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Case No. **24-cv-06664-TSH** Bo Shang vs. Twitch et al. (Removed from SF Superior Court CGC-24-617303)

**United States District Court – Northern District of California**

**Plaintiff's Motion to Amend & Opposition to Defendants' Motion to Dismiss with prejudice**

**The Plaintiff's Motion to Amend**

1. **The Plaintiff would like to revise the Complaint removing the 1<sup>st</sup> and 14<sup>th</sup> Amendment claims the Plaintiff made.** As the Plaintiff is not a lawyer, he accidentally meant that Twitch is so systemically harmful that it makes the State of California and Federal government difficult to enforce proper 1<sup>st</sup> and 14<sup>th</sup> Amendments for any Twitch victim, **since Twitch has not yet been declared a health risk via the Gaming Disorder definition and diagnostic criteria in the ICD-11.**
2. In the State of Massachusetts in the Plaintiff's example, since Tewksbury Hospital is a Massachusetts-owned and operated mental health hospital, the Plaintiff was denied 1<sup>st</sup> Amendment privileges (often internet and social media usage) while incarcerated unjustly in any Massachusetts Department of Mental Health hospital.
3. Since the FBI and Californian police refuses to investigate Twitch "partners" such as "xQc" who wagered \$685 million on an illicit cryptocurrency gambling platform and received both referral code and other kickbacks in the process totaling tens of millions of dollars, and thus clearly violated at least 2 Federal criminal statutes relating to illicit gambling, the State of California and the Federal government has a tough time maintaining 14<sup>th</sup> Amendment rights when dealing with Twitch victims, such as anyone who used xQc's referral code on that website.
4. **The Plaintiff would like to strengthen the legal arguments made in the Initial Complaint,** by citing the logic plus additional supporting evidence discussed in the Opposition to the Defendants' Motion to Dismiss with prejudice.

**Opposition to the Defendants' Motion to Dismiss with prejudice**

1. In this Opposition & Motion to Amend, the Plaintiff will argue that **Twitch does not enjoy blanket and total immunity for its actions** that affected the Plaintiff **only partial** under Section 230 of the Communications Decency Act & 1<sup>st</sup> Amendment, **by the 9<sup>th</sup> Circuit and SCOTUS precedencies from 2022-2023** (Gonzalez vs Google 2023, and preceding Twitter one in 2022 that made SCOTUS for a long Section 230 opinion) of **"Complicity"**, and (Barnes 2009) **"Publisher" standard that would automatically defeat all of the precedencies set by various cases involving Section 230 the Defendants' cited.**
2. The Plaintiff will argue why Twitch meets the **"Complicity" standard of Section 230, established by the 9<sup>th</sup> Circuit in (Gonzalez vs Google 2023).**

illness/disorder" content throughout the entire "interactive computer service." Since Twitch is so 1 dimensionally "mentally ill/disorders," as is obvious when users or less profitable streamers spend hours at a time watching each other play video games, the Plaintiff argues that Twitch meets the "publisher" standard set in (Barnes 2009) and this Court **"duty" that "inherently requires the court to treat the defendant as 'publisher or speaker' of content provided by another."**

4. The Plaintiff argues why Twitch meets all 3 prongs of California Business Professions Code section 17200 of 1) unlawful 2) unfair and 3) fraudulent, by citing healthcare professionals recognized and Americans with Disabilities Act protected "mental disorder" Gaming Disorder, which definition and diagnostic criteria could be found on the ICD-11 from the World Health Organization. This was discussed in Exhibits E and F of the Complaint.
5. The Plaintiff argues why Twitch meets the "negligence" standard somewhat and had a small "duty of care" in enforcing their Terms of Service properly, namely "You agree not to do anything illegal." Among suffering from self-declared "criminal" Discord groups who attacked the Plaintiff on Twitch and elsewhere, and committed Federal hate crimes against the "US Army," "FBI," "US Cops," Asians, LGBTQ, and numerous religious organizations, and others, along the way of attempting to stalk and harass the Plaintiff.

Additionally on Exhibit G and H of the Complaint, the Plaintiff clearly cited 4 Federal Criminal laws committed by thousands of "partners" on Twitch from when the Plaintiff first watched in 2017 to last watched in 2023 by email to Amazon CEO Andy Jassy, which received a positive response from Amazon HR. Twitch is a subsidiary of Amazon.

These "partners" included "xQc" who wagered, promoted, and received kickbacks from a single online illicit cryptocurrency gambling service, broadcasting his wagers totaling \$685 million USD across several months in 2022.

6. Finally the Plaintiff addresses his interactive defendant Ms. Briasco-Stewart (Sam is her declared preferred name) and totally refutes the Defendants' assertion in the Motion to Dismiss & supporting evidence, that this case (filed 8/19/2024) is entirely frivolous and is merely a legal response or continued unlawful harassment of Sam. Sam's 8-page underperjury statement was dated 9/6/2024 and the Defendants' attachment of the CH-13 was only served & came in legal effect to the Plaintiff on 9/27/2024.

Besides the logic that the Plaintiff cannot respond to any events such as the 9/6/2024 Statement written by Sam that occurred in the future, and numerous factual errors in Sam's 8 page sworn Statement, the Plaintiff will argue that the Defendant Sam probably committed 2 important instances of perjury in her Statement.

These two instances of probable perjury are: 1) Sam's allegations that she blocked the Plaintiff's iMessage account, which isn't true because if she had when the Plaintiff started to

of the Plaintiff's online accounts are defaced by stalkers and harassers, in ways that don't even make factual sense.

All of the Plaintiff's less-sophisticated harassers seem to be part of the Twitch community. Twitch is studied to have the highest "toxicity" rate by far across all social media platforms, and the Plaintiff hypothesizes that Twitch has a high tendency to create these types of people from heavy use. These people attempt to annoy and harass the Plaintiff in the most vile ways possible, including committing hate crimes against so many disparate groups of people.

The Plaintiff also suspected in the past, now dispelled after reading Sam's 8 page Statement, and detailed in a dozen messages sent to Defendant Ms. Briasco-Stewart that she deemed "mentally unstable", that Twitch engineers may have knowledge of more sophisticated cyberattacks on the Plaintiff's devices as well as cloud servers and services.

The reason behind the Plaintiff's suspicion is that these attacks or bugs mysteriously grow in frequency when the Plaintiff is making Twitter or LinkedIn posts relating to Twitch.

For example in early August 2024, literal antivirus technology from McAfee Antivirus, Google Chrome, and Microsoft Edge attacked the Plaintiff's work, which consisted of a folder containing roughly 10 thousands comma separated value (CSV) documents, he was working on by scripting through the documents. All of a sudden McAfee which was installed on the Plaintiff's machine detected and quarantined 10 thousands "viruses" from the computer. When the Plaintiff tried to re-download them from cloud storage, both Google Chrome and Microsoft Edge displayed "virus detected" for each and every CSV document. However several hours later, the Plaintiff tried re-downloading and re-inserting the same files from a flash drive, and none of the antivirus technology were triggered, meaning whatever algorithms mysteriously backed off the EXACT SAME files.

Another example is in July 2024 when the Plaintiff discovered that the Burlington Police Department somehow un-redacted all of the Plaintiff's redacted & scanned police reports the Plaintiff uploaded to Google Drive. The police should not un-redact any redacted documents and this action seems like an illegal "practical joke" played on the Plaintiff. The Plaintiff considers unauthorized edits to his writings and files online "cyberattacks" and has suffered numerous amounts when talking about the legality of Twitch on social media. The Plaintiff wonders if Twitch and the police jointly decided to play an illegal "practical joke" on the Plaintiff.