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United States District Court
Northern District of California

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

MARIA RUTENBURG,
Plaintiff,
v.
TWITTER, INC.,
Defendant.

Case No. 4:21-cv-00548-YGR

**ORDER TO SHOW CAUSE RE: DISMISSAL
FOR LACK OF SUBJECT-MATTER
JURISDICTION**

Re: Dkt. Nos. 11, 15

TO MARIA RUTENBURG AND HER COUNSEL OF RECORD:

YOU ARE HEREBY ORDERED TO SHOW CAUSE in writing why this case should not be dismissed for lack of subject-matter jurisdiction. (*See* Dkt. No. 11 at 1 (“A fundamental flaw in Rutenburg’s entire case is that the claimed rights under the First Amendment (and the corollary claims under the Fourteenth Amendment) cannot be enforced against a private entity such as defendant Twitter, Inc.” (citing *Manhattan Cmty. Access Corp. v. Halleck*, 139 S.Ct. 1921, 1928 (2019) (“The text and original meaning of those Amendments, as well as this Court’s longstanding precedents, establish that the Free Speech Clause prohibits only *governmental* abridgment of speech. The Free Speech Clause does not prohibit *private* abridgment of speech.” (emphasis in original)); *Belgau v. Inslee*, 975 F.3d 940, 946 (9th Cir. 2020) (“The Supreme Court has long held that ‘merely private conduct, however discriminatory or wrongful,’ falls outside the purview of the Fourteenth Amendment.” (citing *Blum v. Yaretsky*, 457 U.S. 991, 1002, 102 S.Ct. 2777, 73 L.Ed.2d 534 (1982))); *Roberts v. AT&T Mobility LLC*, 877 F.3d 833, 837 (9th Cir. 2017) (“A threshold requirement of any constitutional claim is the presence of state action. . . . Because the First Amendment right to petition is a guarantee only against abridgment by [the] government, . . . state action is a necessary threshold which [a plaintiff] must cross before we can even consider

1 whether [a defendant] infringed upon [a plaintiff's] First Amendment rights" (internal
2 citations and quotation marks omitted)); *Flagg Bros., Inc. v. Brooks*, 436 U.S. 149, 157 (1978)
3 ("While as a factual matter any person with sufficient physical power may deprive a person of his
4 property, only a State or a private person whose action may be fairly treated as that of the State
5 itself . . . may deprive him of an interest encompassed within the Fourteenth Amendment's
6 protection" (internal citations and quotation marks omitted))).) A response to this Order to
7 Show Cause shall be filed from Rutenburg **on or before February 24, 2021**. Defendant Twitter
8 Inc. shall file a response to Rutenburg's response **on or before March 10, 2021**. Rutenburg is
9 permitted to file a reply **on or before March 17, 2021**.

10 In light of this Order to Show Cause, the parties' stipulation as to the briefing schedule of
11 any forthcoming motion for preliminary injunction or motion to dismiss (Dkt. No. 15) is **DENIED**
12 **AS MOOT**. Moreover, based on the foregoing and in the conservation of limited judicial resources,
13 the Court **EXTENDS** Twitter's response date to the complaint by ninety (90) days to **May 19, 2021**.

14 This Order terminates Docket Number 15.

15 **IT IS SO ORDERED.**

16 Dated: February 11, 2021

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19 **YVONNE GONZALEZ ROGERS**
20 **UNITED STATES DISTRICT JUDGE**