other jobs over the past few months, according to several other people with knowledge of his plans. Separately, Twitter will this week add two new board members to help guide it through its reorganization, according to a person familiar with the matter who asked not to be identified because the information was private.
>
> "We don't see how the departure of the heads of three major business divisions can be viewed as a positive in the middle of an attempted business turnaround," Scott Devitt, an analyst at Stifel Nicolaus & Co. wrote in a note to clients. He downgraded his recommendation on the stock to hold.
>
> Twitter declined 4.6 percent to $17.02 at the close in New York. The stock has lost about half of its value in the past 12 months and is the third-worst performer on the Russell 1000 Technology Index so far this year, after FireEye Inc. and Western Digital Corp.
>
> **Exit Spree**
>
> . . . .
>
> The exits will be the first significant departures from the technology company since co-founder Dorsey returned last year as CEO. His predecessor Dick Costolo oversaw a slew of high-profile departures, including C-level executives and heads of product and engineering. Weil, for example, was Twitter's fifth head of product in six years. The company also plans to announce the hire of a chief marketing officer soon, one of the people familiar said.
>
> . . . .

46. On this news, the Company's stock fell from a closing price of $17.84 on Friday, January 22, 2016, to a closing price of $17.02 on Monday, January 25, 2016, representing a single day loss of $0.82 or 4.6%.

47. On Monday, March 10, 2016, when the *Wall Street Journal* article referenced above first articulated the materializing risk, the stock fell $1.05 or 5.95% (from $17.66 to $16.61) in a single day. In fact, the stock fell during the entire week the Wall Street Journal article was published, from the prior Friday's closing price of $19.36 to a closing price of $16.81 on Friday March 11, 2016, for a total drop of $2.55 or 13.17%.

48. The *Wall Street Journal's* exposure was followed by further resignations such that by May 2016, following the announcement of additional departures, the stock had lost additional value. According to a May 26, 2016, *Wall Street Journal* article entitled "Twitter Loses Two More Executives" by Yoree Koh:

> Twitter Inc. is losing two senior executives, departures that come as the social-media company continues to try to keep key talent on board.
>
> Jana Messerschmidt, a veteran executive who was in charge of global business development, and Nathan Hubbard, who joined to run the commerce team but was most recently leading the global media team, are both planning to leave the company, according to a person familiar with the matter.
>
> Both executives have been planning to exit for several months, this person said. Their positions will be consolidated and taken over by Ali Jafari, the head of revenue in business development, this person said.
>
> A Twitter spokesman confirmed the moves and Mr. Jafari's appointment. He declined to comment further.
>
> The executives' departures come just months after a string of other management exits that included the heads of product, engineering and media. Chief Executive Jack Dorsey has sought to retain top talent while at the same time reorganizing the company to streamline priorities and fix product issues.
>
> Besides employee departures, stalled user growth and slowing advertising growth have continued to beset Twitter since Mr. Dorsey began as CEO in October.

Twitter's shares, which are down 46% in that time frame, fell about 1% to $14.27 in afternoon trading Thursday. . . .

49. Accordingly, the simultaneous revelation and materialization of the material undisclosed risks identified above have harmed shareholders.

CLASS ACTION ALLEGATIONS

50. Plaintiffs bring this action as a class action pursuant to California Code of Civil Procedure § 382 on behalf of Plaintiffs and all other persons or entities who purchased or acquired Twitter common stock pursuant and/or traceable to the Registration Statement and Prospectus (Registration No. 333-191552) issued in connection with the Company's November 7, 2013 IPO (the "Class"). Excluded from the Class are Defendants, their directors, officers, employees, parents, affiliates and subsidiaries, their successors, agents, legal representatives, heirs and assigns, and any persons controlled by any excluded person.

51. The members of the Class are so numerous that joinder of all members is impracticable. While the exact number of Class members is unknown to Plaintiffs as this time and can only be ascertained through appropriate discovery, Plaintiffs believe that there are hundreds of members in the proposed Class. Record owners and other members of the Class may be identified from records maintained by Twitter or its transfer agent and may be notified of the pendency of this action by mail, using the form of notice similar to that used in securities class actions.

52. Plaintiffs' claims are typical of the claims of the Class because Plaintiffs' and the Class members' damages arise from and were caused by the same omissions and misleading statements made by or chargeable to Defendants. Plaintiffs do not have any interests antagonistic to, or in conflict with, the Class.

53. There are questions of law and fact common to the Class which predominate over any questions affecting only individual Class members. Among the common questions of law and fact are:

a. whether the Securities Act of 1933 was violated by Defendants as alleged herein;

b. whether statements made by Defendants to the investing public in connection with the Company's IPO omitted and/or misrepresented material facts about the business, operation, and prospects of Twitter, and;

c. The extent of the damages sustained by members of the Class and the appropriate measure of damages.

54. Plaintiffs will fairly and adequately protect the interests of the Class. Plaintiffs have retained competent counsel experienced in class action litigation under federal and state law to further ensure such protection and intend to prosecute this action vigorously. Plaintiffs have no interests in conflict with or antagonistic to those of the Class.

55. A class action is superior to other available methods for the fair and efficient adjudication of the controversy. Because of the size of the individual Class members' claims, few, if any, Class members could afford to seek legal redress individually for the wrongs complained of herein. Absent a class action, the Class members will suffer uncompensated loss.

THE INAPPLICABILITY OF THE STATUTORY SAFE HARBOR AND BESPEAKS CAUTION DOCTRINE

56. The statutory safe harbor and/or bespeaks caution doctrine applicable to forward-looking statements under certain circumstances do not apply to any of the false or misleading statements or material omissions pleaded with respect to the Securities Act claims.

57. First, Section 27(A) of the Securities Act of 1933 provides that the statutory safe harbor "shall not apply to a forward-looking statement that is made in connection with an initial public offering." 15 U.S.C. § 77z-2(b)(2)(D).

58. Second, none of the misstatements complained of herein were forward-looking statements. Rather, they were misstatements concerning current facts and conditions existing at the time the statements were made.

59. Third, to the extent that any statements may be construed as forward-looking, those statements were not accompanied by meaningful cautionary language identifying important facts that could cause actual results to differ materially from those in the statements.

CAUSES OF ACTION

Count One

For Violations of Section 11 of the Securities Act of 1933
(Against All Defendants)

60. This Cause of Action is brought pursuant to § 11 of the Securities Act, 15 U.S. C. § 77k, on behalf of the Class, against all defendants. This claim does not sound in fraud. For purposes of this Section 11 claim, Plaintiffs do not allege that any Defendant acted with scienter or fraudulent intent which are not elements of a claim under Section 11 of the Securities Act of 1933. This claim is based solely on strict liability as to Twitter, and negligence as to the remaining Defendants. Plaintiffs specifically disclaim any allegation of fraud, scienter or recklessness in this Section 11 claim.

61. Except as stated in the prior paragraph, Plaintiffs repeat and reallege each and every allegation contained above as if fully set forth herein.

62. The Registration Statement for the IPO was materially false and misleading, contained untrue statements of material facts, omitted to state other facts necessary to make the statements made not misleading, and omitted to state material facts required to be stated therein. Defendant Twitter is strictly liable to Plaintiffs and the Class for the misstatements and omissions. None of the other Defendants named herein made a reasonable investigation or possessed reasonable grounds or the belief that the statements contained in the Registration Statement were true and without omissions of any material facts and were not misleading.

63. By reason of the conduct herein alleged, each defendant named herein violated, and/ or controlled a person who violated, Section 11 of the Securities Act.

64. Plaintiffs acquired Twitter common stock that is traceable to the IPO.

65. Plaintiffs and the Class have sustained damages. The value of Twitter common stock has declined substantially subsequent to and due to these Defendants' violations.

66. At the time of Plaintiffs' purchases of Twitter common stock, Plaintiffs and other members of the Class were without knowledge of the facts concerning the wrongful conduct alleged herein and could not have reasonably discovered those facts prior to the disclosures herein.

67. Plaintiffs and other Class Members did not, and could not, discover that Defendants had failed to disclose the substantial risk that Twitter's stock compensation system posed until January 2016, when media reports highlighted that Twitter employees had begun to depart as a result of the declining value of their stock compensation.

68. This action was filed less than one year after the date that Plaintiffs discovered or reasonably could have discovered the facts upon which this complaint is based. Less than three years has elapsed between the date that the securities upon which this Count is brought were offered to the public and the date Plaintiffs commenced this action.

COUNT TWO
For Violation of Section 15 of the Securities Act of 1933
(Against Twitter and the Individual Defendants)

69. This claim is asserted against the Individual Defendants.

70. This claim does not sound in fraud. For the purposes of this Section 15 claim, Plaintiffs do not allege that any Defendant acted with scienter or fraudulent intent, which are not elements of a claim under Section 15 of the Securities Act of 1933. This claim is based solely on negligence. Plaintiffs specifically disclaim any allegation of fraud, scienter or recklessness in this Section 15 claim.

71. Except as stated above in the prior paragraph, Plaintiffs repeat and reallege each and every allegation contained above.

72. The Individual Defendants each were control persons of Twitter by virtue of their positions as directors and/or senior officers of Twitter.

73. The Individual Defendants each were culpable participants in the violations of Section 11 of the Securities Act alleged in Count One above, based on their having signed or authorized the signing of the Registration Statement and having otherwise participated in the process which allowed the IPO to be successfully completed.

74. This action was filed less than one year after the date that Plaintiffs discovered or reasonably could have discovered the facts upon which this complaint is based. Less than three years has elapsed between the date that the securities upon which this Count is brought were offered to the public and the date Plaintiffs commenced this action.

JURY DEMAND

Plaintiffs demand a trial by jury.

WHEREFORE, Plaintiffs pray for judgment and relief as follows:

A. Declaring this case to be a proper class action;

B. Awarding Plaintiffs and the Class damages and other remedies provided for in the Securities Act of 1933 in favor of Plaintiffs and other members of the Class in an amount to be proven at trial, including interest thereon;

C. Awarding Plaintiffs and the Class the cost and disbursements of the action; and,

D. Granting such other and further relief as may be just and proper.

Dated: November 4, 2016

Respectfully submitted,

THE ROSEN LAW FIRM, P.A.

By: _____

Laurence M. Rosen (SBN 219683)
355 South Grand Avenue, Suite 2450
Los Angeles, CA 90071
Tel. (213) 785-2610

Fax: (213) 226-4684
Email: lrosen@rosenlegal.com

SARRAF GENTILE LLP
Ronen Sarraf
Joseph Gentile
14 Bond Street, Suite 212
Great Neck, New York
(516) 699-8890

Attorneys for Plaintiffs