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County of Los Angeles

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Sherri R. Carter, Executive Officer/Clerk of Court

1 JANETTE L. WIPPER, Chief Counsel, (#275264)
SUE J. NOH, Assistant Chief Counsel, (#192134)
2 RUMDUOL VUONG, Associate Chief Counsel, (#264392)
320 W. 4th Street, Suite #1000
3 Los Angeles, CA 90013
Telephone: (213) 439-6799
4 Facsimile: (888) 382-5293

5 Attorneys for Plaintiff,
Department of Fair Employment and Housing

(Fee Exempt, Gov. Code, § 6103)

8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **IN AND FOR THE COUNTY OF LOS ANGELES**

10 DEPARTMENT OF FAIR EMPLOYMENT AND)
11 HOUSING, an agency of the State of California,)
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Plaintiff,)

Case No.

21 ST CV 26571

Dept:
Hon.

vs.

**CIVIL RIGHTS AND EQUAL PAY ACT
COMPLAINT FOR INJUNCTIVE AND
MONETARY RELIEF AND DAMAGES**

ACTIVISION BLIZZARD, INC., BLIZZARD
ENTERTAINMENT, INC., and ACTIVISION
PUBLISHING, INC., and DOES ONE through
TEN, inclusive,

Defendants.)

JURY TRIAL DEMANDED

Plaintiff, DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING (“DFEH”), an
agency of the State of California, brings this action in its own name to remedy violations of the
California Fair Employment and Housing Act, Government Code section 12900 et seq. (“FEHA”) as
well as the California Equal Pay Act, Labor Code section 1197.5, by Defendant Activision Blizzard,
Inc. (“Activision Blizzard”), Blizzard Entertainment, Inc. (“Blizzard”), and Activision Publishing,
Inc. (“Activision Publishing”) and Does One through Ten (collectively referred to as “Defendants”).

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1 **INTRODUCTION**

2 1. Headquartered in California since the 1970s – where the nation’s strongest anti-
3 harassment, equal pay and other equal employment opportunity protections exist for employees¹ –
4 Defendants should be a safe-haven workplace in the video gaming industry. Sexism has plagued the
5 male-dominated gaming industry for decades, and increasingly so in recent years.² Women and girls
6 now make up almost half of gamers in America, but the gaming industry continues to cater to men,
7 even in California. Activision Blizzard’s double-digit percentage growth, ten-figure annual
8 revenues, and recent diversity marketing campaigns have unfortunately changed little. Defendants’
9 compliance with California’s broad workplace protections is long overdue. To enforce such
10 compliance, DFEH brings this government enforcement action seeking to remedy, prevent and deter
11 Defendants’ violations of the state’s civil rights and equal pay laws to vindicate the rights of
12 Defendants’ female employees and the public interest of the State of California.

13 2. Activision Blizzard, Inc. is headquartered in Santa Monica, California. It is one of
14 the largest American video game developers and distributors with approximately 9,500 employees
15 and over 100 million players worldwide. It is considered a leading gaming platform in the western
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18 ¹(See, e.g., *State Dept. of Health Services v. Sup.Ct.* (2003) 31 Cal.4th 1026, 1040 [FEHA provides
19 broader protection than Title VII]; Introduction, Cal. Prac. Guide Civ. Pro. Trial Claims and Def.
20 Ch. 13(I.1)-A [“Title VII presents serious limitations on plaintiff’s recovery, including a cap on
21 emotional distress and punitive damages. In addition, FEHA provides broader protections in a
22 number of important respects... For these reasons, it is generally advantageous to sue under FEHA,
rather than Title VII.”]; Zhou, *Can California Prevent Wage Discrimination Against Women?* (Oct.
7, 2015) The Atlantic <[https://www.theatlantic.com/business/archive/2015/10/california-gender-
wage-gap-fair-pay-act/409549/](https://www.theatlantic.com/business/archive/2015/10/california-gender-wage-gap-fair-pay-act/409549/)> [as of July 19, 2021].)

23 ²(Wingfield, *Feminist Critics of Video Games Facing Threats in ‘Gamergate’ Campaign*, N.Y.
24 Times (Oct. 15, 2014) <[https://www.nytimes.com/2014/10/16/technology/gamergate-women-video-
game-threats-anita-sarkeesian.html](https://www.nytimes.com/2014/10/16/technology/gamergate-women-video-game-threats-anita-sarkeesian.html)> [as of July 19, 2021]; Dockterman, *What Is #GamerGate and
25 Why Are Women Being Threatened About Video Games?* Time (Oct. 16, 2014)
<<https://time.com/3510381/gamergate-faq/>> [as of July 19, 2021]; Lorenz & Browning, *Dozens of
26 Women in Gaming Speak Out About Sexism and Harassment*, N.Y. Times (June 23, 2020)
<[https://www.nytimes.com/2020/06/23/style/women-gaming-streaming-harassment-sexism-
27 twitch.html](https://www.nytimes.com/2020/06/23/style/women-gaming-streaming-harassment-sexism-twitch.html)> [as of July 19, 2021]; Holden et. al., *The #E-Too Movement: Fighting Back Against
Sexual Harassment in Electronic Sports*, (2020) 52 Ariz. St. L.J. 1, 1.)

1 world, and it is a member of the Fortune 500 and S&P 500. Activision Blizzard conducts business
 2 through its subsidiaries, Blizzard Entertainment, Inc., King Digital Entertainment, and Activision
 3 Publishing, Inc., among others. Activision Blizzard also operates global esports organizations,
 4 Overwatch League and Call of Duty League. The video game franchise Call of Duty is Activision
 5 Publishing's key product. Blizzard Entertainment maintains the online gaming service, Battle.net,
 6 and includes key franchises such as World of Warcraft, Diablo, and Overwatch.

7 3. Unlike its customer-base of increasingly diverse players, Defendants' workforce is
 8 only about 20 percent women. Its top leadership is also exclusively male and white. The CEO and
 9 President roles are now – and have always been – held by white men.³ Very few women ever reach
 10 top roles at the company. The women who do reach higher roles earn less salary, incentive pay and
 11 total compensation than their male peers, as evidenced in Defendants' own records.⁴ Similar

12 _____
 13 ³ <<https://www.activisionblizzard.com/who-we-are>> [as of July 19, 2021]; Fahs, The History of
 14 Activision (Oct. 1, 2010, updated Mar. 21, 2020) <<https://www.ign.com/articles/2010/10/01/the-history-of-activision>>

15 ⁴ Activision Blizzard, (June 14, 2021, amended from April 30, 2021), 2021 Proxy Statement at p. 88
 16 <https://www.sec.gov/Archives/edgar/data/718877/000130817921000289/latvi2021_defr14a.htm>
 [as of July 19, 2021]

17 **SUMMARY COMPENSATION TABLE**

The table below presents information with respect to each of our named executive officers regarding compensation earned during the periods indicated.

Name and Principal Position	Year	Salary (\$)	Total (\$)
Robert Kotick Chief Executive Officer	2020	1,494,231	154,613,318
	2019	1,756,731	30,122,896
	2018	1,756,731	30,841,004
Dennis Durkin ⁽⁶⁾ Executive Advisor and Former Chief Financial Officer	2020	906,923	12,999,754
	2019	901,731	9,511,753
	2018	624,808	928,025
Daniel Alegre ⁽⁷⁾ President and Chief Operating Officer	2020	1,002,115	12,599,837
Claudine Naughton Chief People Officer	2020	655,000	3,823,519
	2019	250,000	4,388,854
Chris B. Walther	2020	852,205	3,270,992

1 disparities exist throughout the company.⁵

2 4. Like the executive ranks, women across the company are assigned to lower paid and
3 lower opportunity levels. Female employees receive lower starting pay and also earn less than male
4 employees for substantially similar work. Defendants promote women more slowly and terminate
5 them more quickly than their male counterparts. Faced with such adverse terms and conditions of
6 employment, many women have been forced to leave the company.

7 5. Defendants have also fostered a pervasive “frat boy” workplace culture that
8 continues to thrive. In the office, women are subjected to “cube crawls” in which male employees
9 drink copious amounts of alcohol as they “crawl” their way through various cubicles in the office
10 and often engage in inappropriate behavior toward female employees. Male employees proudly
11 come into work hungover, play video games for long periods of time during work while delegating
12 their responsibilities to female employees, engage in banter about their sexual encounters, talk
13 openly about female bodies, and joke about rape.

14 6. Unsurprisingly, Defendants’ “frat boy” culture is a breeding ground for harassment
15 and discrimination against women. Female employees are subjected to constant sexual harassment,
16 including having to continually fend off unwanted sexual comments and advances by their male co-
17 workers and supervisors and being groped at the “cube crawls” and other company events. High-
18 ranking executives and creators engaged in blatant sexual harassment without repercussions. In a
19 particularly tragic example, a female employee committed suicide during a business trip with a male

20

21 Chief Legal Officer	2019	836,381	5,160,991
	2018	759,238	4,763,158

22

23

24 ⁵ (See, e.g., Schreier, *Blizzard Workers Share Salaries in Revolt Over Pay*, Bloomberg (August 6, 2020)
25 <<https://www.bloomberg.com/news/articles/2020-08-03/blizzard-workers-share-salaries-in-revolt-over-wage-disparities>> [as of July 19, 2021]; Gonzalez, *Blizzard and Overwatch Continue to Fail Black Women* (Nov. 2, 2020) <<https://www.hotspawn.com/overwatch/news/blizzard-and-overwatch-continue-to-fail-black-women>> [as of July 19, 2021]; see also Kolakowski, *Activision Blizzard Faces Diversity Hiring Controversy* (Jan. 28, 2021)
26 <<https://insights.dice.com/2021/01/28/activision-blizzard-faces-diversity-hiring-controversy/>> [as of
27 July 19, 2021]; *Ex-Blizzard employee says he left due to “racial abuse and discrimination*,
28 <<https://www.pcgamesn.com/blizzard-racial-discrimination>> [as of July 19, 2021]

1 supervisor who had brought butt plugs and lubricant with him on the trip. Defendants continuously
2 condone the quid pro quo and hostile work environment. The message is not lost on their employees.

3 7. Numerous complaints about unlawful harassment, discrimination, and retaliation
4 were made to Defendants' human resources personnel and executives, including to Blizzard
5 Entertainment's President J. Allen Brack. But, Defendants failed to take effective remedial
6 measures in response to these complaints. Employees were further discouraged from complaining
7 as human resource personnel were known to be close to alleged harassers. An internal investigation
8 into the human resource unit noted that there was a "big lack of trust" and that "HR not held in high
9 regard." Unsurprisingly, employee's complaints were treated in a perfunctory and dismissive
10 manner and not kept confidential. As a result of these complaints, female employees were subjected
11 to retaliation, including but not limited to being deprived of work on projects, unwillingly
12 transferred to different units, and selected for layoffs.

13 8. Plaintiff DFEH, an agency of the State of California, brings this enforcement action
14 against Defendants in its prosecutorial role, seeking relief in the public interest for the state and for
15 Defendants' female employees ("the Group"). Pursuant to the authority vested in DFEH under
16 FEHA, Government Code section 12900 et seq. and related laws, DFEH's enforcement action seeks
17 to remedy, prevent, and deter unlawful harassment, retaliation, and discrimination. Specifically, the
18 violations pled herein include claims for sex discrimination in terms and condition of employment
19 (including compensation, assignment, promotion, constructive discharge, termination); unlawful
20 sexual harassment; retaliation; failure to prevent discrimination, harassment, and retaliation; and
21 unequal pay.

22 PARTIES

23 9. Plaintiff Department of Fair Employment and Housing ("DFEH") is a state agency
24 tasked with investigating and prosecuting civil rights actions. (Gov. Code, § 12930, subd. (f)(1)-
25 (5).) California's legislature exercised its police power in enacting FEHA and investing authority in
26 DFEH "to protect and safeguard the right and opportunity of all persons to seek, obtain, and hold
27 employment without discrimination..." (Gov. Code, § 12920; *Dept. Fair Empl. & Hous. v. Cathy's*
28 *Creations, Inc.* (2020) 54 Cal.App.5th 404, 410 ["the DFEH's task is to represent the interests of the

1 state and to effectuate the declared public policy of the state to protect and safeguard the rights and
2 opportunities of all persons from unlawful discrimination.”].) As set forth in Government Code
3 section 12900 et seq., DFEH is charged with enforcing FEHA, including initiating and investigating
4 complaints on behalf of itself and persons alleged to be aggrieved by discriminatory employment
5 practices. (Gov. Code, §§ 12930, 12961.) DFEH is additionally authorized to investigate and
6 prosecute claims under Labor Code section 1197.5, which prohibits employers from paying
7 employees of one sex less for substantially similar work. (Gov. Code, § 12930, subd. (f)(5).) At
8 DFEH’s discretion, DFEH may bring a civil action in the name of the department on behalf of a
9 group or class of persons adversely affected, in a similar manner, by an unlawful practice. (Gov.
10 Code, §12965.) ““The DFEH acts as a public prosecutor when it pursues civil litigation under the
11 FEHA (*State Personnel Bd. v. Fair Empl. & Hous. Com.* (1985) 39 Cal.3d 422, 444), and it may
12 seek remedies to “‘vindicate’ what it considers to be in ‘the public interest in preventing ...
13 discrimination.’” (*Dept. Fair Empl. & Hous. v. Law Sch. Admission Council, Inc.* (2013) 941
14 F.Supp.2d 1159, 1172). (*Dept. Fair Empl. & Hous. v. Superior Ct. of Kern Cty.* (2020) 54
15 Cal.App.5th 356, 373.)

16 10. Defendant Activision Blizzard, Inc., (“Activision Blizzard”) is now and was, at all
17 times relevant to this complaint, a Delaware corporation operating in and under the laws of the State
18 of California and conducting business in Los Angeles, California. Activision Blizzard’s corporate
19 headquarters are located in Santa Monica, California. Activision Blizzard conducts business
20 through its subsidiaries, Defendants Blizzard Entertainment, Inc. (“Blizzard Entertainment”) and
21 Activision Publishing, Inc. (“Activision Publishing”). As indicated by its 2021 Form 10-K, Blizzard
22 Entertainment, Inc., and Activision Blizzard, Inc., along with King Digital Entertainment, fall within
23 the three organizations overseen by Activision Blizzard and constitute two of the “three reportable
24 segments” to Activision Blizzard. At all times relevant to this complaint, Activision Blizzard was an
25 “employer” subject to FEHA and all other applicable statutes.

26 11. Defendant Blizzard Entertainment, Inc., (“Blizzard Entertainment”) is now and was,
27 at all times relevant to this complaint, a Delaware corporation operating in and under the laws of the
28 State of California and conducting business in Los Angeles, California. Blizzard Entertainment is a

1 subsidiary of Activision Blizzard and has its corporate headquarters at 1 Blizzard Way, Irvine, CA
2 92618. DFEH is informed that Blizzard Entertainment conducts business in Burbank and Santa
3 Monica, California where employees work. At all times relevant to this complaint, Blizzard
4 Entertainment, Inc., was an “employer” subject to FEHA and all other applicable statutes.

5 12. Defendant Activision Publishing, Inc., (“Activision Publishing”) is now and was, at
6 all times relevant to this complaint, a Delaware corporation operating in and under the laws of the
7 State of California and conducting business in Los Angeles, California. Activision Publishing’s
8 corporate headquarters are located in Santa Monica, California. At all times relevant to this
9 complaint, Activision Publishing was an “employer” subject to FEHA and all other applicable
10 statutes.

11 13. Defendants DOES ONE through TEN, inclusive, are sued herein pursuant to Code of
12 Civil Procedure section 474. DFEH is ignorant of the true names or capacities of the defendants
13 sued herein under the fictitious names DOES ONE through TEN, inclusive. DFEH will amend this
14 complaint to allege their true names and capacities when the same are ascertained. DFEH is
15 informed, believes, and alleges, that each of the fictitiously named defendants is legally responsible
16 for the occurrences, injuries, and damages alleged herein.

17 14. DFEH is informed, believes, and alleges that at all relevant times, each defendant is
18 and was, the director, agent, employee, and/or representative of every other defendant and acted
19 within the course and scope of their agency, service, employment, and/or representation, and that
20 each defendant herein is jointly and severally responsible and liable to the Group for the damages
21 hereinafter alleged. At all relevant times, there existed a unity of ownership and interest between or
22 among two or more of the Defendants such that any individuality and separateness between or
23 among those Defendants has ceased, and Defendants are the alter egos of one another. Defendants
24 exercised domination and control over one another to such an extent that any individuality or
25 separateness of Defendants does not, and at all times herein mentioned did not, exist. All of the acts
26 and failures to act alleged herein were duly performed by and attributed to all Defendants, each
27 acting as the joint employer as Defendants jointly supervised and controlled employee’s conditions
28 of employment, determined rate of pay or method of payment, had authority to hire or fire

1 employees, and maintained employment records. All actions of all Defendants were taken by
2 employees, supervisors, executives, officers, and directors during employment with all Defendants,
3 were taken on behalf of all Defendants, and were engaged in, authorized, ratified, and approved of
4 by all other Defendants.

5 **PROCEDURAL HISTORY, JURISDICTION, AND VENUE**

6 15. DFEH incorporates and realleges all previous allegations as if fully set forth herein.

7 16. Venue is proper in the County of Los Angeles under Government Code section
8 12965, subdivision (a) as the unlawful practices complained of in this complaint occurred in the
9 County of Los Angeles.

10 17. DFEH's director, in his or her discretion, may file a complaint on behalf of a group or
11 class. (Gov. Code, § 12961; Cal. Code Regs., tit. 2, §§ 10012 and 10013.) Pursuant to this
12 authority, DFEH Director Kevin Kish ("DFEH Director") filed and served a complaint of Group or
13 Systemic Investigation and Director's Complaint for Group/Class Relief against Blizzard
14 Entertainment, Inc. on October 12, 2018, (DFEH Case No. 201810-03875512). On October 29,
15 2018, an Amended Director's Complaint was filed and served to add Activision Blizzard, Inc. On
16 December 7, 2018, a Second Amended Director's Complaint was filed and served to add Activision
17 Publishing, Inc. (collectively, referred as "Director's Complaints".) The Director's Complaints
18 alleged that Defendants engaged in discrimination against their employees on the basis of sex-
19 gender, including failing to hire, select, or employ persons because of their sex, as well as
20 discriminating in compensation or in the terms, conditions, privileges of employment due to their
21 sex. The Director's Complaints further alleged that Defendants failed to take all reasonable steps to
22 prevent unlawful discrimination, harassment, or retaliation.

23 18. After more than two-years of investigation, DFEH issued a cause finding on June 24,
24 2021. In the course of DFEH's investigation, DFEH found evidence that Defendants discriminated
25 against female employees in terms and conditions of employment, including compensation,
26 assignment, promotion, termination, constructive discharge, and retaliation. DFEH's investigation
27 also found that female employees were subject to sexual harassment. DFEH's investigation found
28 that Defendants failed to take all reasonable steps to prevent unlawful discrimination, harassment, or

1 retaliation. Lastly, DFEH's investigation further found that Defendants had committee violations of
2 Labor Code section 1197.5 in paying female employee less than their male counterparts for
3 substantially similar work. These claims are alleged and/or reasonably related to and like the claims
4 originally alleged in the Director's Complaints.

5 19. DFEH attempted to resolve this matter without litigation. Prior to filing this civil
6 action, the DFEH required all parties to participate in mandatory dispute resolution in the
7 department's internal dispute resolution division free of charge to the parties in an effort to resolve
8 the dispute without litigation. Specifically, DFEH invited Defendants to participate in a mediation
9 session with the department's internal dispute resolution division on July 1, 2, and 15, 2021, but the
10 parties were unable to resolve the administrative complaints.

11 20. In the case of failure to eliminate an unlawful practice through conference,
12 conciliation, mediation, or persuasion, or in advance thereof if circumstances warrant, the DFEH
13 may bring a civil action in the name of the department in state and federal courts. (Gov. Code, §§
14 12930, subd. (h) and 12965, subd. (a).)

15 21. All administrative procedures precedent to the institution of this lawsuit have been
16 fulfilled.

17 22. By operation of a signed agreement between the parties, DFEH's deadline to file a
18 civil complaint is July 21, 2021. DFEH filed its complaint prior to the deadline of July 21, 2021.

19 23. The amount of damages sought by this complaint exceeds the minimum jurisdictional
20 limits of this Court.

21 **GOVERNMENT ENFORCEMENT ACTION ALLEGATIONS**

22 24. DFEH brings this government enforcement action for group relief on behalf of itself
23 in the public interest and all aggrieved female employees (the "Group") pursuant to Government
24 Code sections 12961 and 12965.

25 25. DFEH's authority to seek relief on behalf of itself in the public interest and the Group
26 stems from a delegation of the power by the Legislature, authorizing DFEH to initiate a complaint
27 itself, investigate claims, and prosecute such claims under FEHA. (*see, e.g.*, Gov. Code, §§ 12920,
28 12920.5, 12930, 12961, and 12965.) Section 12961 expressly authorizes the DFEH Director to file a