



IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

ROBERT KOTICK,

Plaintiff,

v.

G/O MEDIA INC.,

Defendant.

Civ. No. _____

JURY TRIAL DEMANDED

COMPLAINT

1. This action for defamation against G/O Media Inc. arises from the malicious publication of two articles on March 11, 2024 by two websites then owned and operated by G/O Media—*Kotaku* and *Gizmodo*—that contain knowingly false statements about non-existent widespread workplace misconduct at Activision Blizzard, Inc. These articles were part of a years’ long concerted effort by G/O Media—which on information and belief was working in concert with the California Civil Rights Department (“CRD”)—to defame and disparage Plaintiff Robert Kotick, who served as CEO of Activision Blizzard for more than 30 years.

2. On July 20, 2021, the CRD filed a knowingly inaccurate and inflammatory lawsuit against Activision that included fraudulent claims of systemic workplace harassment at the Company.

3. To maximize pressure and amplify the harm its false accusations caused, the CRD enlisted certain unscrupulous reporters at *The Wall Street Journal* and other media outlets, including on information and belief G/O Media to publish

a series of hit pieces about Activision and Kotick. The *Journal* published an article on November 16, 2021, that repeated many of the false allegations in the CRD's complaint and manufactured additional knowingly false, disproven allegations.

4. Between 2021 and 2024, *Kotaku* and *Gizmodo* published dozens of false and defamatory articles about Kotick that spread and perpetuated the false narratives fabricated by the CRD and the *Journal*, including the articles on March 11, 2024.

5. In December 2023, the CRD formally withdrew its harassment claims and expressly acknowledged that, "no court or any independent investigation has substantiated any allegations that: there has been systemic or widespread sexual harassment at Activision Blizzard; [or] that Activision Blizzard senior executives ignored, condoned, or tolerated a culture of systemic, harassment, retaliation, or discrimination." The CRD also specifically acknowledged that Activision's Board, including Kotick, never acted "improperly with regard to the handling of *any* instances of workplace misconduct." (Emphasis added.)

6. The false allegations in the CRD's complaint and media reporting were disproven by numerous independent experts who confirmed that Activision has always been committed to workplace accountability and there has never been widespread or systemic harassment at the Company. Moreover, in addition to the CRD's acknowledgment, various independent experts confirmed that Activision

executives, including Kotick, always addressed reports of misconduct in an appropriate manner consistent with recognized industry practices, and never improperly withheld information from the Company's Board of Directors, as the *Journal* and G/O Media incorrectly claimed.

7. G/O Media was well aware of the CRD's withdrawal of its claims. Indeed, *Kotaku* published an article on December 18, 2023, acknowledging that the CRD was withdrawing its harassment claims after admitting they were unsubstantiated.

8. Ignoring these facts, less than three months later, G/O Media published the two libelous March 11 articles that repeated the CRD and *Journal's* false allegations of widespread workplace misconduct at Activision while also intentionally omitting the exculpatory facts that those allegations were false and that the CRD and *The Wall Street Journal's* own subsequent reporting acknowledged they were false.

9. Kotick's representatives repeatedly urged G/O Media to correct the March 11 articles published by *Kotaku* and *Gizmodo*. His representatives sent numerous letters to G/O Media providing comprehensive evidence—including court orders, public statements, SEC filings, and findings from independent third-party investigations—showing that the allegations relating to workplace misconduct were

false and withdrawn. Regardless of the facts, G/O Media steadfastly refused to adequately correct its articles.

10. G/O Media must be held accountable for failing its readers and its repeated, knowing, and malicious publication of false claims about Kotick and Activision.

PARTIES AND RELEVANT NON-PARTIES

11. Plaintiff Robert Kotick is a founder and former long serving Chief Executive Officer of Activision Blizzard, Inc. For over 30 years, Kotick led Activision from bankruptcy to become one of the most successful and well-respected entertainment companies in the world.

12. Kotick served as Activision's CEO from February 1991 until December 2023, when Activision Blizzard was acquired by Microsoft for over \$75 billion in one of the largest all-cash transactions in history.

13. Activision has more than 15,000 employees worldwide. Its games have hundreds of millions of players around the world.

14. Kotick, along with former National Security Advisor and Marine Corps Commandant General James Jones, is the co-Founder and co-Chairman of the Call of Duty Endowment, a nonprofit organization that helps veterans find high-quality careers and raises awareness of the value veterans bring to the workplace. To date, the Endowment has helped secure employment for more than 140,000 veterans.

15. Kotick resides in, is domiciled in, and is a citizen of the State of California.

16. Defendant G/O Media Inc. is a media company that owns and operates a portfolio of digital media brands. G/O Media is incorporated under the laws of the State of Delaware and has its principal place of business in New York.¹ G/O Media describes itself as “a premium digital publishing company with a portfolio of brands defined by journalism that is thought-leading, independent and rabidly passionate,” and claims that its sites “boast enviable engagement metrics.”² According to G/O Media, its sites receive 99 million monthly unique visitors.³ Many of its employees are members of the GMG Union which has a history of cooperation and support with The NewsGuild, a unit of the Communications Workers of America (“CWA”).

17. One G/O Media brand is *Kotaku*, an online publication focused on video games and related topics like anime, TV, and movies. *Kotaku* was started in 2004 as part of the Gawker Media network, whose flagship blog, *Gawker*, went bankrupt in 2016 after a \$140 million judgment against it for invading the privacy

¹ DE Dept of State, Division of Corporations: <https://icis.corp.delaware.gov/ecorp/entitysearch/NameSearch.aspx>; <https://g-omedia.com>.

² <https://g-omedia.com/>.

³ <https://g-omedia.com/>.

of Terry Bollea (a.k.a, Hulk Hogan).⁴ In 2019, the private equity firm Great Hill Partners purchased the media portfolio that included *Kotaku* and renamed the portfolio “G/O Media.” According to SimilarWeb, *Kotaku* received more than 9 million total site visits in January 2025.⁵

18. Another G/O Media brand until June 2024 was *Gizmodo*—an online tech focused publication. *Gizmodo* was also part of the *Gawker* portfolio. G/O Media sold the *Gizmodo* brand in June 2024. According to SimilarWeb, *Gizmodo* received more than 15 million total site visits in January 2025.⁶

19. Non-party the California Civil Rights Department (“CRD”)—formerly known as the Department of Fair Employment and Housing (“DFEH”)—is a California state agency charged with enforcing California’s civil rights laws.

20. On July 20, 2021, the CRD improperly filed a civil action in Los Angeles Superior Court against Activision Blizzard, Inc., Blizzard Entertainment, Inc., and Activision Publishing, Inc. alleging violations of the Fair Employment and Housing Act (“FEHA”). In December 2023, the CRD voluntarily withdrew its

⁴ Paul Farhi, *Gawker files for Chapter 11 bankruptcy protection*, The Washington Post (June 10, 2026), https://www.washingtonpost.com/lifestyle/style/gawker-files-for-chapter-11-bankruptcy-protection/2016/06/10/45ef7420-2f2e-11e6-9b37-42985f6a265c_story.html.

⁵ <https://www.similarweb.com/website/kotaku.com/#overview> (last visited Feb. 22, 2025).

⁶ <https://www.similarweb.com/website/gizmodo.com/#overview> (last visited Feb. 22, 2025).

fraudulent claims relating to harassment and acknowledged that the harassment assertions in its original complaint were without merit. The CRD acknowledged in a court-approved consent decree that, “No court or any independent investigation has substantiated any allegations that: there has been systemic or widespread sexual harassment at Activision Blizzard; that Activision Blizzard senior executives ignored, condoned, or tolerated a culture of systemic harassment, retaliation, or discrimination; or that Activision Blizzard’s Board of Directors, including its Chief Executive Officer, Robert Kotick, acted improperly with regard to the handling of any instances of workplace misconduct.” Numerous independent investigations also confirmed that workplace misconduct investigations at Activision Blizzard were handled professionally and responsibly.

21. Non-party the U.S. Equal Employment Opportunity Commission (“EEOC”) is the federal government’s primary civil rights watchdog. It is the nation’s largest civil rights enforcer and the agency authorized by the U.S. Congress to investigate charges of harassment and discrimination against employers.

22. In March 2022, the Company and the EEOC entered into an agreement that was approved by the court on March 29, 2022. The consent decree acknowledged that the EEOC found there was no systemic or widespread harassment at the Company.

23. Non-party Dow Jones & Company, Inc. publishes *The Wall Street Journal*, which purports to be “the world’s leading business publication” and “the definitive source of news and information through the lens of business, finance, economics and money, global forces that shape the world and are key to understanding it.”

JURISDICTION AND VENUE

24. This Court has subject-matter jurisdiction over this civil action and venue is proper in this Court under Delaware law. *See* Del. Const. art. IV, §§ 1, 7; 10 Del. Code Ann. §§ 541–542.

25. This Court has general personal jurisdiction over G/O Media under Delaware law and the Due Process Clause of the U.S. Constitution because G/O Media is incorporated under Delaware law and is a citizen of the State of Delaware.

26. Exercising jurisdiction over G/O Media would not offend traditional notions of fair play and substantial justice because G/O Media could have—and should have—reasonably foreseen being haled into court in the State of Delaware, where it is incorporated and is a citizen and where it transacts business, to account for its tortious conduct.

FACTUAL ALLEGATIONS

Bobby Kotick leads Activision from bankruptcy to become one of the most successful and admired entertainment companies in the world.

27. Kotick is the former CEO of Activision Blizzard, Inc. He led Activision from bankruptcy to become one of the most successful and respected entertainment companies in the world. Under Kotick's leadership, Activision created more than \$75 billion dollars in shareholder value, provided high-paying jobs to more than 15,000 employees, and provided decades of joy and fun for more than 350 million customers globally.

28. For decades, Activision's operating margins and profits were among the highest in the entertainment industry. And the Company's culture—rooted in core values of integrity, character, and unwavering commitment to excellence—has been consistently recognized as among the best of any FORTUNE 500 company.

29. Kotick became CEO of Activision in 1991. At the time, Activision was insolvent and had a market value of less than \$2 million. Kotick engineered a transaction to compensate all the Company's creditors in a prepackaged bankruptcy, and creditors and common equity holders became shareholders of the new company.

30. Under Kotick's leadership, Activision delivered strong operating performance and great games for players for decades. When Activision was sold to Microsoft in 2023 in a \$75 billion transaction that was the largest deal in videogame history and one of the largest all-cash transactions ever, Activision had grown its

market capitalization by over 600,000% and delivered a cumulative total return more than three times that of the S&P 500 over the prior 32 years.⁷

31. Year after year, Activision won numerous awards for being one of America's best places to work, including being named one of FORTUNE's "100 Best Companies To Work For" for five consecutive years from 2015–2019. In fact, FORTUNE survey results consistently reflected Activision's culture of inclusivity, creativity, pride, respect, credibility, and camaraderie. Activision employees surveyed by FORTUNE regularly cited the Company's friendly atmosphere where people could be themselves. Employees' commitment to excellence was also cited as a key characteristic of the workplace culture. Employees consistently reported that they were proud to tell people they worked for Activision.

32. In 2020 and 2021, years directly relevant to Kotick's claims, FORTUNE recognized Activision as one of the world's most admired companies.

33. During Kotick's more than three decades as CEO of Activision, he was recognized as a business leader who consistently generated outsized shareholder returns, operated the Company in an exemplary manner always with uncompromising integrity, and attracted and retained exceptional talent in an

⁷ Activision Press Release, *Activision Blizzard Announces Results of Annual Meeting* (June 21, 2023), <https://investor.activision.com/news-releases/news-release-details/activision-blizzard-announces-results-annual-meeting-1>.

extremely competitive industry. He led Activision to become the largest, independent interactive entertainment and gaming company in the United States and one of the most successful in the world.

34. Kotick always prioritized employee well-being. He understood that Activision's success depended on its ability to recruit and retain the world's best talent to build games that inspired and delighted hundreds of millions of players. And Kotick's care and concern for employees was not limited to their experience at the Company's offices—Kotick prioritized employee well-being at home as well. As but one example of his commitment to employees' well-being, at the onset of the Covid pandemic, Kotick provided his personal phone number to all Activision employees and personally ensured that employees and their families affected by Covid received the best possible healthcare. This was just one of the many instances in which Kotick personally took steps to ensure that employees and their families received the care they needed.

35. Kotick recognized that diverse skills and talent fuel innovation, and he believed it was essential to maintain a culture at Activision where differences were embraced and celebrated, and employees could be their authentic and best selves.

36. Indeed, Kotick's commitment to employee well-being was well known throughout the Company. Kotick had a reputation for prioritizing a culture of respect

and always being rigorously focused on ensuring that the Company had necessary resources to ensure workplace excellence and a culture of safety and inclusion.

37. Over decades, the Company continually invested significant time and resources to develop and enforce policies and procedures that promoted a safe and fair workplace. Kotick was also unwavering in his support for the programs and efforts of Activision's compliance department, and he and the Company's Presidents and Chief Operating Officers always encouraged Business Unit leaders and the compliance department to thoroughly investigate workplace issues and impose disciplinary action when appropriate.

38. Activision is one of only a very small number of FORTUNE 500 companies to publish with the SEC a comprehensive annual Transparency Report detailing the Company's best practices and exceptional results to ensure a safe, productive workplace. Kotick shared this publicly available report with G/O Media.

39. Activision and its Business Units worked diligently to identify, investigate, and redress the relatively small numbers of substantiated allegations of workplace misconduct and have always aspired to have a workplace free of any misconduct. They also conducted annual pay equity analyses every year since 2015 and, since 2020, published these results to ensure equitable compensation between genders.

40. In 2008, Activision merged with Vivendi Games in what proved to be one of the most successful mergers in videogame history. For the next several years, the Company—then controlled by the French conglomerate, Vivendi—delivered stellar business results while continuing to be recognized as an admired and respected place to work. In 2014, Vivendi exited the videogame business, and Kotick orchestrated a transaction that created extraordinary value for shareholders and resulted in an even greater focus on creating great games, expanding Activision’s player base and further improving employee satisfaction.

41. In 2015, recognizing the tremendous growth of mobile games, Kotick led Activision’s acquisition of King, the leading mobile game developer and publisher with hits like Candy Crush. This acquisition added more than 2,000 talented employees to Activision’s ranks. Like Activision, King’s culture was recognized as exemplary, and its leaders prioritized integrity and transparency.

42. In October 2023, Microsoft completed its acquisition of Activision for over \$75 billion in one of the largest all-cash transactions in history. After conducting exhaustive due diligence, Microsoft praised Activision’s exemplary compliance function, which Microsoft maintains to this day. The success Activision experienced was only possible through the efforts of motivated, enthusiastic employees who loved their work and their workplace. Creative companies cannot thrive over decades without an environment like Activision’s that prioritizes the

well-being of its employees. Kotick championed these efforts throughout his more than three decades of leadership.

The EEOC launches an investigation into Activision despite no filed complaints against the Company.

43. Despite Kotick's commitment to employee well-being and Activision's widespread recognition as a great place to work with an inclusive culture, Activision's position at the pinnacle of the gaming industry made it the target of overzealous and unscrupulous government enforcement agencies.

44. On September 26, 2018, the EEOC suspiciously and without any identifiable reason signed and filed a Commissioner Charge initiating an investigation into "possible" discrimination and harassment at Activision.

45. Incredibly, the Charge document specifically noted that a review of the EEOC's Integrated Mission System database, which collects data about charges of purported workplace misconduct and related litigation nationwide, showed that there were "no charges filed against Activision Blizzard or any of the five (5) business units." In other words, the EEOC had not received any filed complaints about workplace issues at Activision, ever.

B. Lawsuits and/or Consent Decrees

We have no information which indicates that there are existing related lawsuits and/or consent decrees filed against Activision Blizzard.

C. EEOC/DFEH Charges

A review of the EEOC's Integrated Mission System (IMS) indicates that nationwide, there are no charges filed against Activision Blizzard or any of the five (5) business units. One 2018 ADA inquiry was taken at LADO vs Blizzard Entertainment; however, the inquiry was closed as PCP elected not to file. The limited documentation from this inquiry was reviewed to determine if any relevant information could be utilized for this proposal.

D. OFCCP Compliance Review

Activision Blizzard is not a federal contractor and therefore not subject to OFCCP Compliance Reviews.

46. Without any filed complaints against Activision, the EEOC initiated an investigation targeting the Company because Activision is “one of the most successful Gaming Companies in the world.” Activision was made to be a scapegoat for the entire video game industry to exploit the #MeToo and #TimesUp movements and based on media reports discussing workplace issues at other technology and video game companies. Specifically, the Commissioner Charge document stated:

[F]iling a Commissioner Charge against Blizzard will *send a message to the industry as a whole that sexual harassment, #metoo and #timesup are not limited to Hollywood, but often rampant in male-dominated industries including Video Gaming.* (Emphasis added.)

47. Despite the lack of any actual filed complaints against Activision, the EEOC initiated an investigation admittedly to see if the EEOC could find any workplace or gender inequities at Activision and to “put the industry on notice.”

There was no factual data to support that any of these supposed industry-wide workplace and compensation issues were actually problems at Activision.

The CRD launches its own investigation to extort a large, unwarranted settlement from Activision.

48. One month after the EEOC launched its unsupportable “investigation,” the CRD initiated its own baseless investigation into pay equity and promotions practices at Activision.

49. Unlike almost any other government agency, the CRD has unique statutory authority to actually use fees recovered through litigation to “offset the costs of the department.” Cal. Gov’t Code § 12965(c)(6); Cal. Gov. Code § 12907(c). This so-called “bounty hunter” provision creates backward incentives for the CRD to resort to extortion disguised as frivolous litigation against deep-pocketed defendants like Activision, Riot Games, The Walt Disney Company, and Tesla simply to fill the agency’s coffers, not based on objective assessments of the merits of its claims or whether litigation will advance the public good.

50. The CRD has recovered large sums through this bounty hunter provision. As one example, in 2021 the CRD received nearly \$7 million from litigation settlement funds that otherwise could have gone to compensate female workers in a lawsuit alleging systemic discrimination, harassment, and retaliation against another videogame company. These actions also aided unionization efforts by attempting to destabilize the companies’ cultures and workplaces.

51. The CRD’s investigation of Activision was initiated and led by CRD Chief Counsel Janette Wipper. Wipper joined the CRD in May 2018. Prior to joining the CRD, Wipper served as the Pacific Regional Director for the Department of Labor’s Office of Federal Contract Compliance Programs. While Wipper was in that position, multiple Department of Labor administrative law judges criticized her office for “deploy[ing] high-handed tactics in seeming rushes to litigate, [making] inflammatory pre-judgments to media, and [relying] perhaps too much on dubious statistical analyses.”⁸

52. The CRD is tasked with enforcing California’s civil rights, employment, and fair housing laws. When Wipper became the CRD’s Chief Counsel in 2018, the agency began pursuing attention-grabbing headlines and outsized settlements by filing high-profile lawsuits against major corporations, regardless of the merits of the underlying claims. Wipper’s win-at-all-costs approach led the CRD to repeatedly and blatantly disregard ethical rules, agency norms, and legal obligations.

53. Worse, on information and belief, while California was in the midst of its greatest housing and homelessness crisis, the CRD was focused on filing often meritless, headline-grabbing cases against large companies, resulting in large budget

⁸ Matt Taibbi, *The Lawyers Who Ate California: Part I*, Racket News (May 14, 2022), <https://taibbi.substack.com/p/the-lawyers-who-ate-california-part?s=r>.

deficits and causing many companies to leave the State, to the detriment of California workers.

54. Despite no actual evidence supporting the existence of widespread harassment or discrimination problems at Activision, the CRD launched an investigation into the Company's employment practices.

55. Activision fully cooperated with the EEOC and the CRD's separate investigations and shared information and documents that detailed the small number of workplace claims made over many years and the specific remediation and discipline imposed by the Company in the few instances of substantiated misconduct. By any objective standards, and as fully documented in the Company's publicly filed Transparency Report, the Company's Business Units handled substantiated claims of misconduct properly.

The EEOC and the CRD enter into a workshare agreement.

56. Given the overlap between the EEOC and the CRD's investigations, the agencies entered into a workshare agreement, which was formalized in 2020, dividing up the agencies' respective areas of responsibility. Under the agreement, the EEOC had exclusive jurisdiction to investigate claims they might uncover relating to workplace harassment, and the CRD had exclusive jurisdiction only to investigate possible claims relating to pay equity and promotions.

57. In May 2020, Wipper sent an email to Rosa Viramontes, the head of the EEOC's Los Angeles office, regarding the agencies' workshare agreement. Wipper expressly acknowledged that the EEOC was "working on the sexual harassment allegations," and the CRD was working on allegations of gender discrimination in pay equity and promotions.

58. The next month, Wipper sent an email to Viramontes confirming that the CRD was "not conducting the investigation of harassment allegations."

59. Viramontes subsequently stated in a sworn declaration in federal court that she understood these emails with Wipper clearly memorialized the specific terms of the agencies' agreement to divide the Activision investigation, with the EEOC investigating possible harassment complaints and the CRD investigating possible gender pay and promotions inequities.

60. On information and belief, the CRD agreed to limit its investigation to compensation and promotion practices because of the success it previously had extorting settlements based on gender pay inequities at one of Activision's competitors. The CRD wrongly believed that it could uncover similar issues at Activision, providing an opportunity to extort a lucrative settlement.

The CRD engages in unethical and unlawful conduct by hiring two EEOC attorneys who had been substantially and personally involved in the EEOC's investigation.

61. Shortly after memorializing this workshare agreement, the CRD, with clearly malicious intent, hired two attorneys from the EEOC who had been “personally and substantially” involved in the EEOC’s investigation into Activision. Of course, because of their prior work on the Activision matter at the EEOC, these attorneys were ethically and legally required to be completely walled off from the CRD’s investigation of Activision and expressly prohibited from working on it in any way.

62. Yet, the CRD failed to wall off the two attorneys, tainting virtually all of its legal department. What is worse, the CRD specifically assigned these attorneys to the Activision matter. On information and belief, they were not only assigned to investigate pay and promotions inequities, but also to investigate purported workplace misconduct, which they had previously investigated at the EEOC and knew was neither systemic nor widespread—a clear violation of federal regulations and California ethics rules.

63. In fact, the EEOC expressly acknowledged in court filings that the involvement of these attorneys in the CRD’s Activision investigation was “prohibited by the California Rules of Professional Conduct” because they “previously helped to direct the EEOC’s investigation [of Activision].”

64. As the EEOC explained, these attorneys' ethical conflict was "imputed to all DFEH attorneys" as a result of the Department's failure to screen the former EEOC attorneys.

***The EEOC completes its Activision investigation,
finding only isolated incidents of harassment.***

65. In June 2021, the EEOC completed its investigation. That investigation was comprehensive and thorough and lasted nearly three years. The Company provided detailed data to the EEOC for its workplace investigation, and the EEOC solicited surveys from current and former Activision employees.

66. Activision's decade long investment in the Company's compliance function had resulted in Activision having the very best practices for investigating workplace misconduct.

67. At the same time, Activision also cooperated with the CRD's investigation into alleged pay disparities. Activision provided comprehensive pay equity and promotions data to the CRD. That data clearly showed that, when controlling for legitimate, nondiscriminatory factors like prior experience and company tenure, Activision had **no** pattern of pay or promotion disparity against women.

68. Upon completion of its investigation, the EEOC issued its findings in a letter of determination to Activision on June 15, 2021. The agency's findings

reflected that Activision handled investigations professionally and in an appropriate manner.

69. The EEOC sent its letter of determination to the CRD and invited the CRD to participate in statutorily mandated conciliation talks with Activision to reach a potential global resolution of the matter, recognizing that there was no systemic workplace misconduct. The CRD, in violation of the law and its stated and required practices, completely ignored the EEOC's invitation to participate in the conciliation process.

The CRD files a salacious, headline-grabbing harassment lawsuit against Activision, in violation of its workshare agreement with the EEOC.

70. On July 20, 2021, without ever engaging in good faith mediation as required by law, the CRD filed a defamatory complaint intended to maximize shock value and media attention to pressure Activision into a large, unwarranted settlement. The complaint made knowingly baseless claims of widespread harassment and fraudulently stated that the CRD had “fulfilled ... [a]ll administrative procedures precedent to the institution of this lawsuit.”⁹

71. Worse, these distorted allegations were based on fabricated, unsupportable claims. The CRD knowingly mischaracterized the allegations in its complaint. The agency also knew when it filed its frivolous complaint that

⁹ Compl., *DFEH v. Activision Blizzard, Inc.*, 21STCV26571 (L.A. Sup. Ct. July 20, 2021).

Activision had rigorously investigated the alleged instances of misconduct the CRD cited and imposed appropriate discipline.

72. The CRD complaint was a clear violation of the CRD's workshare agreement with the EEOC, which expressly prohibited the CRD from making workplace harassment allegations and asserting baseless claims relating to harassment.

73. Activision was fully transparent with the EEOC and the CRD because it knew, as the Transparency Report and numerous independent investigations concluded, that workplace conduct and pay equity issues were addressed properly and professionally by the Company.

The CRD leverages the press to concoct a false and highly damaging narrative about Activision and Kotick to pressure Activision to settle for unwarranted fees.

74. Desperate to prevent the EEOC settlement and assert maximum pressure on Activision, the CRD engaged in other unethical and unlawful conduct.

75. On August 10, 2021, less than a month after the CRD filed its lawsuit, the CRD improperly used email addresses it obtained through compelled discovery in connection with its investigation of Activision to illegally, directly contact Activision employees and encourage them to engage with the CRD (and refrain from retaining their own counsel) and to assist in the CWA's destabilization effort.

76. The CRD told employees that they may be contacted by private attorneys seeking to become their attorneys for this case. The CRD improperly

discouraged employees from retaining their own counsel, claiming that it was unnecessary and may be misleading or confusing. The CRD then encouraged employees to let the CRD know “if any attorney attempts to solicit your business for this case.” This unsolicited outreach was fraudulent, unlawful, and unethical.

77. The CRD also sought to leverage the press to increase pressure on Activision. CRD employees leaked confidential investigative information to certain favored members of the media in blatant violation of the Department’s no comment policy and California law, which requires information the government obtains through investigations and other discovery to be kept confidential.

78. Notably, *The Wall Street Journal* published a malicious and inaccurate article about Kotick and Activision on November 16, 2021. It repeated many of the defamatory falsehoods in the CRD’s complaint, which was loaded with untrue and libelous claims.¹⁰ The *Journal* article also includes false claims that went beyond what the CRD alleged in its lawsuit.

79. On information and belief, reporters from *Kotaku* and *Gizmodo* were also among the members of the media with whom the CRD impermissibly shared confidential investigative information, judging from the nature and volume of *Kotaku* and *Gizmodo*’s coverage of Activision between 2021 and 2024.

¹⁰ <https://www.wsj.com/articles/activision-videogames-bobby-kotick-sexual-misconduct-allegations-11637075680>.

80. *Kotaku* and *Gizmodo* published numerous false and defamatory articles parroting the CRD's baseless allegations concerning Activision and Kotick despite G/O Media knowing that these allegations were false.

81. Representatives for Kotick and the Company wrote to G/O Media at least seven times between February 2022 and May 2024 to inform G/O Media that its coverage was false and provide evidence refuting the CRD's allegations. G/O Media repeatedly ignored these warnings and the factual information provided by Kotick and Activision's representatives.

82. Knowing their conduct was unlawful, CRD attorneys also went to great lengths to hide their misconduct by impermissibly redacting emails that the CRD produced in response to public records requests and asserting privilege where none actually existed—again in violation of CRD policies.

83. Beginning in October 2021, Activision submitted numerous requests under the California Public Records Act ("PRA") for, among other things, public documents and information relating to the CRD's communications with the media about Activision. The CRD refused entirely or otherwise failed to comply with legitimate PRA requests, providing only a fraction of the public information it was required to produce. The few documents the CRD disclosed in response to these legitimate requests revealed that Kish, Wipper, and other CRD employees had been rewarding certain members of the press willing to publish their preferred, inaccurate

storylines with greater access to the agency in blatant violation of specific CRD guidelines.

84. Notably, the CRD's PRA unit did not maintain the required ethical wall separating it from the legal division attorneys who were handling the agency's case against Activision. It was unsurprising, therefore, when Activision learned how the PRA unit went to great lengths to delay and withhold discovery responsive to Activision's PRA requests to conceal misconduct by CRD officials including Kish and Wipper. The CRD slow-rolled responses, insisting that simple requests would take months or even years to complete. It also redacted key portions of documents to hide evidence of agency wrongdoing.

85. Despite the CRD's attempts to cover up its unlawful conduct through its refusal to produce public records as required by law, the limited number of documents it did produce show shocking and egregious behavior including an unlawful media assault against Activision and Kotick.

86. After the CRD lawsuit was filed, Kish, Wipper, and other CRD officials engaged in numerous impermissible off-the-record briefings with *Wall Street Journal* and other reporters whom the CRD relied on to publish the salacious but knowingly false allegations the agency knew it could never use at trial.

87. These intentional leaks to the media of confidential investigative information and outright lies were in violation of state law and of the CRD's stated policy not to comment on ongoing matters.

88. On information and belief, Kish, Wipper, and Alim shared confidential information relating to purported workplace issues at Activision during these off-the-record conversations with reporters, who were aware that the CRD was violating its no-comment policy by speaking with them. More importantly, the sharing of confidential information learned during an investigation is unlawful under California Government Code §§ 1183 and 12932 and is subject to disciplinary action.

Activision's settlement with the EEOC is finalized.

89. In March 2022, the Activision-EEOC consent decree was approved by Judge Dale Fisher of the U.S. District Court for the Central District of California. Judge Fisher concluded that it was "fair, reasonable, and adequate and advances the public interest."

Governor Newsom fires Wipper.

90. In March 2022, California Governor Gavin Newsom fired Wipper after, on information and belief, his office became aware of her unethical tactics and violations of agency procedures and ethical obligations, including her repeated inappropriate contacts with the media and her efforts to cover up those contacts by improperly redacting public records. On information and belief, EEOC officials

made reports directly to the Governor’s office relating to Wipper’s egregious misconduct, which contributed to the Governor’s decision to fire her.

Activision details findings of independent investigations in public SEC filings.

91. Activision publicly released detailed findings about its culture and the inaccurate reporting relating to its workplace in its quarterly report on Form 10-Q filed with the SEC on July 31, 2023.¹¹ Kotick’s representatives shared this filing with G/O Media.

92. G/O Media knew of the findings of these independent, third-party reports. Not only were these findings readily and publicly available, but Kotick’s representatives sent G/O Media a letter on March 3, 2023, specifically informing G/O Media that Activision’s Board of Directors commissioned multiple independent investigations all of which conclusively debunked claims of widespread harassment at the Company.

93. The March 3, 2023 letter also attached a June 2022 SEC Form 8-K documenting the findings of the Activision Board, and the letter urged G/O Media “to exercise extreme caution before parroting any claim by the *Journal* concerning alleged workplace issues at Activision” given that multiple independent

¹¹ Activision Quarterly Report for the Period Ended June 30, 2023, SEC Form 10-Q, <https://investor.activision.com/static-files/70497f6b-ca6b-487b-bb03-2f8b3b031447>.

investigations had confirmed that “[m]uch of the false and defamatory narrative relating to Activision’s workplace was concocted by the *Journal*” and the CRD.

94. In May 2023, Activision publicly released its annual Transparency Report which further confirmed that there has never been widespread or systemic harassment at Activision. The Transparency Report provides best-in-class, comprehensive workplace data beyond what almost any S&P 500 company provides. It details the best-in-class compliance programs Activision has had in place for a decade as well as detailed workplace data. It also shows that workplace misconduct is effectively handled by the Company and Activision is among the most welcoming and inclusive workplaces in its industry and that it has always been committed to workplace accountability and has never had widespread or systemic harassment.

95. Activision also annually publishes in its SEC filings public pay equity and promotion analyses, and these findings clearly demonstrate that Activision does not have unlawful gender disparities in its pay equity or promotions practices. Although tasked with evaluating Activision’s pay equity and promotions data, the CRD never provided a single, legitimate analysis to disprove the public data Activision provided with respect to pay equity, instead manipulating the methodology to provide a false negative result. And in fact, the expert who the CRD hired to analyze and testify under oath about pay equity at Activision conceded that

Activision actually paid women slightly more than men for similar work, when appropriate factors were considered, and promoted women slightly faster and at a higher rate than men. He admitted in sworn deposition testimony that “there is no evidence that Activision Blizzard’s leveling practices are discriminatory.”

96. In addition, federal courts have rejected shareholder lawsuits filed against Activision and its Board that were premised on the false allegations in the CRD complaint and media reports.

97. All of these third-party reports and court decisions refuting the CRD and the media’s claims were, and are, readily publicly available online.

98. The CRD was eventually forced to acknowledge its misconduct. In December 2023, Activision and the CRD entered into an unprecedented agreement.

99. In the publicly filed agreement and court-approved consent decree, the CRD expressly acknowledged that, “no court or any independent investigation has substantiated any allegations that: there has been systemic or widespread sexual harassment at Activision Blizzard; [or] that Activision Blizzard senior executives ignored, condoned, or tolerated a culture of systemic, harassment, retaliation, or discrimination.”

100. The agreement also specifically, acknowledged that Activision’s Board, including Kotick, never acted “improperly with regard to the handling of any instances of workplace misconduct.”

101. The CRD filed a Second Amended Complaint that completely withdrew its claims relating to harassment.

***G/O Media and other outlets report on the
CRD agreement and the agency’s “stunning reversal.”***

102. After the CRD agreement was made public, numerous media outlets—including *Kotaku*—reported on the withdrawal of the CRD’s harassment claims and the agency’s acknowledgment that its claims and allegations of widespread harassment were unsubstantiated.

103. On December 18, 2023, *Kotaku* published an article that included the following: “CRD acknowledged explicitly in the agreement, ‘CRD is filing along with a Proposed Consent Decree a Second Amended Complaint that withdraws, among other allegations and causes of action, the Fifth Cause of Action – Employment Discrimination – Because of Sex – Harassment.’”¹²

104. As the CRD also expressly acknowledged in the agreement, “no court or independent investigation has substantiated any allegations that there has been systemic or widespread sexual harassment at Activision Blizzard.” In addition, the CRD acknowledged that no court or independent investigation substantiated any allegations that “Activision Blizzard’s Board of Directors, including its Chief

¹² <https://kotaku.com/activision-gender-discrimination-settlement-1851104491>.

Executive Officer, Robert Kotick, acted improperly with regard to the handling of any instances of workplace misconduct.”

105. The December 18 *Kotaku* article also included a hyperlink to a press release from the CRD.

106. In other words, by December 18, 2023, G/O Media had actual knowledge (as evidenced by *Kotaku*'s own reporting) that:

- The CRD dismissed all claims relating to harassment;
- The CRD acknowledged that all allegations of systemic or widespread sexual harassment at Activision were unsubstantiated; and
- The CRD acknowledged that Activision's Board of Directors, including Kotick, never acted improperly with regard to the handling of any instances of workplace misconduct.

107. On December 20, 2023, the *Journal* editorial board published an article acknowledging that the CRD's lawsuit made “unsubstantiated accusations” that were “amplified by the press.” The Editorial Board also wrote that the “press” (i.e., the *Journal*) “piled on” to the CRD's unsubstantiated allegations with “dispatches about Activision's purported fraternity culture.” The Editorial Board concluded, “[t]he state is now finally conceding that its allegations against Activision were unsupported ... Activision is essentially paying the state to admit it shouldn't have brought the lawsuit. This is what passes as legal justice in California. Ms. Wipper and the state ought to be relieved that Activision isn't suing them for defamation.”

108. *The New York Times* published an article on December 16, 2023, noting the CRD’s “stunning reversal” and questioning how “the state agency went from accusing Activision of fostering a culture in which female employees were ‘subjected to constant sexual harassment’ to withdrawing those claims a couple of years later.”¹³

109. This coverage of the settlement by the *Journal* and *New York Times* was—and is—readily available. On information and belief, G/O Media was aware of this widespread coverage about how the CRD withdrew all claims of harassment. ***G/O Media publishes two knowingly false and defamatory articles about Kotick.***

110. Despite *Kotaku*’s express recognition in its December 18, 2023 article that the CRD withdrew its harassment claims and acknowledged its allegations of widespread harassment were unsubstantiated, and the other widespread coverage of the CRD’s withdrawal of its harassment claims, in March 2024, G/O Media published two articles that repeated the false and defamatory claims concocted by the CRD and *Journal* that there was widespread harassment at Activision, and Kotick failed to keep the Board adequately informed.

¹³ Andrew Ross Sorkin, Lauren Hirsch, & Michael J. de la Merced, *The Questions Raised by California’s Dropped Sexual Harassment Suit Against Activision*, *The New York Times DealBook* (Dec. 16, 2023), <https://www.nytimes.com/2023/12/16/business/dealbook/the-questions-raised-by-californias-dropped-sexual-harassment-suit-against-activision.html>.

111. On March 11, 2024, *Gizmodo* published a false and defamatory article titled, “Bobby Kotick, Disgraced Former CEO of Activision Blizzard, Reportedly Wants to Buy TikTok,” that repeated debunked claims relating to widespread workplace misconduct that G/O Media knew to be false.¹⁴

112. The same day, *Kotaku* published an article titled “Former Activision Boss Bobby Kotick Wants To Buy TikTok: Report,” that contained similar, knowingly false claims about widespread workplace issues at Activision.¹⁵

113. Neither article had anything to do with Activision. Both were about rumors that Kotick was interested in buying TikTok. Yet, *Kotaku* and *Gizmodo* went out of their way to include withdrawn, false allegations relating to workplace issues which G/O Media knew had been conclusively disproven by numerous

¹⁴ The March 11, 2024 *Gizmodo* article contained the following false and defamatory statements: “In 2021, Activision Blizzard received more than 500 reports from current and former employees alleging harassment, sexual assault, and pay disparity issues, among others, the Journal reported at that time. Documents demonstrated that Kotick knew about the allegations of employee misconduct in many areas of the company, including an alleged rape, and did not tell the company’s board of directors about the issues.”

¹⁵ The March 11, 2024 *Kotaku* article contained the following false and defamatory statements: “Kotick’s tenure at Activision Blizzard spanned decades and came under fire in 2021, when the state of California filed a lawsuit following an investigation into the company’s misogynistic workplace culture, as well as allegations of rampant sexual misconduct and discrimination. According to a report from WSJ at the time, Kotick knew about everything happening under him and refused to address it. Despite the publisher’s tarnished name and Kotick’s role in the controversies, Microsoft went through with the purchase last year and Kotick was allowed to depart with a golden parachute estimated to be worth around \$15 million.”

investigations including the CRD's own investigation, purely for the malicious purposes of causing further harm to Kotick.

114. G/O Media knew when it published these articles on March 11, 2024, that the CRD and *Journal's* allegations had been disproven by numerous independent investigations. Yet, neither *Kotaku* nor *Gizmodo* mentioned any of the independent investigations that cleared Kotick and the Company.

115. Worse, G/O Media was aware that the CRD acknowledged in its settlement agreement with Activision that all allegations of widespread harassment were unsubstantiated, and the CRD withdrew all harassment-related claims. *Kotaku* and *Gizmodo* also failed to mention this exculpatory information.

***Kotick writes to G/O Media demanding corrections
to the March 11 Kotaku and Gizmodo articles.***

116. On March 20, 2024, Kotick's representatives wrote to G/O Media demanding a correction of the March 11 *Gizmodo* article. That March 20 demand letter specifically noted that "There has never been a single investigation, court finding, verdict, or ruling concluding that there is any merit to the California Civil Rights Department's unsupported allegations of widespread harassment at Activision. To the contrary, every single independent investigation proved that these allegations are absolutely untrue."

117. The letter provided G/O media with links to public filings that documented the results of Activision's numerous independent investigations

refuting the CRD’s false claims regarding widespread workplace issues at the Company, including the quarterly report Activision filed with the SEC on July 31, 2023—which contained detailed findings from independent reviews—and the Transparency Report that Activision released in May 2023.

118. The letter also quoted the recitals in the CRD settlement agreement stating, “[N]o court or any independent investigation has substantiated any allegations that: there has been systemic or widespread sexual harassment at Activision Blizzard; that Activision Blizzard senior executives ignored, condoned, or tolerated a culture of systemic, harassment, retaliation, or discrimination; or that Activision Blizzard’s Board of Directors including its Chief Executive Officer, Robert Kotick, acted improperly with regard to the handling of any instances of workplace misconduct.”

119. And the letter explained that the CRD had withdrawn all claims relating to harassment.

Kotaku and Gizmodo make insufficient and purposefully misleading updates to their March 11 articles.

120. G/O Media did not provide a substantive response to the March 20 demand letter. After receiving the demand letter, G/O media made minor, insufficient updates to the *Gizmodo* article. However, the article continued to refer to Kotick as a “disgraced” CEO in the headline with no factual basis to support that claim. Worse, G/O Media knowingly and intentionally failed to include the crucial

exculpatory information that the CRD withdrew all harassment-related claims and acknowledged that all allegations of widespread harassment were unsubstantiated, and Kotick's conduct was conclusively determined to be appropriate at all times.

121. A week later, Kotick's representatives sent another demand letter to G/O Media. That letter explained that *Gizmodo's* updates were insufficient and "intentionally false and misleading" since they failed to acknowledge the CRD's express admission in the publicly filed agreement and court-approved consent decree (which was also publicly available) that all allegations of widespread harassment were unsubstantiated and the CRD voluntarily withdrew all harassment-related claims.

122. The letter explained to G/O Media that "There is a clear and meaningful difference between *Gizmodo's* statement (i.e., that Activision did not admit to any wrongdoing) and the truth (i.e., that the CRD found its claims to be unsubstantiated)." There is no doubt that G/O Media was well aware of the actual terms of the agreement prior to publishing its update. Nonetheless, it knowingly misrepresented the agreement to purposefully cast doubt on the CRD's complete exoneration of Kotick with respect to the CRD's admittedly false and withdrawn claims relating to harassment.

123. Kotick's March 27 letter to G/O Media also demanded that G/O Media correct similar knowingly false and defamatory statements in *Kotaku's* March 11

article. Kotick once again emphasized to G/O Media that, as *Kotaku* and G/O Media knew—based on *Kotaku*'s own prior reporting and correspondence with Kotick's representatives—multiple investigations conclusively determined that there were never widespread workplace issues at Activision.

124. By April 10, 2024, G/O Media had not responded to the March 27 demand letter. As with *Gizmodo*, *Kotaku* made some minor, insufficient updates to the article. But it failed to remove the false and defamatory claims identified in the March 27 demand letter, and the updated *Kotaku* article continued to mischaracterize the CRD agreement and alluded to the CRD's complete exoneration and vindication of Kotick and Activision in underhanded and purposefully misleading ways.

125. For example, the updated *Kotaku* article attributed the statement from the CRD settlement that “no court or independent investigation has substantiated any of the claims” to Activision and GamesIndustry.biz instead of the CRD itself. The editor's note added to the updated *Kotaku* article also intentionally omitted the fact that CRD withdrew and dismissed all harassment-related claims.

126. Moreover, *Kotaku* refused to remove from its article false and defamatory claims it knew were false concerning allegations of widespread harassment at Activision. It also purposefully failed to acknowledge that the CRD filed a second amended complaint in which it voluntarily withdrew all claims relating to harassment. Instead, the update said that “Activision Blizzard denied any

wrongdoing.” G/O Media has steadfastly continued to endorse claims by the CRD and *Journal* that it knows to be false.

127. *Kotaku* also made a second round of minor updates to the article without alerting readers to those changes, in violation of journalistic standards and G/O Media’s own editorial policy, which states that “Best practice is to update and, where necessary, correct information throughout the life of a story, and to be clear about which is which.”¹⁶ This second round of updates occurred after Kotick’s representatives sent yet another letter on April 10, 2024. And even after this second round of inadequate stealth updates, the article remained false and defamatory.

128. On May 17, 2024, G/O Media responded, through counsel, to Kotick’s multiple demand letters. G/O Media refused to make adequate corrections, instead standing by its false reporting because the *Journal* never took down its November 16, 2021 article. G/O Media’s response, however, ignored completely the subsequent articles by the *Journal* and its editorial board in December 2023 that refuted the November 16, 2021 article’s false narrative.

129. On June 11, 2023, Kotick’s representatives responded to G/O Media’s May 17 letter, again specifically refuting the claims in the article at issue, addressing the positions taken by G/O Media in its May 17 letter, and demanding retractions or

¹⁶ <https://g-omedia.com/editorial-policy/>.

adequate corrections of *Gizmodo* and *Kotaku*'s reporting. Kotick's June 11 letter specifically highlighted deficiencies in *Kotaku*'s updated article regarding Kotick and Activision, including:

- *Kotaku*'s omission of the fact that CRD voluntarily withdrew its harassment claims;
- *Kotaku*'s misplaced reliance on information originally published by the *Journal* which settled lawsuits, third-party investigations, and even the *Journal*'s subsequent reporting repeatedly refuted; and
- Multiple statements that mischaracterized the nature of the allegations and agreements involving the EEOC, CRD, and SEC.

130. The June 11 letter specifically warned G/O Media of the legal risk involved with publishing repeated falsehoods. This was the last correspondence between Kotick and G/O Media. Neither G/O Media nor its counsel ever responded, and to date, there have been no additional changes, retractions, or acknowledgments with respect to the *Kotaku* or *Gizmodo* articles.

G/O Media acted with actual malice.

131. G/O Media knew the allegations in the March 11 *Kotaku* and *Gizmodo* articles were false when it published those statements.

132. G/O Media had actual knowledge of the terms of the CRD agreement prior to publication of the March 11 articles—including that the CRD voluntarily withdrew all claims relating to harassment and acknowledged its allegations of harassment were unsubstantiated—as shown by *Kotaku*'s December 18, 2023 article. Indeed, it included in the December 18, 2023 *Kotaku* article a hyperlink to

a press release from the CRD that made clear that the agreement did not relate to claims or allegations of harassment.

133. G/O Media also intentionally omitted from both March 11 articles crucial exculpatory information, including that the CRD voluntarily withdrew its harassment claims after acknowledging that they were unsubstantiated.

134. G/O Media also ignored reliable and readily available sources of information that refuted its preconceived narrative. These included Activision's public SEC filings documenting the findings of numerous independent reviews and Activision's public Transparency Report. These all conclusively determined that there was never widespread harassment at Activision, and Kotick never condoned, downplayed, tolerated, or failed to adequately address or inform the Board about allegations of harassment.

135. G/O Media also failed to abide by journalistic standards by making stealth updates to the March 11 *Kotaku* article, without informing its readers of the changes it made. It also violated journalistic standards by publishing the March 11 articles without first contacting Kotick or Activision for comment. Had it done so, Kotick and Activision could have explained why G/O Media's reporting on the CRD settlement was false and defamatory.

136. For years, G/O Media has been intent on destroying Kotick's reputation. Its body of reporting on Kotick and Activision evinces clear hostility

and ill will and shows that G/O Media was never interested in truthfully reporting on Kotick or Activision. Rather, it published numerous, negative articles to harm his reputation. G/O Media was also motivated by the prospect of financial gain from the clicks its sustained campaign against Kotick generated and possibly in support of the CWA's unionization efforts at Activision Blizzard.

G/O Media's reporting irreparably harmed Kotick.

137. G/O Media's defamatory reporting irreparably harmed Kotick.

138. The resolution of the CRD's case against Activision, and the CRD's admissions that its allegations of widespread harassment were unsubstantiated, were unambiguous. But G/O Media's coverage ensured that the false negative narrative concocted by the CRD and the *Journal* would persist.

139. Even now, despite the CRD's acknowledgment that there was no evidence of Kotick engaging in wrongdoing, his reputation and professional prospects have been severely damaged because of G/O Media's insistence on repeating, republishing, and failing to adequately correct claims it knows to be false.

140. Since the publication of the March 11 articles, Kotick and other Activision Blizzard executives have lost investment and employment opportunities. His philanthropy, which is focused on finding employment for veterans, has been denied opportunities and access to funding. Beyond this professional harm, he has received countless antisemitic threats, and threats of physical harm. And he has been

forced to expend substantial legal fees separate and apart from fees associated with this litigation specifically to seek corrections of G/O Media's libelous March 11 reporting in a fruitless effort to mitigate the harm caused and avoid litigation.

COUNT ONE
Defamation Per Se
(For Kotaku's March 11, 2024 Article)

141. Plaintiff Kotick repeats and re-alleges each of the foregoing paragraphs as if set forth fully herein.

142. On March 11, 2024, *Kotaku* published an article titled "Former Activision Boss Bobby Kotick Wants To Buy TikTok: Report."

143. The article made false and defamatory statements that there was widespread harassment at Activision, which Kotick failed to properly address. (*See supra*, n.15.) The article also falsely claimed that Activision paid the CRD \$50 million to settle claims relating to this purported widespread harassment.

144. Defendant's statements are reasonably understood to be statements of fact about Kotick. Kotick was CEO of Activision for more than 30 years. His name was synonymous with his Company, and G/O Media's statements convey, were understood to convey, and were intended to convey the defamatory message that Kotick allowed a culture of widespread sexual harassment to develop and persist at Activision and failed to keep the Board adequately informed.

145. Defendant's statements are false.

146. *First*, as numerous third parties—including Activision’s Board, multiple law firms, the EEOC, and the CRD—have concluded: there was never widespread harassment at Activision.

147. *Second*, these third parties also conclusively determined that Kotick and other Activision executives always handled complaints of misconduct appropriately and always kept the Board adequately informed. In fact, the CRD agreement acknowledged that Kotick did not act “improperly with regard to the handling of any instances of workplace misconduct” and Activision senior executives never “ignored, condoned, or tolerated a culture of systemic, harassment, retaliation, or discrimination.”

148. Likewise, these independent reviews concluded that there “was no evidence of widespread or systemic harassment at Activision,” the Company “addressed reports of misconduct in an appropriate manner and consistent with recognized industry practices,” and “[c]ontrary to the CRD’s claims, and media reports, incident information was never improperly withheld from the Company’s Board.”

149. They also found that there was no “evidence of systemic problems with respect to workplace issues at Activision,” and determined that Company leadership never “withheld information from the Board and that criticisms of the Board and the

CEO to the contrary that have been published and repeated lack a fundamental basis in fact.”

150. *Third*, Activision did not settle harassment claims with the CRD. The CRD withdrew all claims relating to widespread harassment.

151. Defendant’s statements are defamatory per se because they are defamatory on their face. They expose Kotick to hatred, ridicule, or contempt, and at least a substantial and respectable minority of the community understood them to be defamatory. And Defendant’s statements tend to damage, and have damaged, Kotick in his trade, profession, and business because accusations that Kotick allowed widespread misconduct to occur at his Company and failed to inform the Board are incompatible with the proper exercise of his position as former CEO.

152. Defendant had no applicable privilege or legal authorization to publish its defamatory statements or, if it did, abused that privilege.

153. Defendant published its defamatory statements with actual malice in that it knew its statements were false or recklessly disregarded the truth or falsity of its statements.

154. Specifically, Defendant acted with actual malice because: (1) before publishing the March 11, 2024 *Kotaku* article, Defendant knew the CRD had voluntarily withdrawn its lawsuit and retracted its allegations against Kotick and Activision; (2) Defendant intentionally omitted exculpatory information from its

March 11 *Kotaku* article; (3) Defendant intentionally avoided multiple obvious sources of reliable information by intentionally disregarding the multiple third-party investigations clearing Kotick and Activision as well as Activision's publicly-available Transparency Report—all of which would have cleared up any misconceptions about the nature of the agreement or false allegations; (4) Defendant failed to retract or adequately correct the article after it knew that it was incorrect; (5) Defendant failed to comply with widely accepted standards of ethical journalism by making a stealth update and failing to contact Kotick prior to publication to give him an opportunity to comment; and (6) Defendant was motivated by hostility and ill will toward Kotick and the prospect of financial gain.

155. Defendant acted with common law malice, intending to cause injury to Kotick, and its behavior constitutes a willful and conscious disregard of Kotick's rights. Among the other acts described herein, Defendant refused to acknowledge the trove of evidence debunking the assertions in the March 11 *Kotaku* article, including public disavowals by the EEOC, CRD, and *Wall Street Journal*. Defendant reiterated these falsehoods in multiple subsequent iterations of the March 11 *Kotaku* article, despite knowing that its allegations had no basis in fact. This serial display of contempt for Kotick's rights shows an intent to injure and despicable conduct sufficient to justify an award of exemplary and punitive damages under applicable law.

156. As a direct and foreseeable result of Defendant's false and defamatory statements, Kotick has suffered significant reputational and economic harm as detailed above.

COUNT TWO
Defamation Per Se
(For Gizmodo's March 11, 2024 Article)

157. Plaintiff Kotick repeats and re-alleges each of the foregoing paragraphs as if set forth fully herein.

158. On March 11, 2024, *Gizmodo* published an article titled "Bobby Kotick, Disgraced Former CEO of Activision Blizzard, Reportedly Wants to Buy TikTok."

159. The article made false and defamatory statements that there was widespread harassment at Activision, and Kotick failed to tell the Board. (*See supra*, n.14.)

160. Defendant's statements are reasonably understood to be statements of fact about Kotick. Kotick was CEO of Activision for more than 30 years. His name was synonymous with his Company, and G/O Media's statements convey, were understood to convey, and were intended to convey the defamatory message that Kotick allowed a culture of widespread sexual harassment to develop and persist at Activision and failed to keep the Board adequately informed.

161. Defendant's statements are false.

162. *First*, as numerous third parties—including Activision’s Board, multiple law firms, the EEOC, and the CRD—have concluded: there was never widespread harassment at Activision.

163. *Second*, these third parties also conclusively determined that Kotick and other Activision executives always handled complaints of misconduct appropriately and always kept the Board adequately informed. In fact, the CRD agreement acknowledged that Kotick did not act “improperly with regard to the handling of any instances of workplace misconduct” and Activision senior executives never “ignored, condoned, or tolerated a culture of systemic, harassment, retaliation, or discrimination.”

164. Likewise, these independent reviews concluded that there “was no evidence of widespread or systemic harassment at Activision,” the Company “addressed reports of misconduct in an appropriate manner and consistent with recognized industry practices,” and “[c]ontrary to the CRD’s claims, and media reports, incident information was never improperly withheld from the Company’s Board.”

165. They also found that there was no “evidence of systemic problems with respect to workplace issues at Activision,” and determined that Company leadership never “withheld information from the Board and that criticisms of the Board and the

CEO to the contrary that have been published and repeated lack a fundamental basis in fact.”

166. Defendant’s statements are defamatory per se because they are defamatory on their face. They expose Kotick to hatred, ridicule, or contempt, and at least a substantial and respectable minority of the community understood them to be defamatory. And Defendant’s statements tend to damage, and have damaged, Kotick in his trade, profession, and business because accusations that Kotick allowed widespread misconduct to occur at his Company and failed to inform the Board are incompatible with the proper exercise of his position as former CEO.

167. Defendant had no applicable privilege or legal authorization to publish its defamatory statements or, if it did, abused that privilege.

168. Defendant published its defamatory statements with actual malice in that it knew its statements were false or recklessly disregarded the truth or falsity of its statements.

169. Specifically, Defendant acted with actual malice because: (1) before publishing the March 11, 2024 *Gizmodo* article, Defendant knew the CRD had voluntarily withdrawn its lawsuit and retracted its allegations against Kotick and Activision; (2) Defendant intentionally omitted exculpatory information from its March 11 *Gizmodo* article; (3) Defendant intentionally avoided multiple obvious sources of reliable information by intentionally disregarding the multiple third-party

investigations clearing Kotick and Activision as well as Activision's publicly-available Transparency Report—all of which would have cleared up any misconceptions about the nature of the settlement agreement or false allegations; (4) Defendant failed to retract or adequately correct the article after it knew that it was incorrect; (5) Defendant failed to comply with widely accepted standards of ethical journalism by failing to contact Kotick prior to publication to give him an opportunity to comment; and (6) Defendant was motivated by hostility and ill will toward Kotick and the prospect of financial gain.

170. Defendant acted with common law malice, intending to cause injury to Kotick, and its behavior constitutes a willful and conscious disregard of Kotick's rights. Among the other acts described herein, Defendant refused to acknowledge the trove of evidence debunking the allegations in the March 11 *Gizmodo* article, including public disavowals by the EEOC, CRD, and *Wall Street Journal*. This serial display of contempt for Kotick's rights shows an intent to injure and despicable conduct sufficient to justify an award of exemplary and punitive damages under applicable law.

171. As a direct and foreseeable result of Defendant's false and defamatory statements, Kotick has suffered significant reputational and economic harm as detailed above.

DEFENDANT’S CONDUCT WARRANTS PUNITIVE DAMAGES

172. Defendant’s conduct warrants the imposition of punitive and exemplary damages. Defendants’ unlawful conduct was done with malice, wantonness, and a conscious desire to cause injury, and Defendant’s defamatory statements were made with knowledge of their falsity and reckless disregard for the truth.

PRAYER FOR RELIEF

173. WHEREFORE, Plaintiff Robert Kotick respectfully requests that the Court enter judgment in Plaintiff’s favor, and against Defendant G/O Media, as follows:

- (1) Awarding Kotick actual, special, general, and presumed damages to be specifically determined at trial;
- (2) Awarding Kotick punitive and exemplary damages;
- (3) Awarding Kotick all costs, disbursements, fees, and interest as authorized by law; and
- (4) Such other and additional remedies as the Court may deem just and proper.

A JURY TRIAL IS DEMANDED.

(SIGNATURE PAGE FOLLOWS)

Dated: March 11, 2025

Respectfully submitted,

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