512

Pre-Show: Activision next week!

A. Swalwell v Trump

Eric Swalwell is suing 4 people in connection with the 1/6 Insurrection: Trump, Trump Jr., Rudy Giuliani and Alabama House Member Mo Brooks.

This case is before my former partner, Judge Amit Mehta. If that name is familiar, its because he's the judge from the DC District Court in the
https://www.cnn.com/2019/05/09/politics/who-is-judge-amit-mehta-dc-district-court/index.html

Activi-2 tracks
Trump – immunity -- also Trump Jr and Giuliani

-And then there's Mo.

Mo Brooks – official duties / E Jean Carroll / motion for DOJ to intervene just like in that case
https://openargs.com/oa498-the-garland-doj-coverage-is-completely-wrong/

-interviews are part of the job
Ballenger—giving interviews

Files uploaded

B. Sanctions

The gift that keeps on giving – but we cover this for two reasons: (1) actions have consequences and (2) this is how the Kraken lawyers are reacting to the defense of their lawsuits where the minimum bar is "is this not 100% nonsense," and they're losing *that* battle, which should give you some indication of what it would be like if they actually tried any of these cases. Would be an insult to shitshows.

1. Emily Newman: it's my first day & I never got anything – filed **nothing** despite hiring new counsel (Timothy Galligan)

Fink's response: we emailed you, we sent the Rule 11 notice, and we sent a hardcopy to Sidney Powell's address at Turtle Creek in Texas… which three other lawyers managed to get, but not you? Come on.

No affidavit – that's what I would have done.

2. Lin Wood: Who are you people?

Hired Paul Stablein
Filed two briefs because he was also subject to sanctions for broadcasting the hearing
Probably will win on that

The main argument is: you can't touch me

E.D. Mich. LR 83.20(j) states that "[a]n attorney…who practices in this court as permitted by this rule is subject to the Rules of Professional Conduct adopted by the Michigan Supreme Court…."

I didn't *practice* in this jurisdiction because I didn't even try to get admitted.

And those rules do not reward the gamesmanship displayed here. Michigan Rule of Professional Conduct 8.5(a) states that "[a] lawyer not admitted in this jurisdiction is also subject to the disciplinary authority of this jurisdiction if the lawyer provides *or offers to provide any legal services* in this jurisdiction."

3. Stefanie Lambert Junttila

This is remarkable.

Prepared the argument that said "we attorneys have a First Amendment right to say demonstrably false stuff in lawsuits because Muh Freedumb," and then justified that with "citing cases would be too many to mention and would insult the court."

LAM
Was asked two questions during the sanctions hearing. The first was: "uh, I won't be offended, counsel, but could you cite those cases for me?" She declined to do so. Put a pin in that.

The SECOND --

THE COURT: Let me just -- I want you to take some time and look at -- this is a case from the Sixth Circuit. It's the Mezibov case, which you, I'm certain are familiar with, versus Allen at 411 Fed 3rd 712. And the Court has noted that "It is unquestionable that in the courtroom itself, whatever right to free speech an attorney has is extremely circumscribed. Furthermore, it appears that no circuit court has ever granted an attorney relief under the First Amendment for this narrow category of speech, because an attorney, by the very nature of his job, voluntarily agrees to relinquish his right to free expression in the judicial proceeding. Our Sixth Circuit sees no basis for concluding that free speech rights are violated by a restriction on that expression. In filing motions and advocating for clients in court, an attorney is not engaged in free expression. She is simply doing her job."

And I think that is -- I was concerned, and you have not done anything to put aside my concerns, Ms. Lambert, that there is in fact, that is a circumscribed right that an attorney has when they are acting in a capacity as a lawyer in a courtroom.

Mezibov v. Allen:
https://scholar.google.com/scholar_case?case=136755342162063480

So her brief is 21 pages long…
https://openargs.com/wp-content/uploads/Juntilla-brief.pdf

Care to guess how many times she cites to Mezibov v. Allen?

What about that stupidly long string cite?
P. 1-2 & n.1

The First Amendment provides citizens the right "to petition the Government for a redress of grievances." This right includes the right of court access, which includes the right to file a lawsuit. This includes not only procedural forum access but also substantive remedial access (guaranteeing the right of an injured person to obtain a meaningful remedy).1 a. A lawsuit is a petition It is undeniable that a lawsuit is a petition. In more than twenty Supreme Court cases over the past five decades, one or more Justices has asserted or assumed that a lawsuit is a petition, without a single colleague disputing the premise.

She then cites 20 cases

11 that ostensibly hold that proposition
5 in footnote
4 dissents (!)

You could just cite those 11, Stefanie.

Also, the proposition she's citing – that a lawsuit is a "petition for grievances" – applies to the CLIENT, not the LAWYER, which she'd know if she'd read the Mezibov decision, which she hasn't.

She's a right-wing freak show:
p. 14 n.3
3 Directly contrary to Ms. Powell's claim, Stefanie Lambert Junttila, one of the local attorneys who Powell seeks to shelter with her eleventh hour magnanimous claim of responsibility, appeared on "The Gateway Pundit" the day after the sanctions hearing, where she admitted that she was not simply hired as local counsel, she "reached out to the Sidney Powell team and the Rudy Giuliani team to provide evidence" of supposed election fraud. Available at https://rumble.com/vjsv8v-liveat-5-pm-cdt-bombshell-report-michigan-election-2020-case-with-atty.-st.html, last accessed July 20, 2021. She then appeared on "One America News Network" on July 14, 2021 and promised that "new suits will be filed in Michigan and other states as well." Available at https://rumble.com/vjvnhx-real-america-dan-w-stefanielambert-july-14-2021.html, last accessed July 20, 2021.

4. Service of the Rule 11 Motion

Kleinhendler, Powell: Campbell's argument
(applies to the rest of them)

Rule 11
https://www.law.cornell.edu/rules/frcp/rule_11

Subsection (c)(2)
(2) *Motion for Sanctions.* A motion for sanctions must be made separately from any other motion and must describe the specific conduct that allegedly violates Rule 11(b). The motion must be served under Rule 5, but it must not be filed or be presented to the court if the challenged paper, claim, defense, contention, or denial is withdrawn or appropriately corrected within 21 days after service or within another time the court sets. If warranted, the court may award to the prevailing party the reasonable expenses, including attorney's fees, incurred for the motion.

NO QUESTION THEY DID THAT.

-link to the Safe Harbor letter

Courts have embraced a strict compliance rule because the safe harbor provision is there to "protect litigants from sanctions whenever possible in Case 2:14-cv-07082-WJM-MF Document 76 Filed 04/18/16 Page 2 of 3 PageID: 3 order to mitigate Rule 11's chilling effects [while also] formalizing procedural due process considerations…." 5A Charles Alan Wright and Arthur R. Miller, Federal Practice and Procedure § 1337.2, at 722 (3d ed. 2004).

In *Century Products, Inc. v. Sutter,* 837 F.2d 247, 253 (6th Cir.1988), the Sixth Circuit first explained that the test for the imposition of Rule 11 sanctions is whether the individual attorney's conduct was "reasonable under the circumstances." "A good faith belief in the merits of a case is insufficient to avoid sanctions" under Rule 11. *Tahfs v. Proctor,* 316 F.3d 584, 594 (6th Cir.2003).
Under Rule 11, sanctions may be imposed if a reasonable inquiry would have disclosed that the pleading, motion or other paper was not well-grounded in fact. *See Westmoreland v. CBS, Inc.,* 770 F.2d 1168, 1174 (D.C.Cir.1985). As soon as the complaint is filed, Rule 11 applies to the conduct of plaintiffs'

counsel. After the complaint is filed, plaintiffs' counsel retain a continuing responsibility to review their pleadings and, if necessary, to modify them to conform with Rule 11. “Failure to do so permits the district court, within its discretion, to impose sanctions against the offending litigant or attorney when a reasonable inquiry would have disclosed that the complaint was either lacking in factual support or unwarranted by existing law.” *Herron v. Jupiter Transportation Co.,* 858 F.2d 332, 336 (6th Cir.1988).

United States v. Marion L. Kincaid Tr., 463 F. Supp. 2d 680, 697 (E.D. Mich. 2006)

As to the availability of Rule 11 of the Federal Rules of Civil Procedure, that rule affords the district court the discretion to award sanctions when a party submits to the court pleadings, motions or papers that are presented for an improper purpose, are not warranted by existing law or a nonfrivolous extension of the law, or if the allegations and factual contentions do not have evidentiary support. See Fed.R.Civ.P. 11(b)(1) through (3). Here, the district court concluded that Fed.R.Civ.P. 11 sanctions were unavailable due to Hartford's failure to comply with Rule 11' s safe harbor filing requirements, and therefore considered sanctions under the court's inherent powers. This Court has expressly *511 ruled that Rule 11 is unavailable where the moving party fails to serve a timely “safe harbor” letter. Ridder v. City of Springfield, 109 F.3d 288, 297 (6th Cir.1997) (holding that “sanctions under Rule 11 are unavailable, unless the motion for sanctions is served on the opposing party for the full twenty-one day ‘safe harbor’ period before it is filed with or presented to the court”). Thus, the district court correctly ruled that Rule 11 was unavailable to address these issues raised by Hartford.5

First Bank of Marietta v. Hartford Underwriters Ins. Co., 307 F.3d 501, 510–11 (6th Cir. 2002)

Rule 11 also contains procedural requirements intended to create a safe harbor for litigants by giving them an opportunity to withdraw offending pleadings. The rule requires a separate motion seeking sanctions, service of the motion twenty-one days before filing it with the court, and allowance during that interval for withdrawing the challenged court paper. Fed.R.Civ.P. 11(c)(1)(A). The procedural requirements of **Rule 11** were not met by the defendants in this case because they did not file a separate motion seeking **Rule 11** sanctions and provide the government with the protections of **Rule 11**'s safe harbor. The Sixth Circuit “has expressly ruled that **Rule 11** is unavailable where the moving party fails to serve a timely ‘**safe harbor**’ **letter**.” *First Bank of Marietta v. Hartford Underwriters Ins. Co.,* 307 F.3d 501, 510–11 (6th Cir.2002) (citing ***698** *Ridder v. City of Springfield,* 109 F.3d 288, 297 (6th Cir.1997)). Therefore, **Rule 11** sanctions are not available to the defendants in this case.

The impetus behind a “safe harbor” letter is to allow a party to modify or withdraw its allegedly offending pleading, written motion, or other paper, in order to avoid sanctions. *See id.* After a summary judgment was entered in this case, P & M could not have withdrawn or corrected any paper, claim, or contention. As explained in *Ridder,* supra, once the Court disposed of this lawsuit, P & M was in no position to withdraw any allegedly offending claim.

P & M Servs., Inc. v. Gubb, No. 07-12816, 2009 WL 1639740, at *2 (E.D. Mich. June 10, 2009)

*2 Defendants have filed a total of three motions for sanctions including this pending motion against Plaintiff and his attorney. The first motion was dismissed without prejudice to allow this Court to determine if it had jurisdiction over Defendants' counterclaim.[1] Doc. 43 at 8–9. The second motion for sanctions was dismissed without prejudice because the motion did not attach Defendants' proposed

motion for sanctions as part of the "safe harbor" letter sent to Plaintiff's counsel.[2] Doc. 53. Finally, in their current motion, filed pursuant to Fed.R.Civ.P. 11, Defendants have attached the proposed Rule 11 motion that was sent with the "safe harbor" letter.

Potts v. Am. Bottling Co., No. 5:12CV02688, 2015 WL 4664150, at *2 (N.D. Ohio Aug. 6, 2015)

5. "Fraud vitiates everything"

-UNBELIEVABLE
-GO TO TRANSCRIPT

https://angrywhitemen.org/2021/07/24/fraud-vitiates-everything-infowars-host-uses-19th-century-court-case-to-falsely-claim-2020-election-can-be-overturned/

I thought I must have misunderstood but no

That's how good Fink's brief is
--it got worse after the hearing

-read from later brief

C. AWABFL

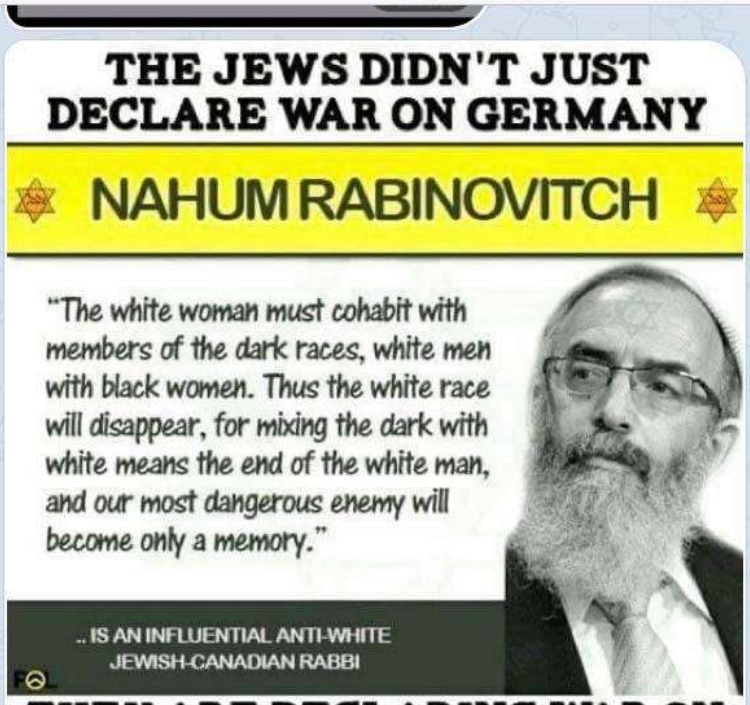
A big fat liar, because I said I wasn't going to

Sorry to join the flood of people messaging about Telegram, but I think I've a useful angle: telegram can be one-to-one messaging, but it also allows for encrypted group messaging, and for people to set up a group where only they can push out messages, and other people can follow and comment. That's how Lin Wood can have tens of thousands of 'followers' - he's using it set to push, essentially. This broadcast function can presumably used for normal reasons, but I've been using Telegram to monitor how people get taken from "lockdowns are an infringement of your rights" to "it's all the fault of the Jews and we should kick black people out of the country because the great replacement is coming". I talked about it across some SwaK episodes, and I'm midway through writing it up for The Skeptic. I'd say it's definitely the case that Telegram is the go-to encrypted messaging app for right wing extremists, white supremacists and anti-vaxxers, which is increasingly the same group. Though, fun fact: if anyone uses it to share porn, Telegram shuts them down quickly.

O2-UK 16:42 61%

Back 4 Comments

CallingASpadeASpade
@CallingASpadeASpade ♠

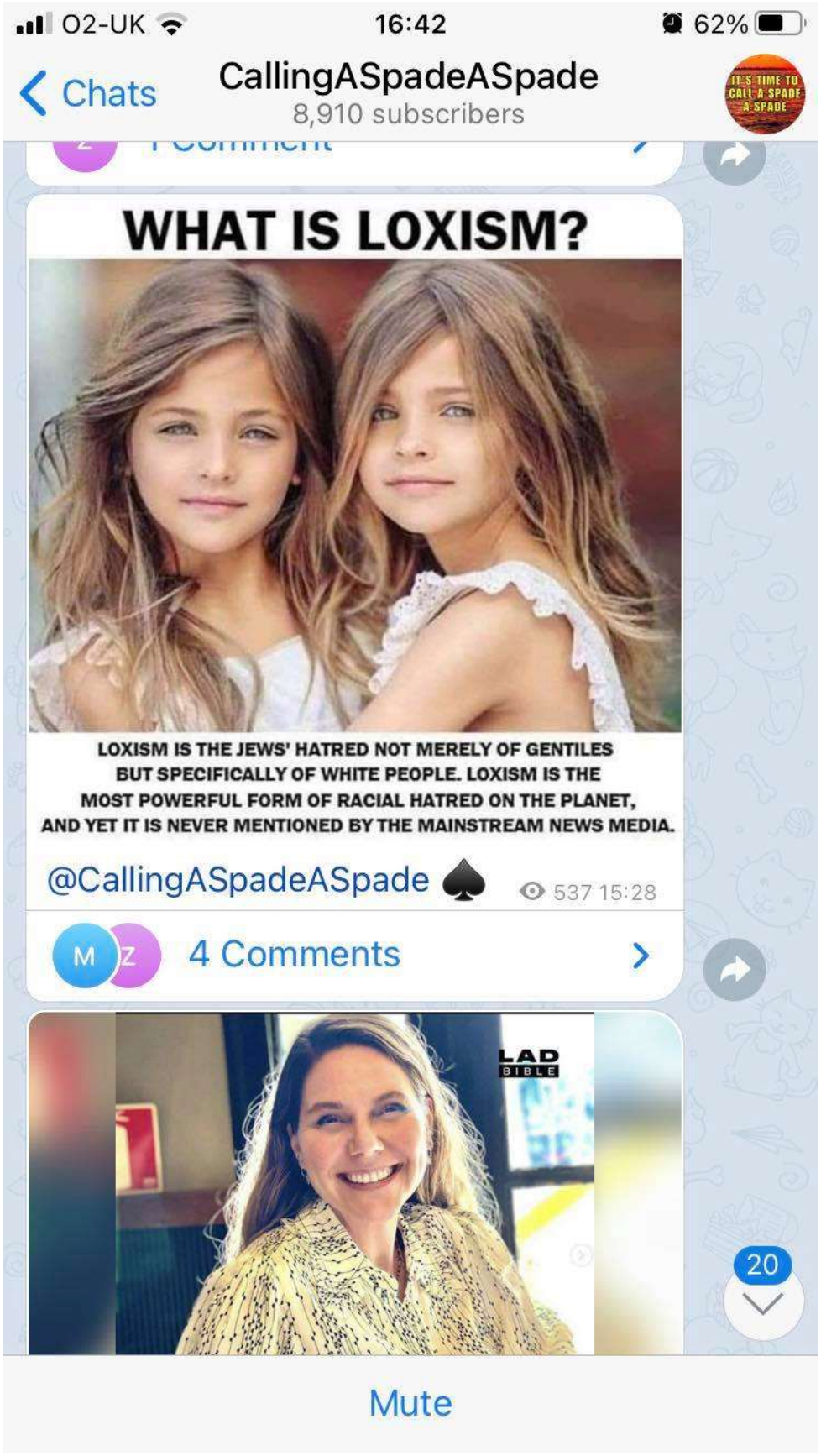


15:38

Mike

Fuck them. They commented the hollicost on there own. What do you think they will do to you? Wake the fuck up and understand at the end of the day its you and you only to protect yourself. Its that simple and if u choose to be sheep then u will be led to slaughter by the jews 16:29

Comment


O2-UK
16:42
62%
Chats
CallingASpadeASpade
8,910 subscribers
WHAT IS LOXISM?
LOXISM IS THE JEWS' HATRED NOT MERELY OF GENTILES
BUT SPECIFICALLY OF WHITE PEOPLE. LOXISM IS THE
MOST POWERFUL FORM OF RACIAL HATRED ON THE PLANET,
AND YET IT IS NEVER MENTIONED BY THE MAINSTREAM NEWS MEDIA.
@CallingASpadeASpade
537 15:28
4 Comments
LAD BIBLE
20
Mute

513

A. Jane Doe 12

Read

B. Activision v. Blizzard

-Atari timeline
https://www.landley.net/history/mirror/atari/museum/Atari-Timeline.html

1972 - The Founding of Atari

- (June 27) Nolan Bushnell and Ted Dabney **start their own game company,** Atari Incorporated. Atari (a term from the Japanese game *Go*) was chosen after the first choice, "Syzygy," wasn't available.
- Al Alcorn writes a video ping-pong game called *Pong. Pong* is playtested at a bar called Andy Capps; players love it so much that the coin box is jammed with quarters.
- (November) Atari sets up assembly facilities in a former roller skating rink, hires local hippies for labor, then begins manufacturing *Pong* for mass distribution.

1973

- ***Pong* is an unprecedented success.** Eight to ten thousand units are made, more than three times the number of a typical pinball machine at the time.
- Ted Dabney panics about competition. Bushnell buys Dabney's half of Atari.
- (June) Bushnell forms Kee Games (named after and managed by friend Joe Keenan) to provide "competition" for Atari. The presence of two game companies allowed Bushnell to circumvent the existing distributor-exclusivity networks and sell more games as a result.
- Atari reaps $3.2 million in earnings for the year.

1974

- Atari creates video games in rapid succession; a new game is made every six weeks just to cover expenses. Assembly-line employees, disgruntled at low pay, begin stealing game components and selling them to competitors.
- Kee Games, at the height of its success, releases *Tank,* invented by Steve Bristow. It becomes a major success, and the distributor-exclusivity networks are dissolved as dealers insist on getting it.
- Atari "merges" with Kee Games, and publishes *Tank* under its own label. Joe Keenan is made President of Atari.
- Al Alcorn creates Home Pong, a dedicated home console to play *Pong.*

1975

- Nolan Bushnell demonstrates Home Pong at a toy industry show. It is Atari's first public display of a home console.
- Sears signs on as an exclusive distributor for Home Pong. Sears agrees to provide money, advertising, and distribution for the console, in return for exclusive rights.
- Home Pong is a major success, selling 150,000 units.
- Atari reaches $40 million in sales, $3 million in profits.

1976

- Squeezed in arcades by larger pinball companies, Atari begins development of pinball machines.

- Atari buys Cyan Engineering, a local think-tank. It is renamed to Grass Valley and incorporated it into the Research & Development staff.
- In response to Fairchild's Channel F programmable home video-game console, Atari develops "Stella," a prototype console that accepts cartridges. Joe Decure, Ron Milner, and Steve Meyer are the creators, under the supervision of Jay Miner.
- Nolan Bushnell hires Steve Jobs to create *Breakout*. Jobs joins with Steve Wozniak and design the game in five days. Bushnell pays Jobs $5,000; Jobs pays $350 to Wozniak, and takes sole credit for *Breakout.*
- (October) Seeking funds to finish Stella for manufacturing, **Nolan Bushnell sells Atari Inc. to Warner Communications** for $28 million. Bushnell is named Chairman of the Board, and Joe Keenan remains as President.

1977 - The Arrival of the VCS

- Warner Communications invests $100 million in Atari Inc. to develop Stella.
- (October) **Atari Inc. releases the Atari VCS** (Video Computer System), with a suggested retail price of $200. It is initially released with nine games, which are home versions of Atari's popular arcade titles.
- (December) Hand-held electronic games cut into Christmas console sales. Atari Inc. survives with financial support from Warner Communications, but is deep in debt.

1978

- Warner Communications hires Ray "The Czar" Kassar as president of Atari's consumer division. Bushnell and Warner disagree over the direction to take Atari Inc., especially on the topic of whether to form a home computer division.
- (October) Atari releases *Football* for the arcades, the first game to use a track-ball controller.
- (November) **Bushnell arranges to be fired. Ray Kassar takes over as CEO of Atari Inc.** Changes are immediate -- focus shifts from development to marketing and sales. R&D and overhead take deep cuts, discipline and security are strict. Stifling attitude angers many employees, who quit.

-put a pin in him – no, don't, he was a real shithead, he forbade game designers from taking credit for their games so in 1980, Atari releases *Adventure* for the VCS, the first game to include a hidden "Easter Egg" credit for the programmer, Warren Robinett.

Context: 1979-1980

- 1979: Atari sells 400,000 VCS consoles. Gross income is marked at over $200 million, would double in 1980, making Atari the fastest-growing company in the history of America

So there's your dynamic: massively growing company, half of its revenue is in game sales, and the CEO treats the programmers like dogshit.

In early 1979, Atari's marketing department issued a memo to its programing staff that listed all the games Atari had sold the previous year. The list detailed the percentage of sales each game had contributed to the company's overall profits. The purpose of the memo was to show the design team what kinds of games were selling and to inspire them to create more titles of a similar breed.
https://www.gameinformer.com/b/features/archive/2013/02/26/activisionaries-how-four-programmers-changed-the-game-industry-forever.aspx

Out of a development staff of thirty-five, four programmers (Crane, Larry Kaplan, Alan Miller and Bob Whitehead), had produced games that had accounted for 60% of Atari's sales.[9]

"I remember looking at that memo with those other guys," recalls Crane, "and we realized that we had been responsible for 60 percent of Atari's sales in the previous year – the four of us. There were 35 people in the department, but the four of us were responsible for 60 percent of the sales. Then we found another announcement that [Atari] had done $100 million in cartridge sales the previous year, so that 60 percent translated into -$60 -million."

These four men may have produced $60 million in profit, but they were only making about $22,000 a year. To them, the numbers seemed astronomically disproportionate. Part of the problem was that when the video game industry was founded, it had molded itself after the toy industry, where a designer was paid a fixed salary and everything that designer produced was wholly owned by the company. Crane, Kaplan, Miller, and Whitehead thought the video game industry should function more like the book, music, or film industries, where the creative talent behind a project got a larger share of the profits based on its success.

The four walked into the office of Atari CEO Ray Kassar and laid out their argument for programmer royalties. Atari was making a lot of money, but those without a corner office weren't getting to share the wealth. Kassar – who had been installed as Atari's CEO by parent company Warner Communications – felt obligated to keep production costs as low as possible. Warner was a massive c-orporation and everyone helped contribute to the -company's -success.

"He told us, 'You're no more important to those projects than the person on the assembly line who put them together. Without them, your games wouldn't have sold anything,'" Crane remembers. "He was trying to create this corporate line that it was all of us working together that make games happen. But these were creative works, these were authorships, and he didn't -get -it."

"Kassar called us towel designers," Kaplan told InfoWorld magazine back in 1983, "He said, 'I've dealt with your kind before. You're a dime a dozen. You're not unique. Anybody can do -a -cartridge.'"

The four programmers left Kassar's office dejected. Warner was willing to give its recording artists royalties for the music they made, but their most productive programmers couldn't even get a bonus after making the company millions. Crane, Kaplan, Miller, and Whitehead were good at making games – that in-house memo proved people wanted to play what they programmed. The four decided that they were done working for Atari. But they weren't done making games for -the -Atari.

That was the founding of Activision, the first third-party developer. Ever. And literally the best games for the 2600, Pitfall, River Raid, Megamania, Kaboom!

Activision has a super amazing neat history.

So why are they being sued?

-read backwards – this is brought by the California Department of Fair Employment and Housing, okay, not a crank, entitled to bring claims under

Gov't Code § 12940(a)
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=12940.&lawCode=GOV

this is standard equal protection statute, tracks the language of Title VII of the Civil Rights Act of 1964
42 U.S.C. § 2000e-2
https://www.law.cornell.edu/uscode/text/42/2000e-2

§ 12940 says

It is an unlawful employment practice, unless based upon a bona fide occupational qualification, or, except where based upon applicable security regulations established by the United States or the State of California:

(a) **For an employer**, **because o**f the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, **sex, gender, gender identity, gender expression**, age, **sexual orientation**, or veteran or military status of any person, **to refuse to hire** or employ the person or to refuse to select the person for a training program leading to employment, or to bar or to discharge the person from employment or from a training program leading to employment, **or to discriminate against the person in compensation or in terms, conditions, or privileges of employment**.

FIRST FOUR COUNTS ARE UTTERLY STRAIGHTFORWARD – NOT GETTING THE ATTENTION, OBVIOUSLY – BUT THEY'RE LIKELY TO BE THE BULK OF THE LAWSUIT

Count I (Compensation) is very straightforward: says women are paid less than men
p. 17, paragraph 56: Defendants offered women lower compensation at hire, assignedwomen to the lower paid and lower opportunity levels and roles, and afforded them less incentive and/or equity pay opportunities than their male counterparts

Kotaku article – some of this is systematic but there's an ironic twist:
"Women are generally brought in at a lower rate of pay than their male counterparts with the same experience levels," they wrote. "Often this is because the men that join Blizzard have friends on the inside pulling [for] them. It also happens because women coming in are usually paid less at their previous job and will accept lower offers without knowing the pay band they are being brought in on."

Part of the problem, they say, is that many details surrounding compensation at the company—including perks like stock options—are shrouded in secrecy. Even if you become aware that there's an imbalance, there's not a defined pathway to correct it. Really, more often than not, actively trying to do something about any given issue only leads to more problems, current and former employees are saying on social media.

…which, you know, was part of the problem at Atari 40 years ago.

Paragraph 3: only 20% women, leadership is male and white, read allegation

Count II (Promotion):
p. 18, paragraph 67-68
-assigned to lower paid and lower opportunity levels and roles
-quota system, put a pin in that

Count III (Termination)
p. 19, paragraphs 77-78 – these are bare-bones allegations, just say "intentionally discriminated against women in terminations, their procedures have resulted in unlawful disparate impact discrimination against women in termination" – women get fired more often

Count IV (Constructive Termination)
p. 20, paragraph 87 – because of Counts I-III, women were induced to come work for Activision, only to realize those "promises were empty" effectively forcing them to leave the company

Count V (Harassment)
§ 12940 subsection (j)

(j) (1) **For an employer**, labor organization, employment agency, apprenticeship training program or any training program leading to employment, or any other person, **because of** race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, **sex, gender, gender identity, gender expression**, age, **sexual orientation**, or veteran or military status, **to harass an employee**, an applicant, an unpaid intern or volunteer, or a person providing services pursuant to a contract. **Harassment** of an employee, an applicant, an unpaid intern or volunteer, or a person providing services pursuant to a contract by an employee, other than an agent or supervisor, **shall be unlawful if the entity**, or its agents or supervisors, **knows or should have known of this conduct and fails to take immediate and appropriate corrective action**. **An employer may also be responsible for the acts of nonemployees, with respect to harassment of employees, applicants, unpaid interns or volunteers, or persons providing services pursuant to a contract in the workplace, if the employer, or its agents or supervisors, knows or should have known of the conduct and fails to take immediate and appropriate corrective action**. In reviewing cases involving the acts of nonemployees, the extent of the employer's control and any other legal responsibility that the employer may have with respect to the conduct of those nonemployees shall be considered. **An entity shall take all reasonable steps to prevent harassment from occurring. Loss of tangible job benefits shall not be necessary in order to establish harassment**.

More robust than comparable federal law
Content Warning: Descriptions of sexual assault

p. 21, paragraph 97: Defendants' female employees were routinely subjected to unwelcome sexual advances and other harassing conduct so severe or pervasive that it created a hostile work environment."
Just a handful of paragraphs in the complaint

Read paragraph 46, paragraph 48
Paragraph 50, that's a bad fact

So we don't fully know

Count VI (retaliation)
-also straightforward
Paragraph 51: "involuntary transfers, selection for layoffs, and denial of projects and other opportunities"

Count VII, VIII – based on subsection (k)
(k) For an employer, labor organization, employment agency, apprenticeship training program, or any training program leading to employment, to fail to take all reasonable steps necessary to prevent discrimination and harassment from occurring.

That's duplicative of the language in (j), if we have a California employment lawyer wants to explain why but I doubt they can recover twice

Count IX – Unequal pay
Labor Code § 1197.5
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1197.5.&lawCode=LAB

(a) An employer shall not pay any of its employees at wage rates less than the rates paid to employees of the opposite sex for substantially similar work, when viewed as a composite of skill, effort, and responsibility, and performed under similar working conditions

With a bunch of exceptions that don't apply – duplicative – may require different levels of proof

Count X
Labor Code § 432.6
https://casetext.com/statute/california-codes/california-labor-code/division-2-employment-regulation-and-supervision/part-1-compensation/chapter-3-privileges-and-perquisites/article-3-contracts-and-applications-for-employment/section-4326-requiring-waiver-of-rights-prohibited

(a) A person shall not, as a condition of employment, continued employment, or the receipt of any employment-related benefit, require any applicant for employment or

any employee to waive any right, forum, or procedure for a violation of any provision of the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code) or this code, including the right to file and pursue a civil action or a complaint with, or otherwise notify, any state agency, other public prosecutor, law enforcement agency, or any court or other governmental entity of any alleged violation.

-alleges “on information and belief” that they made them sign agreements; we’ll see