

## Case Against Twitter Proceeds Into Discovery

U.S. District Judge Jon Tigar of the Northern District of California denied Twitter's motion to dismiss investors' allegations in *Shenwick v. Twitter* that Twitter executives omitted key metrics about daily active users ("DAU")—the type of users who actually drive advertising revenues for the company.

"Defendants emphasized the importance of daily use and told investors that user engagement trends were positive," Judge Tigar wrote. "Because Defendants made those factual statements without disclosing adverse DAU trends, and indeed, while refusing to acknowledge the importance of DAU when asked for a measure of user engagement, 'a strong inference arises they [they] knowingly misled the public' [about] what was really happening with user engagement at Twitter." Indeed, "[i]n the absence of DAU data, investors interpreted defendants' statements as reassurances that the Company had experienced and would continue to experience positive growth and engagement trends," Tigar wrote. "It was misleading for defendants to rely on favorable ad engagement trends to describe or predict user engagement when DAU, Twitter's primary metric, was flat or declining."

Twitter's motion to dismiss also sought to excuse ex-CEO Dick Costolo and current COO and CFO Anthony Noto from the case, but the judge found that both men made misleading statements on earnings calls and in interviews.

BFA Partner Lesley Weaver is acting as liaison counsel to the class.