

COMMONWEALTH OF VIRGINIA  
FOURTEENTH JUDICIAL CIRCUIT

L.A. HARRIS, JR., JUDGE

JAMES S. TOPPE, JUDGE

RICHARD S. WALLERTYEN, JR., JUDGE

JOHN MARSHALL, JUDGE

RANDALL G. JOHNSON, JR., JUDGE



CIRCUIT COURT OF HENRICO COUNTY

GOVERNMENT COMPLEX  
4309 E. PARKMAN ROAD

MAILING ADDRESS:  
P.O. BOX 90775  
HENRICO, VA 23173-0775

TELEPHONE: (804) 501-4750  
FACSIMILE: (804) 501-5505

August 13, 2020

Steven S. Biss, Esquire  
300 West Main Street, Suite 102  
Charlottesville, VA 22903

Charles K. Seyfarth, Esquire  
O'Hagan Meyer  
411 East Franklin Street, Suite 500  
Richmond, VA 23219

Patrick J. Carome, Esquire  
Wilmer Cutler Pickering Hale & Door, LLP  
1875 Pennsylvania Avenue, N.W.  
Washington, D.C. 20006

Re: Devin Nunes v. Twitter, Inc., Elizabeth L. "Liz" Mair, Mair Strategies, LLC, et al.,  
Case No.: CL19-1715-00

Dear Mr. Biss, Mr. Carome and Mr. Seyfarth,

The purpose of my letter is to reply to Mr. Biss' August 7, 2020 letter concerning his request for leave to amend to add a count against Defendant Twitter. The court will first go through the relevant filings then issue its opinion.

The motion to dismiss was filed by Defendant Twitter on January 22, 2020 and the notice of hearing on the motion to dismiss on June 12, 2020 was filed March 20, 2020. Plaintiff filed a motion for extension of time to serve process on certain defendants on March 24, 2020 along with a notice of hearing for June 12, 2020. Plaintiff filed a memorandum in opposition to the motion to dismiss on May 1, 2020 and filed supplemental authority in opposition to Twitter's second motion to dismiss on June 1, 2020.


The hearing on the motion to dismiss and the other motions was held on June 12, 2020 and the court faxed and mailed the opinion letter to counsel on June 24, 2020 dismissing Twitter as

a defendant. By letters both dated July 9, 2020 counsel for plaintiff and defendant submitted competing dismissal orders. The court entered the dismissal order submitted by the defendant on July 24, 2020. Plaintiff filed a motion for leave to file an amended complaint to add a count against Twitter.

The Plaintiff in oral argument on the motion to dismiss referenced leave to amend to file an amended complaint even though there was no notice of hearing filed for that to be heard on June 12, 2020. The Plaintiff did not file a motion for leave to amend to add a count against Twitter until July 28 four days after the order had been entered dismissing Twitter from the case and over a month after Plaintiff had been notified of the dismissal of Twitter by the court's opinion letter.

The court denies Plaintiff's request for leave to amend as the dismissal of Twitter as a defendant occurred prior to the filing of a motion for leave to amend.

Sincerely,

  
John Marshall, Judge

