**PDFSage Inc. | CA Superior Court at San Francisco County  
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| **COUNTY OF SAN FRANCISCO** | 1:4 |
| **v Case No. \_\_\_\_\_\_\_\_\_\_** | 1:11 |
| **FIRST AMENDED COMPLAINT FOR H1B DISCRIMINATION,** | 1:17 |
| **VIOLATIONS OF CIVIL RIGHTS, AND RELATED CLAIMS** | 1:19 |
| **I INTRODUCTION** | 1:25 |
| **1 This civil action arises out of Twitch’s alleged discrimination related to H1B visas against all** | 1:27 |
| **Twitch users, particularly American citizens who are dumb enough to be influenced by Twitch, and** | 1:28 |
| **thus are replaced by H1B visas by statute (see 8 U.S.C. § 1101(a)(15)(H)(i)(b)[1]; 20 C.F.R. Part** | 1:29 |
| **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 U.S. 86** | 1:30 |
| **(1973)[5]). Plaintiff asserts that Twitch has created and fostered an “intelligently dumb” engine and** | 1:31 |
| **community, resulting in users becoming, over time, less informed and more morally despicable by** | 1:32 |
| **design. This alleged culture directly harms those reliant on a fair opportunity to obtain employment** | 1:33 |
| **or sponsorship, including H1B candidates. Plaintiff reiterates that Twitch’s platform has also been** | 1:34 |
| **fraudulently represented as lawful and helpful while fostering exactly the opposite effect—users are** | 1:35 |
| **drawn into excessive dependencies and intellectual decline. (See also Cunningham v. Brown, 265** | 1:36 |
| **U.S. 1, 7–8 (1924)[6], discussing “Ponzi scheme” characteristics generally.)** | 2:37 |
| **2 Plaintiff specifically emphasizes that Twitch management deserve to be arrested because they** | 2:39 |
| **intentionally conduct what amounts to a Ponzi scheme on American brains and the brains of all** | 2:40 |
| **allied nations who permit Twitch. In Plaintiff’s view, this constitutes large-scale manipulation of** | 2:41 |
| **users’ mental faculties for profit. In light of “American stupidity” in tolerating such manipulation,** | 2:42 |
| **Plaintiff is very happy to instead ally with China and Russia. (See, e.g., id.)** | 2:43 |
| **3 In support of these allegations, Plaintiff cites public statements, examples, and conduct involving** | 2:45 |
| **prominent streamers and community members, such as “Reckful” attempting to apply to Elon Musk** | 2:46 |
| **on Twitter by mocking Elon’s followers (not to any specific entity Musk is affiliated with), and** | 2:47 |
| **streamer “Sodapoppin” publicly supporting Reckful. Plaintiff contends that such behavior** | 2:48 |
| **exemplifies the detrimental culture Twitch has promoted—one that undermines serious** | 2:49 |
| **professional opportunities, particularly for H1B applicants. This underscores the fraudulent** | 2:50 |
| **misrepresentation and deliberate design by Twitch to maintain a user base in a cycle of** | 2:51 |
| **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** | 2:54 |
| **United States—receiving approval for over 9000 H1B visas per year—and alleges that Amazon’s** | 2:55 |
| **own policies and practices have contributed to a discriminatory environment. As Amazon is the** | 2:56 |
| **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. §** | 2:58 |
| **1324b(a)(1)(B); see also 8 U.S.C. § 1182(n)[8].)** | 2:59 |
| **5 Prior to the transfer of this matter, in the previously filed federal case styled Shang v. Twitch** | 2:61 |
| **Interactive, Inc. et al., Plaintiff had alleged that Twitch was not acting as a “Good Samaritan” under** | 2:62 |
| **47 U.S.C. § 230(c)(2)[9], thereby exposing Twitch to liability for the misconduct alleged. (Cf. Fair** | 2:63 |
| **Hous. Council of San Fernando Valley v. Roommates.com, LLC, 521 F.3d 1157, 1162–63 (9th Cir.** | 2:64 |
| **2008)[10].) While the federal action is referenced for background, Plaintiff now pursues the instant** | 2:65 |
| **action in this Superior Court of the State of California, County of San Francisco, given the** | 2:66 |
| **conduct’s nexus to California and the relief sought under various laws.** | 2:67 |
| **6 Plaintiff further notes that in analyzing claims under Title VII or related anti-discrimination** | 2:69 |
| **statutes, courts often apply the burden-shifting framework established in McDonnell Douglas Corp.** | 2:70 |
| **v. Green, 411 U.S. 792 (1973)[11], and Texas Dep’t of Cmty. Affairs v. Burdine, 450 U.S. 248** | 2:71 |
| **(1981)[12]. Under these precedents, Twitch’s and Amazon’s alleged promotion of a hostile and** | 2:72 |
| **discriminatory environment may render them liable if Plaintiff can show adverse effects on those** | 3:73 |
| **seeking H1B sponsorship or employment. (See Oncale v. Sundowner Offshore Servs., Inc., 523 U.S.** | 3:74 |
| **75 (1998)[13]; Meritor Sav. Bank, FSB v. Vinson, 477 U.S. 57 (1986)[14].)** | 3:75 |
| **7 Plaintiff also notes that class actions in a discrimination context are governed by Federal Rule of** | 3:77 |
| **Civil Procedure 23 (to the extent relevant under state procedures) and must satisfy the** | 3:78 |
| **requirements of numerosity, commonality, typicality, and adequacy of representation (see Wal-Mart** | 3:79 |
| **Stores, Inc. v. Dukes, 564 U.S. 338 (2011)[15]; Gen. Tel. Co. of the Sw. v. Falcon, 457 U.S. 147** | 3:80 |
| **(1982)[16]). Plaintiff asserts that Twitch’s alleged systemic discriminatory policies and Amazon’s** | 3:81 |
| **oversight thereof present common questions of law and fact affecting the putative class.** | 3:82 |
| **8 Throughout these allegations, Plaintiff emphasizes again that Twitch’s platform was fraudulently** | 3:84 |
| **portrayed as beneficial entertainment while it in fact fosters dependence and intellectual and moral** | 3:85 |
| **decline, exemplified by the large followings of streamers like “Reckful” and “Sodapoppin,” whose** | 3:86 |
| **content and behavior reflect the ongoing deterioration of users’ critical thinking abilities. Plaintiff** | 3:87 |
| **reiterates that Twitch management deserve to be arrested for intentionally operating this Ponzi** | 3:88 |
| **scheme on users’ brains, and that Plaintiff will gladly ally with Russia or China, as the scheme is** | 3:89 |
| **tolerated in the United States. (See Cunningham, 265 U.S. at 7–8.)** | 3:90 |
| **II JURISDICTION AND VENUE** | 3:92 |
| **9 This Court has jurisdiction over this action pursuant to California law, as Defendants conduct** | 3:94 |
| **substantial business within the State of California, including but not limited to operating principal** | 3:95 |
| **offices or major business operations in San Francisco. Plaintiff, as a resident of Massachusetts,** | 3:96 |
| **brings state-law claims and related federal claims under laws that can be adjudicated in state court** | 3:97 |
| **under concurrent jurisdiction principles. (Cf. Yellow Freight Sys., Inc. v. Donnelly, 494 U.S. 820** | 3:98 |
| **(1990)[17].) The controversies alleged herein have a significant nexus to California.** | 3:99 |
| **10 Venue is proper in this Court because Twitch Interactive, Inc. is headquartered or conducts** | 3:101 |
| **substantial business within San Francisco, California; Amazon.com, Inc. also does business in** | 3:102 |
| **California; and the alleged acts and omissions giving rise to the claims occurred in San Francisco** | 3:103 |
| **County. (See Cal. Civ. Proc. Code §§ 392–395.)** | 3:104 |
| **11 Personal jurisdiction exists over Defendants because they have continuous and systematic** | 3:106 |
| **contacts with California, including operating significant portions of their businesses here. (See Int’l** | 3:107 |
| **Shoe Co. v. Washington, 326 U.S. 310, 316 (1945)[18].)** | 3:108 |
| **III THE PARTIES** | 4:110 |
| **12 Plaintiff, Bo Shang, is an individual and a resident of California. At all relevant times, Plaintiff has** | 4:112 |
| **been a Twitch user subject to the community and culture promoted by Twitch. Plaintiff also alleges** | 4:113 |
| **harm related to H1B discrimination facilitated by Twitch’s community ecosystem. (See 8 U.S.C. §** | 4:114 |
| **1324b[19]; cf. 42 U.S.C. § 1981[20]; Patterson v. McLean Credit Union, 491 U.S. 164 (1989)[21].)** | 4:115 |
| **13 Defendant Twitch Interactive, Inc. is a Delaware corporation with its principal place of business** | 4:117 |
| **in San Francisco, California. Twitch operates an online streaming platform with millions of users** | 4:118 |
| **and streamers, creating and moderating content worldwide. Twitch is accused of fraudulently** | 4:119 |
| **misrepresenting its platform as positive and beneficial while deliberately encouraging dependency** | 4:120 |
| **and intellectual decline, supporting the broader allegations in this action. Plaintiff further alleges** | 4:121 |
| **that Twitch’s management deserve to be arrested for conducting a Ponzi scheme on its users’** | 4:122 |
| **intellect and moral faculties. (See Cunningham, 265 U.S. at 7–8.)** | 4:123 |
| **14 Defendant Amazon.com, Inc. is a Delaware corporation with its principal place of business in** | 4:125 |
| **Seattle, Washington. Amazon owns Twitch Interactive, Inc. and is alleged to have ultimate oversight** | 4:126 |
| **and responsibility for corporate policies, including recruitment, sponsorships, and approval of H1B** | 4:127 |
| **hiring.** | 4:128 |
| **15 DOES 1 through 100, inclusive, are persons or entities whose true names and capacities are** | 4:130 |
| **presently unknown to Plaintiff. Plaintiff will amend this Complaint to allege the true names and** | 4:131 |
| **capacities when they have been ascertained. Each of the fictitiously named Defendants is** | 4:132 |
| **responsible in some manner for the occurrences alleged, and Plaintiff’s claims arise out of the** | 4:133 |
| **actions of these Defendants. (See Gillespie v. Civiletti, 629 F.2d 637, 642 (9th Cir. 1980)[22].)** | 4:134 |
| **IV FACTUAL ALLEGATIONS** | 4:136 |
| **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. (See 8** | 4:141 |
| **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** | 5:146 |
| **misrepresentation. Plaintiff further categorizes this deliberate manipulation as a Ponzi scheme** | 5:147 |
| **targeting the mental faculties of users, which in Plaintiff’s view warrants the arrest of Twitch** | 5:148 |
| **management. (Cf. Cunningham, 265 U.S. at 7–8.)** | 5:149 |
| **18 Plaintiff cites the example of streamer “Reckful,” who attempted to draw the attention of Elon** | 5:151 |
| **Musk on Twitter by mocking the latter’s followers, thus creating a negative impression of what** | 5:152 |
| **should have been a professional outreach. In so doing, Plaintiff contends that Reckful’s behavior** | 5:153 |
| **was shaped or amplified by the Twitch community culture, further supporting the argument that** | 5:154 |
| **Twitch’s platform is not the “helpful entertainment service” it purports to be.** | 5:155 |
| **19 Another Twitch streamer, “Sodapoppin,” publicly supported Reckful’s actions on Twitter,** | 5:157 |
| **highlighting the widespread nature of this detrimental behavior. Plaintiff asserts that these** | 5:158 |
| **incidents are symptomatic of a broader culture at Twitch that discriminates against serious** | 5:159 |
| **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** | 5:177 |
| **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 |
| **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. §** | 6:201 |
| **1101(a)(15)(H)(i)(b)[1]; 20 C.F.R. Part 655[2]; cf. 8 C.F.R. § 214.2(h)[3].)** | 6:202 |
| **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 |
| **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 harm and** | 7:232 |
| **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 Douglas** | 7:236 |
| **burden-shifting framework (411 U.S. 792 (1973)), Plaintiff and the class must show membership in a** | 7:237 |
| **protected group, adverse treatment, and a causal link. By cultivating and tolerating a community** | 7:238 |
| **harmful to foreign nationals seeking H1B sponsorship, and fraudulently misrepresenting their** | 7:239 |
| **platform as beneficial, Defendants have allegedly engaged in unlawful discrimination, which** | 7:240 |
| **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 herein.** | 7:247 |
| **33 Defendants owe a duty of care to Plaintiff and class members to moderate their platform and act** | 7:249 |
| **as a “Good Samaritan” in accordance with 47 U.S.C. § 230(c)(2). Defendants have negligently failed** | 7:250 |
| **to do so. (Cf. Doe, 824 F.3d at 852; Zeran v. Am. Online, Inc., 129 F.3d 327 (4th Cir. 1997)[28].)** | 7:251 |
| **34 Defendants knew or should have known that users, including Plaintiff, rely on a reasonably safe** | 8:253 |
| **and non-discriminatory environment when seeking to showcase professional abilities and explore** | 8:254 |
| **sponsorship or employment opportunities, including H1B sponsorship. Defendants also knew or** | 8:255 |
| **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 manipulative** | 8:257 |
| **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 misrepresenting** | 8:261 |
| **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 (Second) of** | 8:265 |
| **Torts § 552), when a platform voluntarily assumes the responsibility to moderate in good faith, it** | 8:266 |
| **owes a duty of reasonable care in performing those acts. By failing to uphold this duty, Twitch and** | 8:267 |
| **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 Ass’n,** | 8:282 |
| **527 U.S. 526 (1999)[29]);** | 8:283 |
| **D Grant injunctive relief requiring Defendants to reform and correct their practices to eliminate** | 8:285 |
| **discriminatory policies, to adhere to “Good Samaritan” standards under 47 U.S.C. § 230(c)(2), and** | 8:286 |
| **to implement safeguards for H1B applicants; and to stop fraudulently misrepresenting the Twitch** | 8:287 |
| **Platform as lawful and beneficial while knowingly promoting user manipulation and intellectual** | 8:288 |
| **decline, all of which Plaintiff characterizes as a Ponzi scheme on user intellect;** | 9:289 |
| **VII JURY DEMAND** | 9:296 |