

1 **KING & SPALDING LLP**
ARWEN R. JOHNSON (SBN 247583)
2 *arwen.johnson@kslaw.com*
KELLY PERIGOE (SBN 268872)
3 *kperigoe@kslaw.com*
633 West Fifth Street, Suite 1600
4 Los Angeles, CA 90071
Telephone: (213) 443-4355
5 Facsimile: (213) 443-4310

6 Attorneys for Defendant NETFLIX, INC.

7
8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

10 NONA GAPRINDASHVILI, an
11 individual,

12 Plaintiff,

13 v.

14 NETFLIX, INC., a Delaware
15 corporation, and DOES 1-50,

16 Defendants.

Case No. 2:21-cv-07408-VAP-SK
The Honorable Virginia A. Phillips
Courtroom: 8A

**DECLARATION OF SCOTT FRANK
IN SUPPORT OF NETFLIX, INC.'S
SPECIAL MOTION TO STRIKE
PLAINTIFF'S FIRST AMENDED
COMPLAINT UNDER
CALIFORNIA'S ANTI-SLAPP
STATUTE OR, IN THE
ALTERNATIVE, (2) MOTION TO
DISMISS PURSUANT TO RULE
12(b)(6)**

**[Notice of Motion; Memorandum of
Points and Authorities; Declaration of
Arwen R. Johnson with Exhibits; and
[Proposed] Order filed concurrently
herewith]**

Date: January 24, 2022

Time: 2:00 p.m.

Judge: The Honorable Virginia A. Phillips

Action Filed: September 16, 2021

Trial Date: Not set

1 **DECLARATION OF SCOTT FRANK**

2 I, Scott Frank, hereby declare as follows:

3 1. I am a screenwriter, director, and producer. I wrote the screenplay for the
4 Netflix limited series *The Queen's Gambit*, for which I was the co-creator, writer,
5 director, and executive producer. The matters set forth below are based on my own
6 knowledge, except as may be otherwise indicated, and, if called and sworn as a
7 witness, I could and would competently testify thereto under oath.

8 2. I have previously written or co-written the screenplays for the following
9 works, among others: *Little Man Tate*, *Dead Again*, *Get Shorty*, *Out of Sight*, *Minority*
10 *Report*, and the Netflix series *Godless*.

11 3. In October 2020, Netflix released *The Queen's Gambit*, a seven-episode
12 limited series.

13 4. I adapted the screenplay for *The Queen's Gambit* from the 1983 fictional
14 novel of the same title by Walter Tevis. The novel and the screenplay tell the story of
15 Elizabeth Harmon ("Harmon"), an orphan chess prodigy who becomes a star chess
16 player in the male-dominated chess world of the 1960s, while grappling with
17 addiction and finding her support system. In following Harmon's journey, the
18 screenplay explores themes of drug addiction, chosen family, the cost of genius, the
19 rejection of gender norms, and the value of collectivism over individualism in the
20 context of the Cold War.

21 5. Both the novel and its screenplay adaptation are works of fiction.
22 Harmon is a fictional character, her chess opponents are fictional characters, and the
23 tournaments in which she competes are fictional tournaments. The end credits of each
24 episode of *The Queen's Gambit* indicate that the series is "based upon the novel of
25 Walter Tevis."

26 6. Although the series and the novel on which it is based are both works of
27 fiction, to provide a factual underpinning and enhance the realism of the fictional
28 series, the screenplay—like the novel—includes various references to real events,

1 books about chess, and chess players, including, for example, Jose Raul Capablanca,
2 Francois-Andre Philidor, George Koltanowski, Paul Morphy, William Steinitz, David
3 Ionovich Bronstein, and Alexander Alekhine.

4 7. The screenplay largely adheres to the novel, but it was necessary to make
5 some changes to the novel to make elements of the story better suited for a dramatic
6 television series. One of the challenges in adapting a novel about chess to a
7 screenplay was to make the chess play sufficiently dramatic and engaging for the
8 viewer. To that end, it was important to me to provide enough context for each chess
9 match to set the emotional stakes of the match beyond whether Harmon wins or loses.

10 8. One important element of that context is where each of Harmon's chess
11 matches falls in the narrative arc of her rise to prominence in the chess world. Her
12 first tournament is a local tournament in her hometown of Lexington, Kentucky. She
13 then progresses through increasingly prominent tournaments including in Cincinnati,
14 Pittsburgh, Houston, Las Vegas, and Mexico City, followed by the U.S. Championship
15 in Ohio, and a Paris invitational. The story arc culminates at the Moscow Invitational,
16 referred to as the Tournament of Champions, in 1968, where many of the fictional
17 chess greats that have dominated the chess world during Harmon's chess career
18 compete, including the Soviet player Vasily Borgov whom Harmon beats in a highly
19 anticipated rematch.

20 9. It was important to include details about each of the chess tournaments to
21 help set the stage of the increasing prestige of the tournaments in which Harmon
22 competes. For example, Harmon's first tournament is open to anyone who pays the
23 \$5 entry fee, and the chess matches are played on chess boards made of paper. The
24 U.S. Championship takes place in a classroom at Ohio University to minimal fanfare.
25 By contrast, the Moscow Invitational is covered heavily by the press, the participants
26 stay in suites at a luxury hotel, and avid fans watch the matches both inside the hall
27 and amassed outside, where each move is reported to the gathered crowds.

28

1 10. Harmon reaches the ultimate or peak prestige at the Moscow Invitational,
2 as Moscow was the seat of Soviet chess, the pinnacle of competitive chess at the time.
3 The screenplay sets up the Moscow Invitational as the crowning tournament in several
4 ways, including through a discussion in Cincinnati between Harmon and two local
5 chess players, Matt and Mike, whom Harmon had met at her first tournament.
6 Harmon discusses with Matt and Mike the possibility of playing in the U.S. Open
7 Championship and using a win there to leverage invitations to international
8 tournaments. She specifically asks about the possibility of competing in tournaments
9 against Soviet players, and Matt and Mike respond that no American has been able to
10 match the Soviets in chess in more than 20 years. Later, as the winner of the U.S.
11 Championship, Harmon receives an invitation to the Moscow Invitational.

12 11. I developed the narrative construct of the low expectations for Harmon at
13 the Moscow Invitational by having her leave the tournament hall in Moscow after her
14 first match to a relatively empty sidewalk with just one fan waiting for an autograph.
15 The series of scenes in which Harmon exits the tournament hall after defeating each
16 opponent she plays at the tournament allowed me to show the progression of
17 increasing press coverage and fan attention that Harmon receives as she begins to
18 overcome the low expectations for her, build a reputation, and attain stardom.

19 12. I understand that Nona Gaprindashvili, the Plaintiff in this action, alleges
20 that a line of spoken dialogue that references her in the series finale is defamatory.
21 Specifically, during the first match of the Moscow Invitational, a fictional chess
22 announcer providing commentary about the first of Harmon's matches refers to Ms.
23 Gaprindashvili when speculating about Harmon's opponents:

24 As far as they knew, Harmon's level of play wasn't at theirs.
25 Someone like Laev [Harmon's first opponent] probably didn't spend a
26 lot of time preparing for their match. Elizabeth Harmon's not at all an
27 important player by their standards. The only unusual thing about her,
28 really, is her sex. And even that's not unique in Russia. There's Nona
 Gaprindashvili, but she's the female world champion and has never

1 faced men. My guess is Laev was expecting an easy win, and not at
2 all the 27-move thrashing Beth Harmon just gave him.

3 13. The purpose of this commentary is to further the narrative construct that
4 Harmon’s all-male opponents at the Moscow Invitational were likely initially
5 dismissive of Harmon due to gender segregation in the Soviet chess world at that time.
6 The fictional announcer surmises that, to Harmon’s opponents at that tournament, she
7 would not have been an important player. Although there were other female chess
8 players, including Ms. Gaprindishvili, the female world champion, I understand that
9 Soviet tournaments generally were divided by gender and thus female players
10 generally did not compete in substantial Soviet tournaments (like the fictional
11 Moscow Invitational) with men. The commentator speculates that Harmon’s Soviet
12 opponents’ lack of competition experience against female chess players would cause
13 them to underestimate her.

14 14. The fictional commentator’s statement that Ms. Gaprindashvili was “the
15 female world champion and has never faced men” in the context of this scene was not
16 intended to disparage Ms. Gaprindashvili in any way. It was intended to indicate to
17 the viewer that the Soviet chess world of 1968 was gender-segregated, such that major
18 tournaments were separated by sex.

19 15. My purpose in having the fictional commentator refer to Ms.
20 Gaprindashvili by name during this scene was to recognize her status as one of the
21 then Soviet Union’s great chess players, while also making clear that even though
22 there were excellent female players, the Soviet chess world in the late 1960s was
23 male-dominated and gender-segregated. The line was intended to honor Ms.
24 Gaprindashvili, not disparage her, and I believed it to be accurate.

25 16. The line refers to “Russia,” as opposed to the Soviet Union. Throughout
26 the series, American characters occasionally refer to Soviet players as “Russian” and
27 to the Soviet Union as “Russia,” which is consistent with the way in which I
28 understand many Americans referred to the U.S.S.R. in the 1960s.

1 17. The line in the series differs from that in the novel, in which the narrator,
2 as opposed to a character, makes the following statement about Harmon’s defeat of
3 Laev in the first match of the Moscow Invitational:

4 As far as they knew, [Harmon’s] level of play was roughly that of Benny
5 Watts, and men like Laev would not devote much time to preparation for
6 playing Benny. She was not an important player by their standards; the
7 only unusual thing about her was her sex; and even that wasn’t unique in
8 Russia. There was Nona Gaprindashvili, not up to the level of this
9 tournament, but a player who had met all these Russian Grandmasters
10 many times before. Laev would be expecting an easy win.

11 18. I deviated from this text, first, by having a fictional character (an
12 announcer at the tournament), rather than the narrator, make the statement in the
13 series. Then, I modified the language itself to make the statement less expository and
14 more direct, *i.e.*, in a manner that an announcer would deliver such a line. I also
15 removed the negative commentary from the novel that Ms. Gaprindashvili was “not
16 up to the level of” the fictional tournament even though she had “met” the Russian
17 Grandmasters before, and instead added express recognition that Ms. Gaprindashvili
18 was the female world champion.

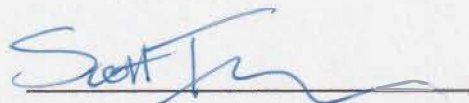
19 19. My team and I spent many hours researching chess and consulting with
20 chess advisors in developing the screenplay. In particular, I worked extensively with
21 two chess advisors. One was Bruce Pandolfini, who is one of the premier chess
22 teachers in the world and was Walter Tevis’s chess consultant when Tevis wrote the
23 novel. The other was Garry Kasparov, a former world champion and expert in Soviet
24 chess during the relevant era, who, in addition to consulting about the details of chess
25 games, gave insight into how chess players feel, think, move, and interact with one
26 another.

27 20. All of the scripts for the series were provided to Mr. Pandolfini and Mr.
28 Kasparov to review for accuracy of references to people and events in the chess world
and for authenticity of the chess-related scenes. Based on their review, both advisors

1 identified various notes about the scripts, which were considered and addressed as
2 appropriate. Neither advisor identified any issue with the commentator's line that is
3 the subject of this action, and I understood it to be accurate.

4 21. It is my understanding based on research by my team that during the
5 relevant time period chess was largely gender-segregated. While the World
6 Championship was open to women, there was a separate Women's World
7 Championship. Based on the research that my team completed, Ms. Gaprindashvili
8 was the female world champion in the 1960s, and her participation in notable
9 tournaments against male grandmasters largely occurred in the 1970s and later.

10
11 I declare under penalty of perjury under the laws of the United States of
12 America that the foregoing is true and correct. Executed on October 28, 2021 at
13 New York City New York.

14
15 

16 Scott Frank