

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

RICHARD CLEMONS,

Plaintiff,

v.

GOOGLE INC.,

Defendant.

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

DECLARATION OF BRITTANY ARAUJO

1. I, Brittany Araujo, am a Legal Investigations Support Specialist at Google LLC (“Google”) in Mountain View, California. I am over 18 years of age, am competent to testify truthfully to the facts asserted herein, and the foregoing is based on my personal knowledge.

2. Google is a Delaware limited liability corporation with its principal place of business in Mountain View, California.

3. Google provides various free web-based products to the public, including its widely-used Gmail service.

4. The owner of the Gmail account at issue in this matter, lawyerme7@gmail.com, is a Google user who, upon account creation on June 8, 2016 at 11:26:39 UTC, was presented with a copy of Google’s Terms of Service and affirmed his agreement to those Terms of Service when creating the account.

5. Google’s current Terms of Service, available at <https://www.google.com/policies/terms/>, and the Terms of Service in place at the time of account creation, available at <https://www.google.com/policies/terms/archive/20140414/>, provide that:

"All claims arising out of or relating to these terms or the Services will be litigated exclusively in the federal or state courts of Santa Clara County, California, USA, and you and Google consent to personal jurisdiction in those courts." A true and correct copy of Google's current Terms of Service is attached here to as Exhibit 1. A true and correct copy of Google's Terms of Service as they appeared on June 8, 2016 is attached here to as Exhibit 2.

6. On November 2 and November 6, 2017, I attempted to reach out to Richard Clemons via email to fbiloyal707@gmail.com, the only contact information provided in his complaint, to explain account recovery procedures, but, to date, Mr. Clemons has not responded to my emails.

I declare under penalty of perjury that the foregoing is true and correct based upon my personal knowledge.

Executed on: November 15, 2017

By: 
Brittany Araujo

EXHIBIT 1



Terms of Service

Updates

Google Terms of Service

Last modified: October 25, 2017 ([view archived versions](#))

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You must follow any policies made available to you within the Services.

Don’t misuse our Services. For example, don’t interfere with our Services or try to access them using a method other than the interface and the instructions that we provide. You may use our Services only as permitted by law, including applicable export and re-export control laws and regulations. We may suspend or stop providing our Services to you if you do not comply with our terms or policies or if we are investigating suspected misconduct.

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In connection with your use of the Services, we may send you service announcements, administrative messages, and other information. You may opt out of some of those communications.

Some of our Services are available on mobile devices. Do not use such Services in a way that distracts you and prevents you from obeying traffic or safety laws.

Your Google Account

You may need a Google Account in order to use some of our Services. You may create your own Google Account, or your Google Account may be assigned to you by an administrator, such as your employer or educational institution. If you are using a Google Account assigned to you by an administrator, different or additional terms may apply and your administrator may be able to access or disable your account.

To protect your Google Account, keep your password confidential. You are responsible for the activity that happens on or through your Google Account. Try not to reuse your Google Account password on third-party applications. If you learn of any unauthorized use of your password or Google Account, [follow these instructions](#).

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Google's [privacy policies](#) explain how we treat your personal data and protect your privacy when you use our Services. By using our Services, you agree that Google can use such data in accordance with our privacy policies.

We respond to notices of alleged copyright infringement and terminate accounts of repeat infringers according to the process set out in the U.S. Digital Millennium Copyright Act.

We provide information to help copyright holders manage their intellectual property online. If you think somebody is violating your copyrights and want to notify us, you can find information about submitting notices and Google's policy about responding to notices [in our Help Center](#).

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Open source software is important to us. Some software used in our Services may be offered under an open source license that we will make available to you. There may be provisions in the open source license that expressly override some of these terms.

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We are constantly changing and improving our Services. We may add or remove functionalities or features, and we may suspend or stop a Service altogether.

You can stop using our Services at any time, although we'll be sorry to see you go. Google may also stop providing Services to you, or add or create new limits to our Services at any time.

We believe that you own your data and preserving your access to such data is important. If we discontinue a Service, where reasonably possible, we will give you reasonable advance notice and a chance to get information out of that Service.

Our Warranties and Disclaimers

We provide our Services using a commercially reasonable level of skill and care and we hope that you will enjoy using them. But there are certain things that we don't promise about our Services.

OTHER THAN AS EXPRESSLY SET OUT IN THESE TERMS OR ADDITIONAL TERMS, NEITHER GOOGLE NOR ITS SUPPLIERS OR DISTRIBUTORS MAKE ANY SPECIFIC PROMISES ABOUT THE SERVICES. FOR EXAMPLE, WE DON'T MAKE ANY COMMITMENTS ABOUT THE CONTENT WITHIN THE SERVICES, THE SPECIFIC FUNCTIONS OF THE SERVICES, OR THEIR RELIABILITY, AVAILABILITY, OR ABILITY TO MEET YOUR NEEDS. WE PROVIDE THE SERVICES "AS IS".

SOME JURISDICTIONS PROVIDE FOR CERTAIN WARRANTIES, LIKE THE IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. TO THE EXTENT PERMITTED BY LAW, WE EXCLUDE ALL WARRANTIES.

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WHEN PERMITTED BY LAW, GOOGLE, AND GOOGLE'S SUPPLIERS AND DISTRIBUTORS, WILL NOT BE RESPONSIBLE FOR LOST PROFITS, REVENUES, OR DATA, FINANCIAL LOSSES OR INDIRECT, SPECIAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES.

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IN ALL CASES, GOOGLE, AND ITS SUPPLIERS AND DISTRIBUTORS, WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE THAT IS NOT REASONABLY FORESEEABLE.

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If you are using our Services on behalf of a business, that business accepts these terms. It will hold harmless and indemnify Google and its affiliates, officers, agents, and employees from any claim, suit or action arising from or related to the use of the Services or violation of these terms, including any liability or expense arising from claims, losses, damages, suits, judgments, litigation costs and attorneys' fees.

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We may modify these terms or any additional terms that apply to a Service to, for example, reflect changes to the law or changes to our Services. You should look at the terms regularly. We'll post notice of modifications to these terms on this page. We'll post notice of modified additional terms in the applicable Service. Changes will not apply retroactively and will become effective no sooner than fourteen days after they are posted. However, changes addressing new functions for a Service or changes made for legal reasons will be

effective immediately. If you do not agree to the modified terms for a Service, you should discontinue your use of that Service.

If there is a conflict between these terms and the additional terms, the additional terms will control for that conflict.

These terms control the relationship between Google and you. They do not create any third party beneficiary rights.

If you do not comply with these terms, and we don't take action right away, this doesn't mean that we are giving up any rights that we may have (such as taking action in the future).

If it turns out that a particular term is not enforceable, this will not affect any other terms.

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Our legal policies		More information		Additional resources	
Privacy Policy		Technologies and Principles		My Account	
Terms of Service		Advertising		Google Safety Center	
FAQ		How Google uses cookies		Google Product Privacy Guide	
		How Google uses pattern recognition		Your privacy, security, and controls	
		Types of location data used by Google			

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 English

EXHIBIT 2



Google Terms of Service

Updates

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Last modified: April 14, 2014 ([view archived versions](#))

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Open source software is important to us. Some software used in our Services may be offered under an open source license that we will make available to you. There may be provisions in the open source license that expressly override some of these terms.

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modified additional terms in the applicable Service. Changes will not apply retroactively and will become effective no sooner than fourteen days after they are posted. However, changes addressing new functions for a Service or changes made for legal reasons will be effective immediately. If you do not agree to the modified terms for a Service, you should discontinue your use of that Service.

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