## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA ALEXANDRIA DIVISION

Plaintiff,

v.

GOOGLE INC.,

Defendant.

Civil Action No. 1:17-CV-00963-AJT-TCB

## GOOGLE LLC'S MOTION TO DISMISS OR, IN THE ALTERNATIVE, TRANSFER VENUE

Pursuant to Fed. R. Civ. P. 12(b)(6), Google LLC ("Google") hereby moves to dismiss Plaintiff Richard Clemons's complaint in its entirety with prejudice for failure to state a claim upon which relief may be granted because Plaintiff fails to specify which provision of the Stored Communications Act ("SCA"), 18 U.S.C. § 2701, et seq., Google has allegedly violated. Furthermore, even if the Court were to read a cause of action into the complaint, the SCA provides immunity to service providers such as Google for claims arising under 18 U.S.C. § 2701(a). If the Court declines to dismiss the complaint for failure to state a claim, then Google hereby moves, in the alternative, to transfer venue to the Northern District of California pursuant to 28 U.S.C. § 1404(a) because Plaintiff, having agreed to Google's Terms of Service, is legally obligated to litigate any claim he may have against Google in the Northern District of California, not Virginia. This motion is supported by the accompanying Memorandum in Support and the Declaration of Brittany Araujo.

DATED: November 16, 2017 Respectfully submitted,

By: /s/ John K. Roche

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Counsel for Defendant Google LLC

## STATEMENT REQUIRED UNDER LOCAL CIVIL RULE 7(K)

- 1. As a *pro se* party, Plaintiff is entitled to file a response opposing this motion and any such response must be filed within twenty-one (21) days of the date on which the motion was filed; and
- 2. The Court could dismiss the action on the basis of Google's motion if Plaintiff does not file a response; and
- 3. Plaintiff must identify all facts stated by Google with which Plaintiff disagrees and must set forth Plaintiff's version of the facts by offering affidavits (written statements signed before a notary public and under oath) or by filing sworn statements (bearing a certificate that it is signed under penalty of perjury); and
- 4. Plaintiff is also entitled to file a legal brief in opposition to the one filed by Google.

## **CERTIFICATE OF SERVICE**

I hereby certify that on the 16th day of November, 2017, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, and I will send the document by email and U.S. mail to the following non-filing user:

Richard Clemons 211 N. Union St., Suite 100 Alexandria, VA 22314 fbiloyal707@gmail.com

Pro Se Plaintiff

By: /s/ John K. Roche

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