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8 **CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING**

9 GABRIELLE UNION, an individual;

10 Claimant,

11 vs.

**COMPLAINT**

12  
13 UNIVERSAL TELEVISION, LLC, a New  
York limited liability company;  
14 FREMANTLE PRODUCTIONS NORTH  
AMERICA, INC., a Delaware corporation;  
15 SYCO ENTERTAINMENT INC.; a Delaware  
corporation; SIMON COWELL, an  
16 individual; and DOES 1 through 10, inclusive,

17 Respondents.  
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1 Claimant Gabrielle Union (“Union” or “Claimant”) alleges causes of action against  
2 Respondents Universal Television, LLC (“NBC”)<sup>1</sup>, Fremantle Productions North America, Inc.,  
3 (“Fremantle”), Syco Entertainment, Inc. (“Syco”), Simon Cowell (“Cowell”), and DOES 1 through 10  
4 (hereinafter collectively referred to as “Respondents”) as follows:

### 5 INTRODUCTION

6 1. Union, an African American woman, was a judge on *America’s Got Talent* (“AGT”),  
7 but, in what has become a widely publicized matter, was terminated from the Cowell-created show after  
8 just one season. Sadly, what led to Union’s termination was her refusal to remain silent in the face of a  
9 toxic culture at AGT that included racist jokes, racist performances, sexual orientation discrimination,  
10 and excessive focus on female judges’ appearances, including race-related comments. Union raised  
11 numerous complaints while working on AGT, including:

- 12 • **Cowell’s Smoking**: On Union’s first day on AGT, she was forced to request that Cowell  
13 smoke cigarettes outside in accordance with California law. Cowell disregarded Union’s  
14 request and continued to smoke cigarettes indoors at each of the locations where AGT was  
15 filmed (i.e. Pasadena, Universal Studios and the Dolby Theater).
- 16 • **Blackface Hands**: NBC, Fremantle and Syco permitted an AGT contestant to perform in  
17 blackface hands, even though Cowell and his production team articulated concerns that the  
18 act was racist. Union immediately complained to NBC that allowing the blackface hands  
19 performer to appear before a live audience gave the impression that NBC, Fremantle, Syco  
20 and Cowell condoned racism.
- 21 • **Mandell’s Racist Comments**: During the taping of the Judge’s Cuts segments of AGT,  
22 Mandell mocked a Spanish-singing performer from Arizona by stating that, in sum and  
23 substance, America would not be able to “understand” her singing. Union complained  
24 about Mandell’s racist comment to NBC’s Vice President of Talent Relations and shared her  
25 concern that Mandell’s comments essentially conveyed a message to 41 million United  
26 States Spanish-speaking residents that unless you speak English you cannot be successful on  
27 the show and that there is no room for contestants that do not speak or perform in English.

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<sup>1</sup> NBCUniversal owns NBC television network. See <http://www.nbcuniversal.com/business/universal-television>.

- 1 • **Jay Leno**: During a now-infamous segment that Jay Leno (“Leno”) filmed in the presence  
2 of Union and the AGT Judges, Leno made a joke about a painting of Cowell surrounded by  
3 his dogs, stating that Cowell’s dogs “looked like something one would find on the menu at a  
4 Korean restaurant.” Union complained to the producers on AGT that Leno’s joke was racist  
5 and urged them to report Leno’s joke to human resources at NBC
- 6 • **Young Dylan**: Cowell orchestrated the rejection of 10-year-old black rapping sensation  
7 Dylan Gilmer a/k/a Young Dylan. In response to Union’s complaint about this decision,  
8 Cowell informed Union that the reason Young Dylan was being cut was due to the fact that  
9 he was not an act “America can get behind.”
- 10 • **Union’s Hair**: Union, a black woman, was singled out due to her physical appearance and  
11 discriminated against by NBC due to the fact that her hair did not fit within the white image  
12 that NBC apparently sought to convey to the audience of AGT. When filming at the Dolby  
13 Theater, NBC’s Senior Vice President of Alternative Programming and a producer on AGT  
14 informed Union’s manager that her hair was “too wild” and that it needed to be “toned  
15 down.” The critique of Union’s hair, which was an unsolicited opinion and was not a  
16 production based not, was subsequently interpreted as implying that her hair was “too  
17 black.”

18 2. Union, believing that NBC, Fremantle and Syco were “committed to ensuring a  
19 respectful workplace for all employees”<sup>2</sup>, reported these transgressions to various NBC executives and  
20 producers on AGT with the expectation that human resources for NBC, Fremantle and/or Syco would  
21 investigate her complaints and take appropriate remedial action. Instead of taking appropriate actions  
22 and investigating these serious issues, Union was labelled as difficult by NBC, Fremantle, Syco, and  
23 the producers on AGT. Even though Union followed NBC’s proscribed methods for reporting  
24 discrimination, NBC, Fremantle and Syco all failed to conduct a contemporaneous investigation into  
25 the serious issues raised by Union or make NBC’s human resources department aware of Union’s  
26 concerns such that corrective and/or remedial action could be taken. As a result, NBC, Fremantle and  
27 Syco never followed up with Union about the steps that were being taken to address her concerns, as  
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<sup>2</sup> <https://www.usatoday.com/story/entertainment/tv/2020/01/11/nbc-entertainment-chief-paul-telegdy-promises-agt-changes-if-needed/4442247002/>

1 there were none. Consequently, Union felt as if she was the only one policing the show against racism,  
2 sexism, homophobia and other unlawful behaviors on behalf of the contestants, audience members and  
3 other cast and crew.

4 3. After Union was terminated as a judge on AGT, NBC and Fremantle retained an outside  
5 attorney to perform a confidential workplace investigation of Union's allegations in an effort to cover  
6 their own tortious behavior and in an attempt to demonstrate to the public that NBC and Fremantle  
7 were committed to ensuring a respectful workplace. Union met with the outside investigator retained  
8 by NBC and Fremantle on December 3, 2019, during which time Union raised approximately *60 issues*  
9 that addressed the problems that she experienced while serving as a judge on AGT, including but not  
10 limited to, racially insensitive acts, racist and misogynistic remarks and other instances of race and  
11 gender discrimination.

12 4. Shortly after Union's initial meeting with the outside investigator, Paul Telegdy  
13 ("Telegdy"), Chairman of NBC Entertainment, while secretly planning to undermine the investigation  
14 by pressuring Union from providing her true experience of racial discrimination and a hostile work  
15 environment on AGT, fabricated a story for the media in which he purported to adhere to NBC's  
16 policies refusing to share the specific details of the investigation. Telegdy publicly stated "I can't say  
17 anything else while they're doing a serious investigation" but assured the media that NBC and  
18 Fremantle "will put in new practices, if necessary."<sup>3</sup>

19 5. Telegdy contradicted his statements to the media and personally disregarded NBC's  
20 "Principles of Business Conduct" (hereinafter, "Code of Conduct")<sup>4</sup> mandating confidentiality for  
21 workplace investigations by contacting Union's agent and disclosing confidential information obtained  
22 during the ongoing investigation into Union's concerns in an attempt to silence and intimidate Union  
23 from providing information to the investigator about her experiences. On or about February 4, 2020,  
24 Telegdy threatened Union through her agent and warned Union's agent that Union had better cease  
25 from pursuing her claims of racism while filming AGT. Union's agent was shocked that the Chairman  
26 of NBC Entertainment was attempting to threaten and intimidate Union. Union's agent could not recall  
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28 <sup>3</sup> <https://www.usatoday.com/story/entertainment/tv/2020/01/11/nbc-entertainment-chief-paul-telegdy-promises-agt-changes-if-needed/4442247002/>

<sup>4</sup> Comcast NBCUniversal Code of Conduct Updated: June 2018.

1 another instance in his career when a senior executive at a network had threatened and intimidated an  
2 employee during an ongoing workplace investigation.

3 6. It is no coincidence that Telegdy called Union’s agent on February 4, 2020, as it was the  
4 same day that the article entitled ‘*America's Got Talent*’ Drama: *Nick Cannon Weighs In on Gabrielle*  
5 *Union, Terry Crews, and Toxic Work Culture*<sup>5</sup> appeared online, in which Nick Cannon (“Cannon”), a  
6 former AGT host who worked on the show for seven seasons, was commented about the toxic  
7 environment that he experienced while working on AGT, saying: “It was some eye-opening events that  
8 occurred that really just shed light on some cultural insensitivities, ultimately, when it comes to women,  
9 when it comes to how the show is produced...” Cannon further stated:

10 “when someone like [Union], who is well educated, well-versed in  
11 speaking her mind, says, ‘Oh, this isn't right, this shouldn't be occurring,’  
12 then people are like, ‘Now, she's angry. Now, she's a troublemaker.’ No.  
13 She's pointing out things that are true issues that need to be fixed.”

14 7. At the time when Telegdy threatened Union through her agent, Union had not made any  
15 public statements whatsoever regarding her experience on AGT. It thus became clear to Union that  
16 Telegdy was not merely attempting to silence Union in the media, but attempting to silence Union from  
17 making any further comments to the investigator.

18 8. Telegdy continued to violate NBC’s Code of Conduct concerning the confidentiality of  
19 workplace investigations and Union’s right to privacy by disclosing confidential information from the  
20 ongoing investigating into Union’s claims to A-list talent with whom NBC was looking to hire. On or  
21 about February 17, 2020, Telegdy went so far as to falsely represent that the investigation was complete  
22 (even though the investigation was and still is ongoing) and that the investigator had found that Union’s  
23 representative had lied about racist statements that had been made by NBC employees about Union’s  
24 appearance. Telegdy was clearly trying to perpetuate the racist and misogynistic environment on AGT  
25 by misrepresenting the circumstances surrounding Union’s departure from AGT.

26 9. What Telegdy failed to disclose to this A-list talent, was that the preliminary results of  
27 the investigator’s findings validated many of Union’s complaints, including:  
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<sup>5</sup> <https://www.cheatsheet.com/entertainment/americas-got-talent-drama-nick-cannon-weighs-in-on-gabrielle-union-terry-crews-and-toxic-work-culture.html/>

- 1 • Cowell smoked indoors and that the smell of cigarette smoke permeated the three locations  
2 where AGT was filmed (i.e. Pasadena, Universal Studios and the Dolby Theater).
- 3 • In response to Union’s complaint about the blackface hands act, NBC’s employee lied to  
4 Union by stating that the blackface hands contestant insisted on wearing the gloves during  
5 his performance. NBC’s employee apparently lied to Union because he was “afraid” of her.  
6 The investigator indicated that it was more likely than not that NBC and Fremantle failed to  
7 report the blackface hands incident to human resources or perform any investigation into  
8 Union’s complaint, such that corrective and/or remedial action could be taken.
- 9 • NBC and Fremantle failed to report Union’s complaint about Mandell’s comment about the  
10 Spanish-singing performer from Arizona to human resources or perform any investigation  
11 into Union’s complaint, such that corrective and/or remedial action could be taken.
- 12 • Leno’s joke was, on its face, racist and NBC and Fremantle failed to report Union’s concern  
13 about Leno’s joke to human resources or perform any investigation into Union’s complaint,  
14 such that corrective and/or remedial action could be taken.
- 15 • When filming at the Dolby Theater, an NBC employee informed Union’s manager that  
16 Union’s hair was “*too wild*” and that it needed to be “toned down.”

17 10. By virtue of Union refusing to silently endure the racist and misogynistic conduct on  
18 AGT, she was labelled as “intimidating” and viewed as the problem, thus resulting in her termination.  
19 However, based on the preliminary results of the investigator’s findings, it is clear that there are  
20 systemic problems on AGT. Instead of taking Union’s complaints seriously and using them as a  
21 catalyst for real meaningful change, Telegdy, NBC, Fremantle and Syco seek to blame the victim,  
22 Union, in order to maintain the status quo.

23 11. The steps that Telegdy, NBC, Fremantle and Syco have employed to silence Union and  
24 to cover up racial discrimination on the set of AGT stands in stark contrast to the current worldwide  
25 efforts to eradicate racism through the Black Lives Matter protests and movement. NBC has yet to take  
26 responsibility for the racial discrimination that Union endured while working for NBC. Instead, NBC  
27 has threatened Union in an attempt to silence her and when that failed attempted to mislead the world  
28 about the results of the post-termination investigation into Union’s complaints of racism and

1 discrimination. By allowing Leno to return as a guest on AGT without even being spoken to by the  
2 producers or human resources for NBC after his offensively racist joke, and allowing the blackface  
3 hands act to perform live in front of thousands of people and then lying to Union after she complained  
4 about the act, highlights the fact that NBC has no processes in place to address offensive or prevent it  
5 from happening again in the future. Instead of addressing any of Union's at the time when they were  
6 made, NBC labelled Union as an angry black woman, ignored Union's complaints, and removed Union  
7 from AGT at earliest possible opportunity. That NBC would have the audacity to publicly state that  
8 "we stand with our black employees, colleagues, partners, and creators in outrage at acts of racism,"  
9 after attempting to make Union (a black woman) the scapegoat for the problems that occurred on AGT  
10 speaks to NBC's true feelings on race.

11 12. NBC's proclaimed stance on racism does not reflect the actual culture at NBC, as  
12 evidenced by countless complaints that have publicly been aired since NBC's professed "outrage at acts  
13 of racism." One such example, is the statement that Denise Garcia ("Garcia"), a news associate at  
14 NBC, made on Twitter in response to NBC's professed outrage stating:

15 "Lol, I left NBCU bc of a white, racist editor who'd made fun of my Afro  
16 and asked me, while laughing, to 'fix my hair,' first thing in the morning,  
17 alluding to my Afro. After an HR investigation, she was not even  
reprimanded and was supported and I was reprimanded for speaking up."

18 NBC was not outraged at the overtly racist comments made to Garcia. Neither did NBC take any  
19 remedial action. Instead, the director of Human Resources informed Garcia that "there's nothing the  
20 company could do..." Consequently, NBC merely ended up perpetuating the racial divide that is  
21 cleaving this country in half.

22 13. Highlighting just how out of touch NBC and its corporate parent, Comcast, are on race  
23 are the comments that Comcast chairman-CEO Brian Roberts ("Roberts") made at the annual meeting  
24 of shareholders on June 3, 2020, in which he stated that "Comcast can play a constructive role"<sup>6</sup> in the  
25 dialogue around race and diversity spurred by the death of George Floyd. To the extent that Roberts  
26 comments were meant to imply that Comcast and NBC should be used as the textbook example of what  
27 *not* do when confronted with racism in the workplace, his statements are meaningful. However, insofar  
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<sup>6</sup> <https://deadline.com/2020/06/comcast-ceo-brian-roberts-constructive-role-national-dialogue-on-race-diversity-1202949978/>

1 as Roberts contends that Comcast's and NBC's corporate practice support an inclusive and safe  
2 environment for people of all races, his statements are disturbingly misplaced and out of touch with  
3 reality.

4 14. If NBC was so concerned about eradicating racism it would not continue remaining  
5 silent when confronted with racist behavior by its on-air talent, executives and other employees, but  
6 would instead implement swift disciplinary action. Make no mistake, NBC is part of the problem.  
7 NBC's current attitude towards racism can be deduced from its defense of those individuals who have  
8 appeared in blackface, including but not limited to, Julianne Hough ("Hough"), Jimmy Fallon  
9 ("Fallon"), Fred Armisen ("Armisen") and Ted Danson ("Danson") (whom NBC hired multiple times  
10 even after he wore minstrel show blackface and used the "n-word" publicly).

11 15. NBC has been completely silent and unapologetic in response to Fallon's appearance in  
12 blackface on *Saturday Night Live* and has failed to take any remedial actions. NBC was responsible for  
13 writing and producing Fallon's blackface sketch and should have had measures in place so in the future  
14 writers and producers will avoid creating sketches that are racially offensive. Instead, NBC does not so  
15 much as issue an apology for its purposeful failure to eradicate racism caused by its own network.  
16 Who is NBC "standing by" here and where is the "outrage"? The reasons for NBC's silence and failure  
17 to take remedial and/or disciplinary action against Fallon is that Fallon brings high television ratings to  
18 NBC, which, in turn, generates revenue for NBC. Time after time NBC has chosen corporate profits  
19 over doing the right thing and taking meaningful action to eradicate racism on its own network.

20 16. NBC star Al Roker and NBC seemed fine with blackface when Fallon and Armisen  
21 wore it — ON NBC, and did not object to Danson or Hough being hired after they prominently wore it.

22 17. The bottom line is: NBC is a snake-pit of racial offenses. They only try to project  
23 otherwise when an issue comes up publicly, counting on the public's short memory for its behavior.

24 18. NBC's single Tweet on race does not demonstrate cultural sensitivity or "wokeness,"  
25 but is a diversionary tactic intended to distract peoples' attention away from the pervasive racism and  
26 inequality that exists at NBC in order to maintain corporate profits. NBC (and Comcast) needs to take  
27 a deep look in the mirror and address its own racist behaviors and flawed policies before publicly  
28 declaring solidarity with the black community.



1 SUMMARY OF THE CASE

2 19. After Union was terminated from AGT after just one season, NBC and Fremantle<sup>7</sup>  
3 belatedly retained an outside attorney to perform a workplace investigation of Union’s allegations of  
4 unlawful conduct, policy violations and other wrongful conduct. Although the investigator hired by  
5 NBC holds herself out as providing an “impartial, evidence-based and comprehensive investigation...,”  
6 her “investigation” of Union’s complaints was tainted from the start and a sham. At the time when  
7 NBC retained the investigator, NBC knew that the investigator was scheduled to be on vacation in  
8 Portugal for several weeks and would have to conduct her investigation remotely via telephone and  
9 Facetime. As a result, other than meeting with Union and two of her representatives on December 3,  
10 2019, the investigator did not conduct a single face-to-face interview of anyone that Union identified as  
11 having information relevant to her claims, suggesting that the “investigation” lacked necessarily  
12 impartiality and was results driven.

13 20. During the meeting that occurred on December 3, 2019, Union raised approximately 60  
14 issues that addressed the problems that she experienced while serving as a judge on AGT, including but  
15 not limited to, racially insensitive acts, racist and misogynistic remarks and other instances of race and  
16 gender discrimination.

17 21. On March 4, 2020, Union attended an in-person meeting with the investigator, NBC and  
18 Fremantle, during which time the investigator shared the preliminary results of her “investigation” into  
19 Union’s employment claims. At the outset of this meeting, the investigator revealed that she had  
20 previously disclosed the preliminary result of her “investigation” to NBC several weeks earlier outside  
21 of the presence of Union. The investigator, who was hired by NBC and Fremantle, acknowledged,  
22 among other things, that she had already made changes to her preliminary findings *at the direction of*  
23 *NBC and Fremantle*. The investigator also cautioned that her findings should *not* be construed to  
24 suggest that a proper “investigation” was performed.

25 22. The findings that the investigator disclosed to NBC and Fremantle were based on the  
26 scope of the complaints that Union raised during a meeting with the investigator, NBC and Fremantle  
27 on December 3, 2019 (the “Phase 1 Investigation”). Unbeknownst to Union, at the time when the  
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<sup>7</sup> Fremantle, through its affiliate Marathon Productions, Inc., was the physical producer of AGT and oversaw the day-to-day operations of the production of AGT.

1 investigator disclosed the preliminary findings of the Phase 1 Investigation to NBC and Fremantle,  
2 NBC and Fremantle instructed the investigator to initiate a second phase of the investigation (the  
3 “Phase 2 Investigation”). The purpose of the Phase 2 Investigation was to determine the identity of the  
4 individual(s) that participated in the decision to terminate Union’s employment on AGT and the  
5 reasons for said decision.

6 23. The investigator found that several NBC employees made the initial determination to  
7 terminate Union’s involvement with AGT. Once NBC made its decision, NBC sought Cowell’s  
8 approval, which they obtained from Richard Wallace (“Wallace”), Senior Vice President (TV &  
9 Production) of Cowell’s production company SYCO Entertainment, Inc. (“SYCO”). Obtaining  
10 approval from Wallace confirmed that Cowell participated in the decision to terminate Union’s  
11 involvement with AGT. After obtaining Cowell’s approval, Telegdy, Chairman NBC Entertainment,  
12 provided final authorization for Union’s removal from AGT.

13 24. In a painful twist of irony, the investigator disclosed that one of the primary reasons that  
14 Union was terminated from AGT was the lack of “chemistry” amongst the judges. The irony is that  
15 there was never any chance for the judges on AGT to develop chemistry. When deciding who was  
16 going to replace Heidi Klum and Mel B as judges for Season 14 of AGT, Telegdy made the decision to  
17 hire Union and Hough. Union is well known for her huge social media presence, having 1.4 million  
18 Twitter followers and more than 15 million Instagram followers. Union uses her extensive social  
19 media presence to engage with her fans and champion many social causes. Union regularly advocates  
20 on behalf of minorities and has been a longstanding advocate for victims of sexual assault and an  
21 activist for women's reproductive health. Union is a warrior for social justice and uses her platform to  
22 shine a light on all forms of discrimination in an effort to bring about positive social change.

23 25. Telegdy made a decision to hire Union as a judge on AGT while simultaneously hiring  
24 Hough, a two-time professional champion of ABC’s *Dancing with the Stars* who had recently gone  
25 through a widely publicized scandal for personally appearing in blackface. Hough apologized in  
26 response to the public uproar that she caused. Combining someone who so openly wore blackface  
27 (Hough) with someone who is black and regularly advocates on behalf of minorities (Union) should  
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1 have at least alerted Telegdy that this could cause Union to experience some trepidation or concern  
2 about being unprotected from racially insensitive individuals while working as a judge on AGT.

3 26. Telegdy's decision to hire Hough as judge, in hindsight, was not that surprising.  
4 Although NBC has carefully crafted a public image for itself as a proponent of social justice and a  
5 "woke" media entity, in reality, NBC only cares about racial issues if it benefits NBC. In the case of  
6 Fallon, Hough, Armisen and Danson (whom NBC hired multiple times even after he wore minstrel  
7 show blackface and used the "n-word" publicly), NBC clearly had zero problem with blackface.  
8 NBC's indifference towards racially offensive conduct is the same attitude that Union encountered  
9 behind the scenes once she become a judge on AGT.

10 27. While Union could have chosen not to appear as a judge on AGT based on Hough's  
11 involvement, she felt confident that Hough had been vetted by NBC and that NBC would protect Union  
12 from any harassing or inappropriate conduct. Union's assessment of NBC proved to be woefully  
13 incorrect. Telegdy's decision to hire Hough has since proven to be a reflection of NBC's true feelings  
14 about the African American community and blackface. While NBC purports to "champion an inclusive  
15 culture and strive to attract and develop a diverse, talented workforce to create and deliver a spectrum  
16 of content reflecting the current and changing face of the world," its actions suggest otherwise.<sup>8</sup>  
17 Instead of taking meaningful action to develop an "inclusive culture" that protects and promotes people  
18 of all genders and racial backgrounds, NBC failed to protect Union from harassing and retaliatory  
19 conduct, after marginalizing and/or dismissing her concerns to senior management at NBC.

20 28. NBC's illegal and unethical conduct began on Union's first day on AGT. At that time,  
21 Union was labelled "difficult" due to the fact that she requested that Cowell smoke cigarettes outside in  
22 accordance with California law. When NBC failed to take any remedial actions against Cowell, it  
23 started to become apparent to Union that NBC has different rules for white males. Union's belief was  
24 subsequently reinforced after NBC allowed a contestant to perform on AGT using blackface hands. In  
25 fact the investigator confirmed that it was more likely than not that NBC failed to investigate Union's  
26 complaints regarding Cowell's smoking and the contestant that performed using blackface hands (i.e.  
27 allowing the contestant to use gloves that changed the racial appearance of his white hands to black).

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<sup>8</sup> <http://www.nbcuniversal.com/values>

1 The investigator also confirmed that, based on NBC's and Fremantle's failure to investigate, it was  
2 more likely than not that NBC and Fremantle failed to take any remedial measure to ensure that Cowell  
3 smoked cigarettes outside in accordance with California law or to implement proper safeguards to  
4 ensure that further racist acts did not appear on AGT.

5 29. During the investigation into the blackface hands incident, Jason Raff ("Raff"), an  
6 Executive Producer on AGT, admitted to blatantly lying to Union by telling her that the blackface  
7 hands contestant insisted on wearing the gloves during his performance. The investigator indicated that  
8 Raff disclosed the falsity of his representations to Union during her investigation and disclosed that the  
9 contestant never insisted on wearing the gloves during his performance. Raff attempted to deflect  
10 responsibility for lying to Union by stating that he was "intimidated" by Union. Even if true, this could  
11 not justify allowing the racist act to proceed. Cowell and his production team, including but not limited  
12 to Raff, also tried to justify their decision to allow this performance to appear on camera by pointing to  
13 the fact that the footage of the blackface hands performer was edited out before the episode aired on  
14 television.

15 30. The conduct that Union was forced to endure makes it plainly obvious and entirely  
16 reasonable that she would feel unprotected by NBC. Any difficulty that Union may have had  
17 developing chemistry with the other judges, if any, was clearly due to the fact that no one was  
18 monitoring the illegal and unethical conduct that was occurring on AGT. It is hard to be jovial when  
19 your physical health is being compromised by unlawful cigarette smoke and/or you are forced to  
20 endure racist and misogynistic conduct on a nearly daily basis. If anyone is to blame for the lack of  
21 chemistry, it is Telegdy and NBC for failing to protect Union from this conduct and for failing to take  
22 meaningful action to make AGT and safe environment for all.

23 31. Not only did NBC fail to make AGT a safe environment for all, NBC failed to uphold  
24 and enforce NBC's Code of Conduct, which states that:

- 25 "· We prohibit unlawful discrimination and harassment.  
26 · We promote equal employment opportunities in compliance with  
27 applicable laws.  
28 · We prohibit retaliation against any employee who speaks up in good  
faith..."

1           32.     NBC had multiple opportunities to proactively address the discriminatory, harassing and  
2 retaliatory conduct that Union was forced to endure while a judge on AGT but failed to take any  
3 remedial action.

4           33.     NBC’s Code of Conduct confirms that “concerns about illegal or unethical conduct will  
5 be investigated.” NBC’s Code of Conduct also states that “confidentially is respected” and that “[t]he  
6 identity of the employee (if provided) and the information provide will be shared *only to the extent*  
7 *necessary for purposes of investigating or resolving the concern.*”

8           34.     Telegdy, by virtue of his actions, has made it abundantly clear that NBC’s code of  
9 conduct is meaningless. Union is aware of *three* separate occasions on which Telegdy disclosed the  
10 contents of the Phase 1 Investigation. The first instance occurred on or about February 4, 2020, when  
11 Telegdy called Union’s agent and informed him that Union is “going to be surprised when she learns  
12 the results of the investigation, as the results are not what she thinks they will be.” In a flagrant attempt  
13 to intimidate Union and prevent Union from further engaging in the investigation process, Telegdy  
14 warned Union’s agent that Union had to be careful of who she called a racist.

15           35.     Telegdy continued his selective disclosure of details from the Phase 1 Investigation  
16 during the week of February 17, 2020, when he met with an A-list celebrity and her business partner  
17 about having this A-list celebrity join AGT as a judge on Season 15. During Telegdy’s meeting with  
18 this A-list celebrity and her business partner, Telegdy disclosed extensive findings from the Phase 1  
19 Investigation and (falsely) suggested that NBC’s statements about Union’s hair had been made up by  
20 one of Union’s representatives. Telegdy was clearly trying to perpetuate the racist and misogynistic  
21 environment on AGT by misrepresenting the circumstances surrounding Union’s departure from AGT.

22           36.     Telegdy also disclosed the contents of the Phase 1 Investigation to Terry Crews  
23 (“Crews”), a black man and host of AGT, on or about February 29, 2020. Telegdy sought to have  
24 Crews undermine the veracity of Union’s claims on social media and on live television. Crews issued a  
25 number of posts on Twitter that were critical of Union’s claims. Crews also appeared on *The 3rd Hour*  
26 *of Today*, an NBC news program, to speak out against Union’s allegations, during which time he stated:  
27 “First of all, I can't speak for sexism because I'm not a woman, but I can speak on behalf of any racism  
28 comments. That was never my experience. In fact, it was the most diverse place I have ever been in

1 my 20 years of entertainment.” After swift public backlash criticizing Crews for his insensitive and  
2 misplaced statements, Crews publicly apologized to Union. Despite issuing an apology to Union,  
3 Crews nevertheless subsequently made comments alluding to certain findings in the Phase 1  
4 Investigation, further attempting to sow doubt as to the veracity of Union’s claims by stating “if you  
5 knew what I know.”

6 37. Telegdy’s disclosures of the confidential details of the Phase 1 Investigation appear to  
7 have been made in an attempt to reshape the narrative surrounding NBC’s conduct and were completely  
8 unrelated to the “*purposes of investigating or resolving the concern[s]*” that had been raised by Union.

9 38. Contrary to the reports in the media, the investigator hired by NBC and Fremantle has  
10 *not* completed her “investigation” or made final findings/conclusions. In fact, on May 26, 2020, one  
11 day prior to NBC issuing a false and misleading press release about the status of NBC’s purported  
12 investigation, NBC confirmed to Union’s representatives that the investigator would be following up on  
13 a number of issues that “she feels are necessary to reach final conclusions in her investigation.”  
14 Among the outstanding issues was Telegdy’s disclosure of confidential information relating to Union’s  
15 employment claims, including but not limited to, the preliminary results the investigator’s Phase 1  
16 Investigation and Phase 2 Investigation. The investigator agreed to interview Telegdy and others at  
17 NBC to confirm whether the preliminary results of her Phase 1 Investigation and Phase 2 Investigation  
18 were disclosed in violation of Union’s right to privacy, as well as interview the third parties to whom  
19 such information was disclosed.

20 39. The press release that NBC, Fremantle and Syco issued on May 27, 2020, suggesting  
21 that the investigator made final findings that were favorable to NBC, Fremantle and Syco, is  
22 demonstrably false and stands directly at odds with statements by NBC’s senior executive. The press  
23 release also failed to mention the myriad of preliminary findings that substantiated Union’s allegations  
24 of unlawful conduct, policy violations and other wrongful conduct, which are detailed in the factual  
25 background section under the heading “NBC, Fremantle and Syco Issue A False And Misleading Press  
26 Release.” For instance, among the numerous omissions that are detailed herein, NBC, Fremantle and  
27 Syco failed to mention that the investigator’s preliminary investigation results included a finding that  
28 NBC, Fremantle and Syco failed on multiple occasions to report Union’s concerns regarding racially

1 insensitive acts, racist remarks and other instances of racial discrimination to human resources or to  
2 perform any investigation into Union’s concerns, such that corrective and/or remedial action could be  
3 taken. One particularly important preliminary finding was that the blackface hands act was “racially  
4 insensitive to some” and that the producers on AGT should have known that the blackface hands act  
5 was racially insensitive. Importantly, the investigator’s preliminary investigation results found that  
6 NBC and Fremantle were aware of Union’s complaint regarding the racial insensitivity of the blackface  
7 hands act, but that NBC and Fremantle failed to report Union’s complaint to human resources so that  
8 corrective action could be taken. The investigator’s preliminary investigation results further found that  
9 NBC and Fremantle did not take any corrective action and/or institute any procedures to ensure that  
10 these types of racist acts would not be filmed in the future.

11 40. In light of these preliminary findings, and based on the ongoing nature of the  
12 investigation into Union’s claims, while NBC, Fremantle and Syco desperately want the world to  
13 believe that they “share Ms. Union’s dedication to diversity and inclusion in the industry,” their actions  
14 suggest otherwise.

15 **THE PARTIES**

16 41. Union is an individual who at all times relevant herein was doing business in the City  
17 and County of Los Angeles, State of California.

18 42. Union alleges on information and belief, that NBC is, and was at all material times, a  
19 New York limited liability company and existing under the laws of the State of New York, doing  
20 business in the City and County of Los Angeles, State of California.

21 43. Union alleges on information and belief, that Fremantle is, and was at all material times,  
22 a corporation organized and existing under the laws of the State of Delaware, authorized to do business  
23 in the County of Los Angeles, State of California.

24 44. Union alleges on information and belief, that Syco is, and was at all material times, a  
25 corporation organized and existing under the laws of the State of Delaware, authorized to do business  
26 in the County of Los Angeles, State of California.

27 45. Union alleges on information and belief, that Cowell is an individual who at all times  
28 relevant herein was doing business in the City and County of Los Angeles, State of California.

1 46. Union is unaware of the true names and capacities of the respondents sued herein under  
2 the fictitious names DOES 1 through 10, inclusive. Pursuant to California Code of Civil Procedure  
3 Section 474, Union will seek leave to amend this complaint and insert the true names and capacities of  
4 said respondents when the same become known to Union.

5 47. Union is informed and believes, and based thereon allege, that DOES 1 through 10,  
6 inclusive, were residents of, or principally doing business in, California and the County of Los Angeles  
7 at all relevant times mentioned herein. Union is also informed and believes, and based thereon alleges,  
8 that each DOE respondent is legally responsible in some manner or by means for the events and  
9 happenings referred to herein and proximately caused Union damage, either through their own conduct  
10 or that of their agents, servants, or employees, or due to their supervision, ownership, and/or  
11 management of the employees, agents, entities, and/or instrumentalities that caused said damages, or in  
12 some other manner or by some other means presently unknown to Union.

13 48. Union is informed and believes, and based thereon alleges, that each of the DOE  
14 respondents was the agent, joint venturer, or employee of Respondents and, in doing the things  
15 hereinafter alleged, each was acting within the course and scope of said agency, employment, or joint  
16 venture with the advance knowledge, encouragement, acquiescence, and/or subsequent ratification of  
17 Respondents.

18 **FACTUAL BACKGROUND**

19 **Union Reports Unsafe Working Condition**

20 49. On or about February 19, 2019, Union and NBC entered into the Agreement, pursuant to  
21 which Union agreed to appear as a judge on AGT. Union began work filming Season 14 of AGT on or  
22 about February 2019.

23 50. Cowell's illegal and unethical conduct began on Union's first day on AGT, during  
24 which Union was labelled as difficult because she requested that Cowell smoke cigarettes outside in  
25 accordance with California law. Cowell disregarded Union's request and refused to smoke outside.  
26 Even after the fire marshal was summoned to speak with Cowell, it took him approximately five days  
27 before he ceased smoking in the judge's common area. Instead of smoking in the judge's common  
28 area, Cowell relocated to the judge's bathroom, which was also indoors. It is notable that NBC's



1 investigator confirmed Union's allegations that Cowell smoked indoors and that the smell of cigarette  
2 smoke permeated the three locations where AGT was filmed (i.e. Pasadena, Universal Studios and the  
3 Dolby Theater).

4 51. Union is informed and believes that the fire marshal had been called in previous seasons  
5 to address Cowell's unlawful conduct (i.e. smoking indoors). Seeing that the fire marshal had been  
6 called in previous seasons to address Cowell's unlawful conduct (i.e. smoking indoors), the fact that  
7 Cowell continued smoking indoors during Season 14 of AGT demonstrates NBC's failure to take  
8 appropriate measures to bring Cowell's conduct into compliance with the law. In fact, during Cowell's  
9 tenure on the show X-Factor, Cowell reportedly was required to pay £100 every time he smoked during  
10 the filming of the show in accordance with British law and had accumulated fines totaling "thousands  
11 of pounds." Cowell was frank about his smoking habit, admitting that he oftentimes enjoyed up to 40  
12 cigarettes a day.

13 52. Based on NBC's and Fremantle's failure to appropriately oversee Cowell's conduct,  
14 Cowell continued smoking indoors. Union complained to NBC about Cowell's unlawful conduct and  
15 informed NBC that she is allergic to the chemicals in cigarette smoke and that she has suffered from  
16 bronchial infections due to exposure to cigarette smoke. NBC failed to take any remedial action in  
17 response to Union's complaints. Instead, NBC chastised Union for making Cowell's smoking an issue.  
18 Due to NBC's and Fremantle's tacit acceptance of Cowell's illegal conduct, Cowell felt empowered to  
19 retaliate against Union.

20 **Union Complains To NBC About Cowell's Decision To**

21 **Allow A Contestant Perform In Blackface Hands**

22 53. During the taping of the audition segments of AGT, NBC permitted an AGT contestant  
23 to perform in blackface hands. Union was repulsed by NBC's decision to permit such conduct and  
24 immediately voiced her discontent with the situation.

25 54. Cowell and his production team articulated some reservations about allowing a  
26 contestant to perform in blackface hands, but ultimately allowed the contestant to perform in front of an  
27 audience comprised of thousands of people. As soon as the performer with blackface hands began his  
28 act, Union quickly hit the "X" button, signaling her discontent. Cowell and his production team, on the

1 other hand, apparently could not fathom why Union took offense to the contestant’s overtly racist  
2 conduct.

3 55. Immediately after the performer with blackface hands concluded his act, Union  
4 complained to Raff, an NBC employee and Executive Producer on AGT, that allowing the blackface  
5 hands performer to appear before a live audience gave the impression that NBC, Fremantle, Syco and  
6 Cowell condoned racism. In a misguided attempt to mollify Union, NBC’s employee blatantly lied to  
7 Union by telling her that the contestant insisted on wearing the gloves during his performance. The  
8 investigator indicated that Raff disclosed the falsity of his representations to Union during her  
9 investigation and disclosed that the contestant never insisted on wearing the gloves during his  
10 performance. Instead, Raff lied to Union because he was “afraid” of her, revealing his own  
11 prototypical racial bias. Cowell and his production team, including but not limited to Raff, apparently  
12 tried to justify their decision to allow this performer to appear on camera by pointing to the fact that the  
13 footage of the blackface hands performer was edited out before the episode aired on television.

14 56. The day after blackface hands issue arose, Sahara Bushue (“Bushue”), Senior Vice  
15 President of Alternative Programming at NBC Entertainment, asked Union’s manager, Jeffrey Morrone  
16 (“Morrone”), to arrive early on set so that she could speak with Morrone and Union about what had  
17 happened. During this meeting, Union explicitly informed Bushue that she could not handle the  
18 continuous racist and sexist comments being made by Cowell, Mandell and others. This meeting was  
19 shockingly interrupted by Sam Donnelly (“Donnelly”), a white Executive Producer on AGT, who  
20 insisted that she be allowed to participate in the meeting. Donnelly failed to comport herself in  
21 appropriate manner and repeatedly interrupted the conversation that was taking place between Union  
22 and Bushue.

23 57. Highlighting the toxic culture on AGT and at NBC, at the conclusion of the meeting  
24 Donnelly asked Morrone why Union had to be so difficult when the producers would simply edit out  
25 the footage of the blackface hands performer. Morrone had to explain to Donnelly that Cowell and his  
26 team allowed a performer to appear on camera with blackface hands knowing that it was racist and  
27 culturally insensitive and did nothing to prevent this from occurring. In response, Donnelly simply  
28 reiterated the prototypical racist comment that “there is no reason for her (i.e. Union) to be this

1 difficult; again we will edit it out.” The investigator indicated that it was more likely than not that NBC  
2 and Fremantle failed to report this incident to human resources or perform any investigation into  
3 Union’s complaint, such that corrective and/or remedial action could be taken. Apparently, Donnelly,  
4 Bushue and others at NBC and Fremantle had subscribed to the belief that something is not racist if it  
5 can be edited out and kept from the public eye.

6 **Union Complains To NBC About Mandell’s Racist Comments**

7 58. During the taping of the Judge’s Cuts segments of AGT, Mandell mocked a Spanish-  
8 singing performer from Arizona by stating that, in sum and substance, America would not be able to  
9 “understand” her singing. Union was shocked and offended by Mandell’s comments. Not only was  
10 Mandell’s comment racist, but it failed to take into consideration that an estimated 41 million United  
11 States residents (i.e. 13.4% of the population) speak Spanish at home.<sup>9</sup> Union could not believe that  
12 Mandell had the audacity to mock the performer from Arizona solely due to her Hispanic background  
13 and song choice.

14 59. Soon after this incident occurred, Union complained about Mandell’s comments as well  
15 as other instances of racism and sexism on the set of AGT, to Tommi Crump (“Crump”), Vice  
16 President of Talent Relations at NBC. Union explained to Crump that Mandell’s comments essentially  
17 conveyed a message to 41 million United States Spanish-speaking residents that unless you speak  
18 English you cannot be successful on the show and that there is no room for contestants that do not  
19 speak or perform in English. Union made it clear that Mandell’s bigotry had no place on AGT and that  
20 changes needed to be made to ensure that this type of racist behavior would not continue.

21 60. Crump informed Union that Crump agreed with Union and assured Union that Crump  
22 was going to implement changes to ensure that Mandell and others comported their behavior with  
23 modern times. Despite these assurances, Crump failed to institute any changes on AGT with Mandell,  
24 Cowell or anyone else. Just like the blackface hands incident, the investigator’s preliminary  
25 investigation results confirmed that NBC and Fremantle failed to report this incident to human  
26 resources or perform any investigation into Union’s complaint, such that corrective and/or remedial  
27 action could be taken.

28  

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<sup>9</sup> See <https://www.cnn.com/2013/09/20/us/hispanics-in-the-u-s-/index.html>

1 **NBC Complains About Union's Hair**

2 61. On information and belief, Union, a black woman, was singled out due to her physical  
3 appearance and discriminated against by NBC due to the fact that her hair did not fit within the white  
4 image that NBC apparently sought to convey to the audience of AGT.

5 62. When filming at the Dolby Theater, Bushue and Donnelly informed Morrone that  
6 Union's hair was "too wild" and that it needed to be "toned down." The critique of Union's hair was  
7 an unsolicited opinion and was not a production based note.

8 63. NBC's criticism of Union's hair also appeared to be part of a larger animus directed  
9 towards women. Every week NBC critiqued Union's and Hough's hair and makeup choices and asked  
10 them to change their appearance. Cowell and Mandell, on the other hand, were never asked to change  
11 their appearance for AGT. Rather, Cowell and Mandell, as white men, were free to appear on AGT as  
12 they chose.

13 **NBC Seeks To Portray People Of Color Circa 1950**

14 64. While shooting a promotional video for AGT, NBC insisted that Union wear a cardigan  
15 sweater. Union's stylist rejected NBC's wardrobe request because it did not portray Union in the best  
16 possible light. Instead of respecting Union's stylist, NBC forcefully pushed back and repeatedly  
17 insisted that Union wear a cardigan. In fact, NBC went so far as to bring a cardigan sweater to set for  
18 Union to wear.

19 65. NBC's stated rationale for forcing Union to wear a cardigan was based on the position  
20 that in the 1950s, women who were "black professors" were not permitted to show their arms.

21 66. At no point in time was the promotional video deemed to be a 1950s period piece. Even  
22 if it was a 1950s period piece, NBC failed to plausibly explain, let alone justify, NBC's apparent  
23 decision to strictly adhere to a racist depiction of black women during a regressive period of American  
24 history. Not only was Union deeply offended by NBC's blatant racism, so too was Union's stylist.  
25 Upon information and belief, Union's stylist independently complained to his agent about NBC's  
26 conduct because it was "dark" and "racist."

27 ///

28 ///

1 **NBC Refuses to Address Union's Complaints of Racism**

2 67. Another example of the toxic culture that NBC perpetuated occurred during a now-  
3 infamous segment that Jay Leno ("Leno") filmed in the presence of Union and the AGT Judges. In or  
4 around April 2019, during an AGT taping, Leno made a joke about a painting of Cowell surrounded by  
5 his dogs, stating that Cowell's dogs "looked like something one would find on the menu at a Korean  
6 restaurant."

7 68. Union, along with several staffers on AGT, found Leno's joke to be offensive and  
8 demeaning of people of Asian descent, as it perpetuated the hackneyed stereotype about Asian cultures  
9 consuming dog meat.

10 69. Shortly after Leno made the joke, Union urged producers to report Leno's joke to human  
11 resources at NBC. Union found herself having to explain to the producers that Leno's joke not only  
12 offended her personally but could have also offend the staff and the audience of AGT.

13 70. Union expressly requested that NBC's human resources intervene, but Union's request  
14 fell upon deaf ears. Union even addressed this issue with Crump, but Crump apparently was not in any  
15 position of power to address this matter.

16 71. The investigator's preliminary investigation results found that Leno's joke was, on its  
17 face, racist. Consistent with NBC's and Fremantle's practice of ignoring racist conduct, the  
18 investigator's preliminary investigation results also found that NBC and Fremantle failed to report this  
19 incident to human resources or perform any investigation into Union's complaint, such that corrective  
20 and/or remedial action could be taken.

21 **AGT's Belief That America Cannot Get Behind People of Color**

22 72. On information and belief, Cowell, Mandell and various producers of AGT have  
23 expressed the bigoted belief that the only acts "America can get behind" are acts that include white  
24 individuals (as opposed to black or Latino acts).

25 73. In yet another example of Cowell's racism, during Judges' Cuts, Cowell orchestrated the  
26 rejection of 10-year-old black rapping sensation Dylan Gilmer a/k/a Young Dylan from AGT in favor  
27 of less-talented high-kicking white girls.

1 74. During the taping of Judge's Cuts on AGT on or about April 2019, Cowell explained to  
2 Young Dylan that he was rejected because he failed to perform his own raps. Cowell separately  
3 informed Union that the reason Young Dylan was being cut was due to the fact that he was not an act  
4 "America can get behind."

5 75. Later, during a meeting between Cowell and Union that occurred at Cowell's home in  
6 Malibu, California on or about May 8, 2019, Cowell attempted to further explain his reasoning for  
7 rejecting Young Dylan. Cowell informed Union that AGT was "not equipped" for hip hop acts, as the  
8 show did not have producers for hip hop acts.

9 76. Cowell's racist belief that America could not get behind a black act such as Young  
10 Dylan was resoundingly rejected by others in Hollywood, as Young Dylan subsequently appeared on  
11 *Ellen* and proceeded to get his own television show from Tyler Perry.

12 77. The investigator's preliminary investigation results confirmed that Cowell informed  
13 Union that Young Dylan was not an act "America can get behind" and that AGT purportedly lacked a  
14 producer for hip hop acts. The investigator's preliminary results also revealed that NBC, Fremantle  
15 and Syco believed that Young Dylan's parents were pushing him to be the "future breadwinner" for the  
16 family. As NBC, Fremantle and Syco did not provide the investigator with any facts to support this  
17 purported concern (i.e. that Young Dylan's parents were pushing him to be the "future breadwinner"),  
18 at Union's request, the investigator agreed to conduct a further inquiry into the facts that gave rise to  
19 this concern. The investigator acknowledged that the purported concern articulated by NBC, Fremantle  
20 and Syco that Young Dylan's parents were pushing him to be the "future breadwinner" was analogous  
21 to the stereotype of how young black athletes are perceived as being the breadwinners for their families.

22 **Union's Contributions to AGT**

23 78. Union is informed and believes that prior to her joining the cast of AGT, the show had  
24 been relatively listless.

25 79. On information and belief, during Union's tenure on AGT, AGT's Neilson Social  
26 Numbers more than doubled, and Union, in association with AGT, was the most engaging talent on all  
27 primetime television. Specifically, AGT did 18 episodes and generated 25 million social media  
28 interactions making it the number one show on broadcast television. Of these 25 million social media

1 interactions, 12.5 million were attributable to Union, 10 million were attributable to Crews, 4 million  
2 were attributable to Hough and 2 million were attributable to Mandell. Considering that Crews was on  
3 AGT prior to Union joining the cast, it is apparent that Union was responsible for AGT's rise in social  
4 media awareness. In fact, Union's social media interactions exceeded the total number of interactions  
5 for the second most successful show on broadcast television, *Bachelor in Paradise*, which only had a  
6 total of 8 million social media interactions.

7 80. As if Union's quantifiable contributions to AGT were not enough, Union regularly  
8 received positive feedback. In one email, for example, Wallace could barely contain his enthusiasm,  
9 stating:

10 "Two words: Brilliant Job!  
11 She is so good. A soundbite machine (which is crazy good for the edit)."

12 81. Even Ron Meyer ("Meyer"), Vice Chairman of NBCUniversal, sang Union's praises.  
13 Meyer told Union's manager that Union was the "single best judge" AGT had ever had on the show and  
14 that he had watched every episode.

#### 14 **NBC Fails To Oversee Cowell**

15 82. On or about April 28, 2019, Union's agent, Tom Young ("Young"), visited Union on the  
16 set of AGT. Young's visit occurred shortly after Union was forced to endure the blackface hands  
17 incident and Leno's racist joke implying that Asian cultures consume dog meat.

18 83. During Young's visit to the AGT set, Crump acknowledged that she was aware of the  
19 pervasive racism and sexism on AGT. In hopes of addressing this issue, Crump suggested that she,  
20 along with Meredith Ahr ("Ahr"), President of President of Alternative & Reality Group for NBC  
21 Entertainment, Jenny Groom ("Groom"), Senior Vice President of Alternative Programming and  
22 Development for NBC Entertainment, and Bushue take Union to dinner in order to discuss a resolution  
23 of these issues and find a way to make her more comfortable. Crump acknowledged that she was aware  
24 of the pervasive racism and sexism on AGT, which is why she interested in facilitating a dinner with  
25 Union.

26 84. Shortly after Young's meeting with Crump, Cowell had Morrone and Union attend a  
27 meeting at his house in Malibu on May 8, 2019, after Union's manager had approached Cowell about a  
28 potential film project. Although the meeting was initially scheduled to discuss an idea for a new

1 project, after the meeting began, Cowell quickly transitioned the focus of the meeting to discuss his role  
2 in rejecting Young Dylan from AGT in favor of the less talented high-kicking white girls. Cowell  
3 understood how passionate Union was about Young Dylan's performance and seemingly wanted to  
4 smooth things over with Union about the decision to reject Young Dylan. Cowell overplayed his hand  
5 and revealed the true purpose for scheduling the meeting with Union when he disclosed that he disliked  
6 Bushue, and that Union should come to him with any problems or concerns, not Bushue or NBC.

7 85. On or about July 16, 2019, Crump reached out to Union's representatives to schedule the  
8 dinner between Union and Ahr, Groom, Bushue and Crump. The dinner with Ahr, Groom, Bushue and  
9 Crump was scheduled for August, 7, 2019. However, the dinner never took place because Ahr  
10 purportedly got sick and had to cancel.

11 86. Subsequent to Union's meeting with Cowell, Meyer informed Union's representatives  
12 that Cowell has "full power" in his contract for AGT and that Cowell gets to decide who gets replaced  
13 or fired. Meyer's statement confirmed that NBC empowered Cowell to silence his critics by creating a  
14 power dynamic whereby if one complains about Cowell, he or she will be fired.

15 **NBC Fails To Comply With Its Code of Conduct**

16 87. NBC's Code of Conduct states that NBC is "committed to operating ethically and  
17 honestly and to leading with integrity in all of our business activities."

18 88. NBC acknowledges that it "can only succeed by ... ensuring we have a fair, inclusive  
19 and diverse workplace. We commit to maintaining a work environment of mutual trust and respect."  
20 NBC states that "[f]air employment practices are an essential part of our business and help contribute to  
21 a culture of respect."

22 89. NBC's Code of Conduct states that:

- 23 "· We prohibit unlawful discrimination and harassment.  
24 · We promote equal employment opportunities in compliance with  
25 applicable laws.  
26 · We prohibit retaliation against any employee who speaks up in good  
27 faith..."

28 90. On information and belief, NBC did not follow its Code of Conduct whatsoever in  
connection with its treatment of Union during her tenure on AGT. NBC had multiple opportunities to  
proactively address the discriminatory, harassing and retaliatory conduct that Union was forced to  
endure, but failed to take any remedial action.



1           91.     The manner in which NBC handled Union’s complaints demonstrates that NBC’s Code  
2 of Conduct does not apply when it threatens to interfere with the careers of powerful white men such as  
3 Cowell and Mandell.

4                                   **Telegdy Fails To Comply With NBC’s Code of Conduct**

5           92.     NBC’s Code of Conduct confirms that “concerns about illegal or unethical conduct will  
6 be investigated.” NBC’s Code of Conduct states that “confidentiality is respected” and that “[t]he  
7 identity of the employee (if provided) and the information provide will be shared *only to the extent*  
8 *necessary for purposes of investigating or resolving the concern.*”

9           93.     Telegdy, by virtue of his actions, has made it abundantly clear that NBC’s Code of  
10 Conduct is meaningless.

11          94.     Union is aware of three separate occasions on which Telegdy disclosed the contents of  
12 the Phase 1 Investigation. The first instance occurred on or about February 4, 2020, when Telegdy  
13 called Union’s agent and informed him that Union is “going to be surprised when she learns the results  
14 of the investigation, as the results are not what she thinks they will be.” In a flagrant attempt to  
15 intimidate Union and prevent Union from further engaging in the investigation process, Telegdy  
16 warned Union’s agent that Union had to be careful of who she called a racist.

17          95.     Telegdy continued his selective disclosure of details from the Phase 1 Investigation  
18 during the week of February 17, 2020, when he met with an A-list celebrity and her business partner  
19 about having this A-list celebrity join AGT as a judge on Season 15. During Telegdy’s meeting with  
20 this A-list celebrity and her business partner, Telegdy disclosed extensive findings from the Phase 1  
21 Investigation and (falsely) suggested that NBC’s statements about Union’s hair had been made up by  
22 one of Union’s representatives.

23          96.     Telegdy also disclosed the contents of the Phase 1 Investigation to Crews, a black man  
24 and host of AGT, on or about February 29, 2020. Telegdy sought to have Crews undermine the  
25 veracity of Union’s claims on social media and on live television. Crews issued a number of posts on  
26 Twitter that were critical of Union’s claims. Crews also appeared on *The 3rd Hour of Today*, an NBC  
27 news program, to speak out against Union’s allegations, during which time he stated: “First of all, I  
28 can’t speak for sexism because I’m not a woman, but I can speak on behalf of any racism comments.

1 That was never my experience. In fact, it was the most diverse place I have ever been in my 20 years  
2 of entertainment.” After swift public backlash criticizing Crews for his insensitive and misplaced  
3 statements, Crews publicly apologized to Union. Despite issuing an apology to Union, Crews  
4 nevertheless subsequently made comments alluding to certain findings in the Phase 1 Investigation,  
5 further attempting to sow doubt as to the veracity of Union’s claims by stating “if you knew what I  
6 know.”

7 97. Telegdy’s disclosures of the confidential details of the Phase 1 Investigation appear to  
8 have been made in an attempt to reshape the narrative surrounding NBC’s conduct. Telegdy’s  
9 disclosures, however, were completely unrelated to the “*purposes of investigating or resolving the*  
10 *concern[s]*” that had been raised by Union.

11 **NBC, Fremantle and Syco Issue A False And Misleading Press Release**

12 98. The press release that NBC, Fremantle and Syco issued on May 27, 2020, suggesting  
13 that the investigator made final findings that were favorable to NBC, Fremantle and Syco is  
14 demonstrably false and stands directly at odds with statements by NBC’s senior executive.

15 99. The press release also failed to mention the myriad of preliminary findings that  
16 substantiated Union’s allegations of unlawful conduct, policy violations and other wrongful conduct.

17 100. NBC, Fremantle and Syco failed to mention that the investigator’s preliminary  
18 investigation results found that NBC, Fremantle and Syco failed on multiple occasions to report  
19 Union’s concerns regarding racially insensitive acts, racist remarks and other instances of racial  
20 discrimination to human resources or to perform any investigation into Union’s concerns, such that  
21 corrective and/or remedial action could be taken.

22 101. NBC, Fremantle and Syco failed to mention the preliminary finding that the blackface  
23 hands act was “racially insensitive to some” and that the producers on AGT should have known that the  
24 blackface hands act was racially insensitive. As part of her preliminary finding, the investigator found  
25 that NBC and Fremantle were aware of Union’s complaint regarding the racial insensitivity of the  
26 blackface hands act, but that NBC and Fremantle failed to report Union’s complaint to human resources  
27 so that corrective action could be taken. The investigator further found that NBC and Fremantle did not  
28

1 take any corrective action and/or institute any procedures to ensure that these types of racist acts would  
2 not be filmed in the future.

3 102. NBC, Fremantle and Syco also failed to mention in their press release that the  
4 investigator found that the producers of AGT do not provide judges or guests with the contestants'  
5 preferred pronouns. As part of this preliminary finding, the investigator found this failure to be  
6 problematic because judges and guests were exposed to instances where contestants were identified  
7 using incorrect pronouns.

8 103. NBC, Fremantle and Syco also failed to mention in their press release that the  
9 investigator's preliminary investigation results found that the joke that Leno made about Cowell's dogs  
10 (i.e. that his dogs "looked like something one would find on the menu at a Korean restaurant") was, on  
11 its face, racist and that an Asian employee of AGT was present on set at the time Leno's joke was  
12 made. NBC, Fremantle and Syco curiously omit the investigator's preliminary finding that NBC and  
13 Fremantle failed to report Leno's joke to human resources or perform any investigation in relation to  
14 Leno's joke, such that corrective and/or remedial action could be taken. The investigator further  
15 indicated that, based on NBC's and Fremantle's handling of this situation, when Leno was invited back  
16 to AGT later in the season, no corrective actions had been instituted by NBC or Fremantle.

17 104. NBC, Fremantle and Syco also failed to mention in their press release that the  
18 investigator's preliminary investigation results found that Crump, Raff, Donnelly, Wallace, and others  
19 at Fremantle and NBC did not report Union's complaints regarding racial discrimination on AGT to  
20 human resources or perform any investigation, such that correction and/or remedial action could be  
21 taken.

22 105. In light of these preliminary findings, and based on the ongoing nature of the  
23 investigation into Union's claims, while NBC, Fremantle and Syco desperately want the world to  
24 believe that they "share Ms. Union's dedication to diversity and inclusion in the industry," their actions  
25 suggest otherwise.

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1                   **FIRST CAUSE OF ACTION FOR HARASSMENT/HOSTILE WORK ENVIRONMENT**

2                   **(By Union Against NBC, Fremantle, Cowell and Does 1 through 10)**

3                   106. Union re-alleges and incorporates herein by reference the allegations contained in  
4 paragraphs 1 through 105, inclusive, with the same force and effect as though fully set forth herein.

5                   107. Union is informed and believes and thereon alleges that pursuant to Government Code  
6 §12940, it is unlawful to harass employees based on their race and gender, and that employers must  
7 take all reasonable steps to prevent harassment from occurring. Union is further informed and believes  
8 and thereon alleges that FEHA holds employers strictly liable for harassment by Union’s direct  
9 supervisor or any other manager. Union is further informed and believes and thereon allege that,  
10 Union’s supervisors and/or co-workers may be held personally liable for the harassment of Union,  
11 regardless of whether the employer was aware of said harassment.

12                   108. Union is informed and believes and thereon allege that, based on the allegations as set  
13 forth above, and throughout this complaint, Respondents knew of the harassing and discriminatory  
14 conduct directed at Union and are responsible for, and liable for, the harassment and hostile work  
15 environment created by the harassment and discrimination of Union, based on her race and gender.  
16 Union is further informed and believes and thereon alleges that, the conduct of Respondents was a  
17 substantial factor in causing Union’s harm.

18                   109. As a direct and proximate result of Respondents unlawful harassment of Union, and the  
19 creation of a hostile work environment, as alleged herein, Union has suffered loss of income, and has  
20 experienced stress and severe emotional distress, thus entitling Union to damages in an amount to be  
21 proven at the time of trial in this matter. Union is further informed and believes and thereon alleges  
22 that the conduct of Respondents was severe and pervasive.

23                   **SECOND CAUSE OF ACTION FOR GENDER AND RACE DISCRIMINATION IN**

24                   **VIOLATION OF CALIFORNIA GOVERNMENT CODE § 12940**

25                   **(By Union Against NBC and Does 1 through 10)**

26                   110. Union re-alleges and incorporates herein by reference the allegations contained in  
27 paragraphs 1 through 109, inclusive, with the same force and effect as though fully set forth herein.  
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1           111. At all times material hereto, Union was an African American female protected by  
2 Government Code §12940(a), which prohibits discrimination in employment on the basis of basis of  
3 “race...color, national origin...gender, gender identity, gender expression...sexual orientation.”

4           112. NBC is subject to suit under the California Fair Employment and Housing Act,  
5 Government Code §12900 *et seq.* (“FEHA”), in that NBC regularly employs five or more employees  
6 and are employers within the meaning of Government Code §12926. As such, NBC was required to  
7 provide a working environment free of retaliation and discrimination as provided in Government Code  
8 §12940.

9           113. As a direct and proximate result of NBC, and each of their, discriminatory actions as  
10 alleged herein, Union has suffered, and continues to suffer damages, the exact amount of which will be  
11 proven at trial.

12           114. NBC and Respondents, and each of them, acted for the purpose of causing Union to  
13 suffer damages, and are guilty of oppression and malice, justifying an award of punitive damages.

14           115. NBC’s discriminatory actions against Union, as alleged in-part above, constitute  
15 unlawful discrimination in violation of Government Code § 12940(a).

16           116. As a proximate result of NBC’s actions, Union has suffered, and continues to suffer  
17 severe and lasting humiliation, embarrassment, mental anguish, and other incidental and consequential  
18 damages and expenses, which all caused Union damage in an amount according to proof at trial.

19           117. Union is informed and believes, and thereon alleges, that NBC, committed the acts  
20 described herein deliberately, callously, maliciously, fraudulently and in an oppressive manner intended  
21 to injure Union and that such improper motives amounted to malice and a conscious disregard of  
22 Union’s rights as set forth above. Therefore, Union is entitled to an award of punitive damages from  
23 NBC in an amount according to proof at trial.

24           118. As a result of the discriminatory conduct of NBC and NBC’s failure to provide a work  
25 environment free of discrimination, as alleged herein, Union is entitled to costs of suit, including  
26 reasonable attorney’s fees pursuant to Government Code § 12965.

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1                                   **THIRD CAUSE OF ACTION FOR FAILURE TO PREVENT WORKPLACE**

2                                   **DISCRIMINATION AND HARASSMENT BASED ON RACE/GENDER**

3                                   **(By Union Against Respondents and Does 1 through 10)**

4                   119. Union re-alleges and incorporates herein by reference the allegations contained in  
5 paragraphs 1 through 118, inclusive, with the same force and effect as though fully set forth herein.

6                   120. Union is informed and believes and thereon alleges that, pursuant to Government Code  
7 §12940(k), Respondents are prohibited from failing to take all reasonable steps necessary to prevent  
8 discrimination and harassment in the workplace.

9                   121. Respondents violated their duty under the FEHA by failing to take all reasonable  
10 measures to prevent their agents, employees and management from creating a hostile work  
11 environment.

12                   122. Respondents knew or should have known about the harassment as alleged herein.  
13 Respondents were advised on repeated occasions that their agents, employees and management were  
14 engaging in conduct in violation or potentially in violation of the FEHA. Despite such knowledge,  
15 Respondents failed to take immediate and appropriate corrective action to prevent the hostile work  
16 environment as alleged herein.

17                   123. As a result of Respondents' failure to take all reasonable steps to prevent discrimination  
18 and harassment in violation of the FEHA, Union has suffered and continue to suffer damages, including  
19 severe emotional and/or physical distress, the exact amount of which will be proven at trial.

20                   124. Union is informed and believes, and thereon alleges, that Respondents, committed the  
21 acts described herein deliberately, callously, maliciously, fraudulently and in an oppressive manner  
22 intended to injure Union and that such improper motives amounted to malice and a conscious disregard  
23 of Union's rights as set forth above. Therefore, Union is entitled to an award of punitive damages from  
24 Respondents in an amount according to proof at trial.

25                                   **FOURTH CAUSE OF ACTION FOR RETALIATION IN VIOLATION OF CALIFORNIA**

26                                   **GOVERNMENT CODE § 12900, ET SEQ.**

27                                   **(By Union Against All Respondents and Does 1 through 10)**

28                   125. Union re-alleges and incorporates herein by reference the allegations contained in

1 paragraphs 1 through 124, inclusive, with the same force and effect as though fully set forth herein.

2 126. The California Fair Employment and Housing Act also prohibits an employer from  
3 retaliating against an employee for engaging in protected activity under the Act.

4 127. Union engaged in protected activity under the Act by complaining to Respondents  
5 about the disparate treatment to which she was subjected to and by speaking out against Respondents'  
6 failure to hold its own employees accountable for their discriminatory conduct that violates the FEHA.

7 128. Upon information and belief, Respondents were aware of Union's protected activities.

8 129. Upon information and belief, Respondents retaliated against Union for engaging in these  
9 protected activities by not renewing Union's Agreement to serve as a Judge on AGT.

10 130. The California Fair Employment and Housing Act also prohibits individuals from aiding  
11 and abetting in unlawful discrimination or retaliation. Respondents, along with Doe Respondents 1  
12 through 10, aided and abetted in their retaliation against Union by, *inter alia*, not renewing Union's  
13 Agreement to serve as a Judge on AGT.

14 131. Respondents' actions have directly and proximately caused Union loss of income and  
15 other financial benefits, and have caused her severe emotional distress, pain and suffering,  
16 embarrassment, humiliation, indignity, and damage to her professional reputation.

17 132. Upon information and belief, Respondents' conduct was motivated by intentional,  
18 discriminatory animus that injured Union; their conduct was willful and outrageous; and their conduct  
19 was aggravated by evil motive, actual malice, or with reckless indifference to Union's legal rights.

20 **FIFTH CAUSE OF ACTION FOR RETALIATION IN VIOLATION OF CALIFORNIA**

21 **LABOR CODE § 6310, ET SEQ.**

22 **(By Union Against All Respondents and Does 1 through 10)**

23 133. Union re-alleges and incorporates herein by reference the allegations contained in  
24 paragraphs 1 through 132, inclusive, with the same force and effect as though fully set forth herein.

25 134. The California Labor Code prohibits an employer from retaliating against an employee  
26 for making an oral or written complaint to the employer about workplace hazards.

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1 135. Union engaged in protected activity under the Labor Code by complaining to  
2 Respondents about her right to workplace health and safety. Specifically, Union complained to  
3 Respondents about Cowell's continuous cigarette smoking and the effects that it had on Union's health.

4 136. Upon information and belief, Union's complaints to Respondents about Cowell's  
5 cigarette smoking and the effects that it had on Union's health was a substantial motivating reason for  
6 Respondents' decision to not renew Union's Agreement and to not have Union continue to serve as a  
7 Judge on AGT.

8 137. Upon information and belief, Respondents retaliated against Union for engaging in these  
9 protected activities by not renewing Union's Agreement to serve as a Judge on AGT.

10 138. Respondents' actions have directly and proximately caused Union loss of income and  
11 other financial benefits, and have caused her severe emotional distress, pain and suffering,  
12 embarrassment, humiliation, indignity, and damage to her professional reputation.

13 139. Upon information and belief, Respondents' conduct was motivated by intentional,  
14 discriminatory animus that injured Union; their conduct was willful and outrageous; and their conduct  
15 was aggravated by evil motive, actual malice, or with reckless indifference to Union's legal rights.

16 **SIXTH CAUSE OF ACTION FOR INTENTIONAL INFLICTION OF EMOTIONAL**  
17 **DISTRESS**

18 **(By Union Against All Respondents and Does 1 through 10)**

19 140. Union re-alleges and incorporates herein by this reference each and every allegation set  
20 forth in Paragraphs 1 through 139, inclusive, with the same force and effect as though fully set forth  
21 herein.

22 141. Respondents' directed their conduct at Union by regularly smoking indoors, despite  
23 numerous requests from Union and her representatives that Respondents cease smoking indoors and in  
24 the presence of Union, and by discriminating against Union because of her gender and/or race, in  
25 violation of California law, which was outrageous conduct in which Respondents abused their relation  
26 to Union or their position of power to physically and emotionally harm Union, and this conduct  
27 exceeded all bounds of common decency usually tolerated by a civilized society. The conduct that  
28 Respondents directed at Union, included, but was not limited to, smoking in the Judge's common area,



1 smoking in the Judge's shared bathroom, leaving cigarette butts in the Judge's bathroom sink, forcing  
2 Union to attend a meeting in Cowell's dressing room that was full of cigarette smoke, subjecting Union  
3 to racist and offensive conduct such as the blackface hands performance, and forcing Union to wear a  
4 cardigan in order for Union to fit in with the racist, antiquated depiction of black women in the early  
5 1950's.

6 142. Respondents' conduct either intended to cause Union severe emotional distress, or it was  
7 substantially certain that such an injury would result, and the conduct was a substantial factor in  
8 causing Union to suffer severe emotional distress. Respondents' reckless disregard of the probability  
9 that Union would suffer severe emotional distress demonstrated by Respondents unabated smoking  
10 indoors, and racist and offensive conduct, both of which were carried out in Union's presence or with  
11 the specific intention of exposing Union to harmful cigarette smoke and racist/offensive conduct. To  
12 the extent that this outrageous conduct was perpetrated by certain Respondents, the remaining  
13 Respondents adopted and ratified said conduct with a wanton and reckless disregard of the deleterious  
14 consequences to Union.

15 143. As a proximate result of Respondents' malicious acts, Union suffered severe emotional  
16 distress that no reasonable person in a civilized society should be expected to endure. Union's physical  
17 health, safety and wellbeing was eviscerated by Respondents' conduct. Union suffered fright, shock,  
18 nervousness, anxiety, worry, grief, humiliation, embarrassment, indignity, apprehension, fear, and  
19 emotional and physical injuries, as well as economic losses, as a result of Respondents' unabated  
20 smoking indoors, which regularly was done in Union's presence or with the specific intention of  
21 exposing Union to harmful cigarette smoke. Respondents, and each of them, deliberately employed  
22 tactics with the intent to cause Union severe emotional distress, and succeeded in their efforts, causing  
23 damages to Union in an amount in excess of the minimum jurisdictional limits of this Court, according  
24 to proof at trial.

25 144. Respondents committed the acts alleged herein maliciously, fraudulently and  
26 oppressively with the wrongful intention of injuring Union, from an improper and evil motive  
27 amounting to malice and in conscious disregard of Union's rights, entitling Union to recover punitive  
28 damages in amounts to be proven at trial.

**SEVENTH CAUSE OF ACTION FOR NEGLIGENT INFLICTION OF EMOTIONAL  
DISTRESS**

**(By Union Against All Respondents and Does 1 through 10)**

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4       145. Union re-alleges and incorporates herein by this reference each and every allegation set  
5 forth in Paragraphs 1 through 144, inclusive, with the same force and effect as though fully set forth  
6 herein.

7       146. All Respondents had a duty to refrain from smoking tobacco products indoors and to  
8 refrain from subjecting Union to racist and offensive conduct. All Respondents, and each of them,  
9 knew or reasonably should have known that the conduct described herein would and did proximately  
10 result in physical and serious emotional distress to Union.

11       147. Additionally, Respondents had a duty imposed upon them by law, including but not  
12 limited to California Labor Code §6404.5, to refrain from smoking of tobacco products indoors and in  
13 enclosed places of employment in California. Cowell and Respondents, and each of them, knew or  
14 reasonably should have known that breach of the duty imposed upon them by law as described herein  
15 would and did proximately result in physical and serious emotional distress to Union.

16       148. Despite said knowledge, power, and duty, Respondents negligently failed to act so as to  
17 stop engaging in the conduct described herein and/or to prevent or prohibit such conduct or otherwise  
18 protect Union by, among other things, preventing or prohibiting the smoking of tobacco products  
19 indoors and in enclosed places of employment in California, and by preventing or prohibiting the  
20 various racist and offensive conduct described herein. To the extent that said negligent conduct was  
21 perpetrated by certain Respondents, the remaining Respondents confirmed and ratified said conduct  
22 with the knowledge that Union’s emotional and physical distress would thereby increase, and with a  
23 wanton and reckless disregard for the deleterious consequences to Union.

24       149. At all relevant times, all Respondents, and each of them, had the power, ability,  
25 authority, and duty to stop engaging in the conduct described herein and/or to intervene to prevent or  
26 prohibit said conduct.

27       150. As a direct and proximate result of Respondents’ unlawful conduct, Union has suffered  
28 and continues to suffer serious emotional distress, humiliation, anguish, emotional and physical

1 injuries, as well as economic losses, all to her damage in amounts to be proven at trial.

2 **EIGHTH CAUSE OF ACTION FOR INVASION OF PRIVACY**

3 **(By Union Against All Respondents and Does 1 through 10)**

4 151. Union re-alleges and incorporates herein by this reference each and every allegation set  
5 forth in Paragraphs 1 through 150, inclusive, with the same force and effect as though fully set forth  
6 herein.

7 152. As alleged above, Respondents intentionally invaded Union's privacy by, among other  
8 things, disclosing confidential information relating to investigating of Union's employment claims in  
9 direct violation of NBC's Code of Conduct, which states that "concerns about illegal or unethical  
10 conduct will be investigated" and that "confidentiality is respected" and that "[t]he identity of the  
11 employee (if provided) and the information provided will be shared *only to the extent necessary for*  
12 *purposes of investigating or resolving the concern.*"

13 153. Respondents knew, or should have known, that Union had a reasonable expectation of  
14 privacy in substance of her employment claims and the details of ongoing investigation being  
15 performed by the outside attorney retained by NBC and Fremantle.

16 154. The invasion of Union's privacy was offensive and objectionable to Union and to a  
17 reasonable person of ordinary sensibilities.

18 155. As a direct and proximate result of said wrongful conduct by Respondents, and each of  
19 them, Union has suffered damages in an amount to be proven at trial.

20 156. Union is informed and believes, and thereupon alleges, that in performing the acts herein  
21 alleged, Respondents, and each of them, acted with oppression, fraud, and malice, or alternatively, that  
22 Respondents, and each of them, acted in such conscious disregard of Union's right to privacy that, as a  
23 direct and proximate result of Respondents' collective and individual acts, Union is entitled to punitive  
24 damages to punish Respondents, and each of them, and to deter such conduct in the future, in an  
25 amount to be determined at trial.

26 **NINTH CAUSE OF ACTION FOR BREACH OF CONTRACT**

27 **(By Union Against NBC and Does 1 through 10)**

28 157. Union re-alleges and incorporates herein by this reference each and every allegation set

1 forth in Paragraphs 1 through 156, inclusive, with the same force and effect as though fully set forth  
2 herein.

3 158. On or about February 8, 2019, Gobigred f/s/o Union and NBC entered into the  
4 Agreement. The Agreement constitutes a valid and enforceable agreement between Union and NBC.

5 159. Union has fully performed all terms, conditions, covenants, and promises required of her  
6 by the Agreement, except to the extent that such obligations have been excused or Respondents  
7 prevented Union from performing them, and all conditions precedent to Respondents' obligations have  
8 been satisfied or waived.

9 160. The Agreement includes an addendum stating:

10 "Artist shall immediately notify Studio if for any reason Artist  
11 feels harassed (e.g. due to Artist's race, nationality, sex, religion,  
12 age, disability, sexual orientation or marital status or any other  
13 bases protected by applicable law), threatened or otherwise  
14 uncomformable in connection with Artist's services, and Artists  
understands that *Studio shall not, and shall not authorize anyone  
else to, penalize or retaliate against Artist for doing so.*"  
(Emphasis added)

15 161. Respondents have breached the Agreement by penalizing and retaliating against Union  
16 for reporting her concerns regarding racially insensitive acts, racist remarks and other instances of  
17 racial discrimination serving as judge on AGT and fulfilling the terms of the Agreement.

18 162. As a direct and proximate result of Respondents' acts, Union has suffered and will  
19 continue to suffer general and consequential damages in an amount to be proven at trial.

20 **TENTH CAUSE OF ACTION FOR UNEQUAL PAY**

21 **(By Union Against NBC and Does 1 through 10)**

22 163. Union re-alleges and incorporates herein by this reference each and every allegation set  
23 forth in Paragraphs 1 through 162, inclusive, with the same force and effect as though fully set forth  
24 herein.

25 164. Union is informed and believes and thereon alleges that, pursuant to Labor Code  
26 §1197.5, NBC is prohibited from paying any of its employees at wage rates less than the rates paid to  
27 employees of the opposite sex for substantially similar work.

28 165. Union is informed and believes and thereon alleges that, NBC violated Labor Code  
§1197.5 when it paid Union less than her male counterparts for work performed under similar working

1 conditions considering their skill, effort, and responsibility. NBC admittedly compensated Union at a  
2 lower rate than her similarly-situated male peers for the same position.

3 166. NBC's actions have directly and proximately caused Union loss of income and other  
4 financial benefits, and have caused her severe emotional distress, pain and suffering, embarrassment,  
5 humiliation, indignity, and damage to her professional reputation.

6 167. NBC's conduct was motivated by intentional, discriminatory animus that injured Union;  
7 their conduct was willful and outrageous; and their conduct was aggravated by evil motive, actual  
8 malice, or with reckless indifference to Union's legal rights.

9 **ELEVENTH CAUSE OF ACTION FOR RETALIATION IN VIOLATION OF**

10 **LABOR CODE § 1102.5**

11 **(By Union Against NBC and Does 1 through 10)**

12 168. Union re-alleges and incorporates herein by this reference each and every allegation set  
13 forth in Paragraphs 1 through 167, inclusive, with the same force and effect as though fully set forth  
14 herein.

15 169. At all times material to the claims set forth herein, California Labor Code §1102.5 was  
16 in effect and binding on NBC, Union's employer. California Labor Code §1102.5 section requires an  
17 employer to refrain from retaliating against an employee for refusing to participate in an activity that  
18 she reasonably believes would result in a violation of state or federal statute, or a violation or  
19 noncompliance with a state or federal rule or regulation.

20 170. Union alleges on information and belief that NBC believed that Union disclosed to  
21 Cowell and Bushue, individuals with authority over Union in the workplace, that Cowell's continuous  
22 cigarette smoking violated California Labor Code § 64045.

23 171. NBC retaliated against Union for reporting Cowell's unlawful conduct by discharging  
24 Union from AGT in violation of Labor Code § 1102.5. Union alleges on information and belief that  
25 Union's disclosure of information regarding Cowell's unlawful smoking in violation of California  
26 Labor Code § 64045 was a contributing factor in NBC's decision discharge her employment.

27 172. As a direct and proximate result of such retaliation, Union has been damaged in a sum  
28 according to proof. Union requests all available relief under Labor Code §1102.5 including damages

1 and the imposition of a civil penalty of \$10,000.00 for each violation.

2 **TWELTH CAUSE OF ACTION FOR RETALIATION IN VIOLATION OF 42 U.S.C. § 1981**

3 **(By Union Against All Respondents and Does 1 through 10)**

4 173. Union re-alleges and incorporates herein by this reference each and every allegation set  
5 forth in Paragraphs 1 through 172, inclusive, with the same force and effect as though fully set forth  
6 herein.

7 174. Union engaged in protected activity when she complained about discrimination,  
8 harassment, and the existence of a hostile work environment based on race.

9 175. Union was acting under a reasonable, good faith belief that Union's and others' right to  
10 be free from racial discrimination, harassment, and a hostile work environment was violated.

11 176. In retaliation for Union's complaints, Respondents took the adverse employment actions  
12 described above, including the following: (a) Telegdy verbally threatened Union, through her agent, not  
13 to pursue her race-related claims; and (b) Respondents decided not to renew Union's Agreement to  
14 serve as a judge on AGT.

15 177. There was a causal connection between Union's complaints and the materially adverse  
16 actions taken against Union by Respondents.

17 178. The retaliation endured by Union would dissuade a reasonable employee from making  
18 complaints of discrimination and harassment.

19 179. Respondents retaliated against Union for engaging in protected activity in violation of  
20 42 U.S.C. § 1981.

21 180. Respondents' actions have directly and proximately caused Union loss of income and  
22 other financial benefits, and have caused her severe emotional distress, pain and suffering,  
23 embarrassment, humiliation, indignity, and damage to her professional reputation.

24 181. Upon information and belief, Respondents committed the acts alleged herein  
25 maliciously, fraudulently and oppressively with the wrongful intention of injuring Union, from an  
26 improper and evil motive amounting to malice and in conscious disregard of Union's rights, entitling  
27 Union to recover punitive damages in amounts to be proven at trial.

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1 Date: June 4, 2020

FREEDMAN + TAITELMAN, LLP

2  
3 By: /s/ Bryan J. Freedman

Bryan J. Freedman

4 Benjamin A. Marsh

5 Attorneys for Claimant Gabrielle Union

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