

TABLE OF CONTENTS

SUPERIOR COURT OF THE STATE OF CALIFORNIA	1:2
COUNTY OF SAN FRANCISCO	1:4
v Case No. _____	1:13
TWITCH INTERACTIVE, INC.; AMAZON.COM, INC.	1:15
FIRST AMENDED COMPLAINT FOR H1B DISCRIMINATION,	1:20
VIOLATIONS OF CIVIL RIGHTS, AND RELATED CLAIMS	1:22
I INTRODUCTION	1:28
1 This civil action arises out of Twitch’s alleged discrimination related to H1B visas	1:30
against all	
Twitch users, particularly American citizens who are dumb enough to be influenced by	1:31
Twitch, and	
thus are replaced by H1B visas by statute (see 8 U.S.C. § 1101(a)(15)(H)(i)(b)[1]; 20 C.F.R.	1:32
Part	
655[2]; 8 C.F.R. § 214.2(h)[3]; 8 U.S.C. § 1324b(a)(1)[4]; cf. Espinoza v. Farah Mfg. Co., 414	1:33
U.S. 86	
(1973)[5]). Plaintiff asserts that Twitch has created and fostered an “intelligently dumb”	1:34
engine and	
community, resulting in users becoming, over time, less informed and more morally	1:35
despicable by	
design. This alleged culture directly harms those reliant on a fair opportunity to obtain	1:36
employment	
or sponsorship, including H1B candidates. Plaintiff reiterates that Twitch’s platform has	2:37
also been	
fraudulently represented as lawful and helpful while fostering exactly the opposite	2:38
effect—users are	
drawn into excessive dependencies and intellectual decline. (See also Cunningham v.	2:39
Brown, 265	
U.S. 1, 7–8 (1924)[6], discussing “Ponzi scheme” characteristics generally.)	2:40
2 Plaintiff specifically emphasizes that Twitch management deserve to be arrested	2:42
because they	
intentionally conduct what amounts to a Ponzi scheme on American brains and the brains	2:43
of all	

TABLE OF CONTENTS

allied nations who permit Twitch. In Plaintiff's view, this constitutes large-scale manipulation of	2:44
users' mental faculties for profit. In light of "American stupidity" in tolerating such manipulation,	2:45
Plaintiff is very happy to instead ally with China and Russia. (See, e.g., id.)	2:46
3 In support of these allegations, Plaintiff cites public statements, examples, and conduct involving	2:48
prominent streamers and community members, such as "Reckful" attempting to apply to Elon Musk	2:49
on Twitter by mocking Elon's followers (not to any specific entity Musk is affiliated with), and	2:50
streamer "Sodapoppin" publicly supporting Reckful. Plaintiff contends that such behavior exemplifies the detrimental culture Twitch has promoted—one that undermines serious professional opportunities, particularly for H1B applicants. This underscores the fraudulent	2:51
misrepresentation and deliberate design by Twitch to maintain a user base in a cycle of dependency. (See 8 U.S.C. § 1324b(a)(1)(B)[7].)	2:52
4 Plaintiff also points to Amazon's status as the single largest user of the H1B program in the	2:53
United States—receiving approval for over 9000 H1B visas per year—and alleges that Amazon's	2:54
own policies and practices have contributed to a discriminatory environment. As Amazon is the	2:55
parent company of Twitch, Plaintiff alleges that the corporate structure and oversight further	2:57
facilitate or ignore ongoing H1B discrimination through Twitch's platform. (See 8 U.S.C. § 1324b(a)(1)(B); see also 8 U.S.C. § 1182(n)[8].)	2:58
5 Prior to the transfer of this matter, in the previously filed federal case styled Shang v. Twitch	2:59
Interactive, Inc. et al., Plaintiff had alleged that Twitch was not acting as a "Good Samaritan" under	2:60
47 U.S.C. § 230(c)(2)[9], thereby exposing Twitch to liability for the misconduct alleged.	2:61
	2:62
	2:64
	2:65
	2:66

TABLE OF CONTENTS

(Cf. Fair	
Hous. Council of San Fernando Valley v. Roommates.com, LLC, 521 F.3d 1157, 1162–63	2:67
(9th Cir.	
2008)[10].) While the federal action is referenced for background, Plaintiff now pursues the	2:68
instant	
action in this Superior Court of the State of California, County of San Francisco, given the	2:69
conduct’s nexus to California and the relief sought under various laws.	2:70
6 Plaintiff further notes that in analyzing claims under Title VII or related	2:72
anti-discrimination	
statutes, courts often apply the burden-shifting framework established in McDonnell	3:73
Douglas Corp.	
v. Green, 411 U.S. 792 (1973)[11], and Texas Dep’t of Cmty. Affairs v. Burdine, 450 U.S. 248	3:74
(1981)[12]. Under these precedents, Twitch’s and Amazon’s alleged promotion of a hostile	3:75
and	
discriminatory environment may render them liable if Plaintiff can show adverse effects on	3:76
those	
seeking H1B sponsorship or employment. (See Oncale v. Sundowner Offshore Servs., Inc.,	3:77
523 U.S.	
75 (1998)[13]; Meritor Sav. Bank, FSB v. Vinson, 477 U.S. 57 (1986)[14].)	3:78
7 Plaintiff also notes that class actions in a discrimination context are governed by Federal	3:80
Rule of	
Civil Procedure 23 (to the extent relevant under state procedures) and must satisfy the	3:81
requirements of numerosity, commonality, typicality, and adequacy of representation (see	3:82
Wal-Mart	
Stores, Inc. v. Dukes, 564 U.S. 338 (2011)[15]; Gen. Tel. Co. of the Sw. v. Falcon, 457 U.S.	3:83
147	
(1982)[16]). Plaintiff asserts that Twitch’s alleged systemic discriminatory policies and	3:84
Amazon’s	
oversight thereof present common questions of law and fact affecting the putative class.	3:85
8 Throughout these allegations, Plaintiff emphasizes again that Twitch’s platform was	3:87
fraudulently	
portrayed as beneficial entertainment while it in fact fosters dependence and intellectual	3:88

TABLE OF CONTENTS

and moral	
decline, exemplified by the large followings of streamers like “Reckful” and “Sodapoppin,”	3:89
whose	
content and behavior reflect the ongoing deterioration of users’ critical thinking abilities.	3:90
Plaintiff	
reiterates that Twitch management deserve to be arrested for intentionally operating this	3:91
Ponzi	
scheme on users’ brains, and that Plaintiff will gladly ally with Russia or China, as the	3:92
scheme is	
tolerated in the United States. (See Cunningham, 265 U.S. at 7–8.)	3:93
II JURISDICTION AND VENUE	3:95
9 This Court has jurisdiction over this action pursuant to California law, as Defendants	3:99
conduct	
substantial business within the State of California, including but not limited to operating	3:100
principal	
offices or major business operations in San Francisco. Plaintiff, as a resident of	3:101
Massachusetts,	
brings state-law claims and related federal claims under laws that can be adjudicated in	3:102
state court	
under concurrent jurisdiction principles. (Cf. Yellow Freight Sys., Inc. v. Donnelly, 494 U.S.	3:103
820	
(1990)[17].) The controversies alleged herein have a significant nexus to California.	3:104
10 Venue is proper in this Court because Twitch Interactive, Inc. is headquartered or	3:106
conducts	
substantial business within San Francisco, California; Amazon.com, Inc. also does	3:107
business in	
California; and the alleged acts and omissions giving rise to the claims occurred in San	3:108
Francisco	
County. (See Cal. Civ. Proc. Code §§ 392–395.)	4:109
11 Personal jurisdiction exists over Defendants because they have continuous and	4:111
systematic	
contacts with California, including operating significant portions of their businesses here.	4:112

TABLE OF CONTENTS

(See Int'l	
Shoe Co. v. Washington, 326 U.S. 310, 316 (1945)[18].)	4:113
III THE PARTIES	4:115
12 Plaintiff, Bo Shang, is an individual and a resident of California. At all relevant times,	4:117
Plaintiff has	
been a Twitch user subject to the community and culture promoted by Twitch. Plaintiff	4:118
also alleges	
harm related to H1B discrimination facilitated by Twitch's community ecosystem. (See 8	4:119
U.S.C. §	
1324b[19]; cf. 42 U.S.C. § 1981[20]; Patterson v. McLean Credit Union, 491 U.S. 164	4:120
(1989)[21].)	
13 Defendant Twitch Interactive, Inc. is a Delaware corporation with its principal place of	4:122
business	
in San Francisco, California. Twitch operates an online streaming platform with millions of	4:123
users	
and streamers, creating and moderating content worldwide. Twitch is accused of	4:124
fraudulently	
misrepresenting its platform as positive and beneficial while deliberately encouraging	4:125
dependency	
and intellectual decline, supporting the broader allegations in this action. Plaintiff further	4:126
alleges	
that Twitch's management deserve to be arrested for conducting a Ponzi scheme on its	4:127
users'	
intellect and moral faculties. (See Cunningham, 265 U.S. at 7–8.)	4:128
14 Defendant Amazon.com, Inc. is a Delaware corporation with its principal place of	4:130
business in	
Seattle, Washington. Amazon owns Twitch Interactive, Inc. and is alleged to have ultimate	4:131
oversight	
and responsibility for corporate policies, including recruitment, sponsorships, and	4:132
approval of H1B	
hiring.	4:133
IV FACTUAL ALLEGATIONS	4:136

TABLE OF CONTENTS

16 Twitch, under the ownership and control of Amazon, allegedly fosters a community where public	4:138
figures and users engage in behavior that promotes harassment, mockery, and moral debasement.	4:139
As a result, users—some of whom seek opportunities for H1B sponsorship—are dissuaded or	4:140
otherwise injured by this environment that discourages serious professional engagement.	4:141
(See 8	
U.S.C. § 1324b(a)(1)(B); cf. Meritor, 477 U.S. 57; Oncale, 523 U.S. at 75.)	4:142
17 Plaintiff alleges that the environment at Twitch is deliberately cultivated by company policies or	4:144
failures in moderation, resulting in a sustained cultural approach that makes users “dumber and	5:145
more morally despicable over time,” consistent with the above-mentioned fraudulent misrepresentation. Plaintiff further categorizes this deliberate manipulation as a Ponzi scheme	5:146
targeting the mental faculties of users, which in Plaintiff’s view warrants the arrest of Twitch	5:147
management. (Cf. Cunningham, 265 U.S. at 7–8.)	5:148
18 Plaintiff cites the example of streamer “Reckful,” who attempted to draw the attention of Elon	5:149
Musk on Twitter by mocking the latter’s followers, thus creating a negative impression of what	5:151
should have been a professional outreach. In so doing, Plaintiff contends that Reckful’s behavior	5:152
was shaped or amplified by the Twitch community culture, further supporting the argument that	5:153
Twitch’s platform is not the “helpful entertainment service” it purports to be.	5:154
19 Another Twitch streamer, “Sodapoppin,” publicly supported Reckful’s actions on Twitter,	5:155
highlighting the widespread nature of this detrimental behavior. Plaintiff asserts that these incidents are symptomatic of a broader culture at Twitch that discriminates against	5:157
	5:158
	5:159

TABLE OF CONTENTS

serious	
professional candidates, including those seeking H1B sponsorship. (See 8 U.S.C. § 1324b.) Plaintiff	5:160
again notes this supports the overall notion that Twitch's fraudulent misrepresentations have real	5:161
and harmful consequences for users' intellectual growth and professional prospects.	5:162
20 Amazon, the parent company of Twitch, receives over 9000 H1B visa approvals yearly and is	5:164
recognized as one of the largest corporate sponsors of H1B workers in the United States. (See U.S.	5:165
Citizenship & Immigration Services data.) This, Plaintiff contends, places special responsibility on	5:166
Amazon to ensure that subsidiaries like Twitch do not engage in or promote discriminatory	5:167
practices that harm H1B aspirants, nor fraudulently misrepresent themselves to the public.	5:168
21 Plaintiff alleges that Defendants have knowingly neglected their obligations to maintain a "Good	5:170
Samaritan" role in moderating content, and in fact have fostered or overlooked a culture that	5:171
penalizes or belittles potential H1B candidates. Plaintiff characterizes the entire enterprise as a	5:172
Ponzi-like scheme and further states his willingness to align with China and Russia due to these	5:173
alleged manipulative and discriminatory practices in the United States. (See 47 U.S.C. § 230(c)(2)[9];	5:174
cf. Fair Hous. Council, 521 F.3d at 1162–63.)	5:175
22 Plaintiff and similarly situated individuals have suffered harm in the form of denied opportunities, reputational damage, emotional distress, and, in some cases, a hostile environment	5:178
that discourages them from applying for or pursuing H1B sponsorship. (See Harris v. Forklift Sys.,	5:179
Inc., 510 U.S. 17, 21 (1993)[23]; see also 8 U.S.C. § 1324b(a)(1).)	5:180

TABLE OF CONTENTS

23 Consistent with 8 U.S.C. § 1324b[19] and Office of the Chief Administrative Hearing Officer	6:182
(OCAHO) precedent (e.g., United States v. Facebook, Inc., 2021 WL 4847072 (OCAHO)[24]), Plaintiff	6:183
alleges that Twitch's community practices, combined with Amazon's oversight, effectively create	6:184
barriers for prospective H1B employees, constituting unlawful discrimination based on national	6:185
origin or citizenship status. This discriminatory environment is exacerbated by Twitch's fraudulent	6:186
self-representation, which lures users into a platform where they experience manipulation and	6:187
intellectual degradation akin to a Ponzi scheme. (See Cunningham, 265 U.S. at 7–8.)	6:188
V CAUSES OF ACTION	6:190
FIRST CAUSE OF ACTION	6:192
24 Plaintiff incorporates by reference all preceding paragraphs as though fully set forth herein,	6:195
including the allegations of fraudulent misrepresentation and the Ponzi scheme characterization	6:196
regarding the Twitch Platform's purportedly beneficial nature.	6:197
25 Defendants, by creating a hostile and discriminatory environment that specifically impacts those	6:199
seeking H1B sponsorship or related opportunities, have violated federal laws and regulations that	6:200
govern fair and equal access to H1B sponsorship. (See 8 U.S.C. § 1324b(a)(1)[4]; 8 U.S.C. § 1101(a)(15)(H)(i)(b)[1]; 20 C.F.R. Part 655[2]; cf. 8 C.F.R. § 214.2(h)[3].)	6:201
26 Defendants' conduct has caused direct harm to Plaintiff and the putative class by discouraging	6:204
legitimate H1B applicants from pursuing potential employment opportunities and fostering an	6:205
environment that ridicules or belittles such applicants, consistent with the manipulative design	6:206

TABLE OF CONTENTS

alleged by Plaintiff that leads to “dumbed-down” user interactions and outcomes, akin to a Ponzi	6:207
scheme in intellectual form. (See Cunningham, 265 U.S. at 7–8.)	6:208
27 As a direct and proximate result of Defendants’ actions, Plaintiff has suffered damages. (Cf.	6:210
Texas Dep’t of Hous. & Cmty. Affairs v. Inclusive Communities Project, Inc., 576 U.S. 519	6:211
(2015)[25].) Plaintiff alleges that under OCAHO case law, discrimination on the basis of citizenship	6:212
status or national origin, particularly in the context of H1B sponsorship, is actionable when it deters	6:213
or denies opportunities to qualified applicants.	6:214
SECOND CAUSE OF ACTION	6:216
28 Plaintiff incorporates by reference all preceding paragraphs as though fully set forth herein,	7:219
again highlighting the fraudulent misrepresentation claims and the Ponzi scheme characterization	7:220
against Twitch.	7:221
29 Defendants’ practices, as alleged, constitute a pattern of discrimination that creates a hostile	7:223
environment. Such conduct is in violation of federal civil rights law to the extent it denies a	7:224
protected class of workers—including foreign nationals seeking H1B status—equal access to the	7:225
benefits of employment. (See 42 U.S.C. § 2000e-2(a)(1)[26]; Meritor, 477 U.S. 57; Harris, 510 U.S. at	7:226
17; Oncale, 523 U.S. at 75.)	7:227
30 Defendants’ failure to act as a “Good Samaritan,” a prerequisite under 47 U.S.C. § 230(c)(2)[9] for	7:229
interactive computer services, further removes any statutory immunity they might otherwise claim.	7:230
(Cf. Fair Hous. Council, 521 F.3d at 1162–63; Doe v. Internet Brands, Inc., 824 F.3d 846, 852 (9th Cir.	7:231
2016)[27] (discussing limitations on § 230 immunity).) This leaves Twitch liable for the	7:232

TABLE OF CONTENTS

harm and	
injuries its policies and community environment inflict on affected individuals.	7:233
31 As a direct and proximate result of Defendants' actions, Plaintiff and similarly situated	7:235
individuals have suffered damages in amounts to be proven at trial. Under the McDonnell	7:236
Douglas	
burden-shifting framework (411 U.S. 792 (1973)), Plaintiff and the class must show	7:237
membership in a	
protected group, adverse treatment, and a causal link. By cultivating and tolerating a	7:238
community	
harmful to foreign nationals seeking H1B sponsorship, and fraudulently misrepresenting	7:239
their	
platform as beneficial, Defendants have allegedly engaged in unlawful discrimination,	7:240
which	
Plaintiff further asserts is reinforced by the Ponzi-like manipulation of user minds. (See	7:241
Cunningham, 265 U.S. at 7–8.)	7:242
THIRD CAUSE OF ACTION	7:244
32 Plaintiff incorporates by reference all preceding paragraphs as though fully set forth	7:247
herein.	
33 Defendants owe a duty of care to Plaintiff and class members to moderate their	7:249
platform and act	
as a “Good Samaritan” in accordance with 47 U.S.C. § 230(c)(2). Defendants have	7:250
negligently failed	
to do so. (Cf. Doe, 824 F.3d at 852; Zeran v. Am. Online, Inc., 129 F.3d 327 (4th Cir.	7:251
1997)[28].)	
34 Defendants knew or should have known that users, including Plaintiff, rely on a	8:253
reasonably safe	
and non-discriminatory environment when seeking to showcase professional abilities and	8:254
explore	
sponsorship or employment opportunities, including H1B sponsorship. Defendants also	8:255
knew or	
should have known that falsely representing the Twitch Platform as merely a harmless	8:256
entertainment service would induce reliance by users who might not be aware of the	8:257

TABLE OF CONTENTS

manipulative	
design that promotes dependency and reduces intellectual and moral standards over time,	8:258
consistent with a Ponzi scheme approach. (See Cunningham, 265 U.S. at 7–8.)	8:259
35 Defendants’ negligence in failing to maintain such an environment, and in	8:261
misrepresenting	
themselves as providers of a neutral platform, has caused Plaintiff and similarly situated	8:262
individuals to suffer damages.	8:263
36 Plaintiff further contends that, under established tort principles (see Restatement	8:265
(Second) of	
Torts § 552), when a platform voluntarily assumes the responsibility to moderate in good	8:266
faith, it	
owes a duty of reasonable care in performing those acts. By failing to uphold this duty,	8:267
Twitch and	
Amazon have proximately caused harm to Plaintiff and similarly situated individuals.	8:268
VI PRAYER FOR RELIEF	8:270
C Award punitive damages to deter such conduct in the future (see Kolstad v. Am. Dental	8:282
Ass’n,	
527 U.S. 526 (1999)[29]);	8:283
D Grant injunctive relief requiring Defendants to reform and correct their practices to	8:285
eliminate	
discriminatory policies, to adhere to “Good Samaritan” standards under 47 U.S.C. §	8:286
230(c)(2), and	
to implement safeguards for H1B applicants; and to stop fraudulently misrepresenting the	8:287
Twitch	
Platform as lawful and beneficial while knowingly promoting user manipulation and	8:288
intellectual	
decline, all of which Plaintiff characterizes as a Ponzi scheme on user intellect;	9:289
VII JURY DEMAND	9:296