

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KIMBERLY CARLESTE NEWMAN, et
al.,

Plaintiffs,

v.

GOOGLE LLC, et al.,

Defendants.

Case No. 20-cv-04011-VC

**ORDER RE: SUPPLEMENTAL
BRIEFING**

Re: Dkt. No. 146

Because it would have been impossible for Google to meaningfully respond in its 15-page motion to all the scattershot allegations in the latest iteration of the complaint, Google is invited to file a supplemental brief responding to a few specific video comparisons alleged in the chart. *See* Dkt. No. 144 at 26–31. In particular, Google should address whether the decision to restrict the following videos, considered in conjunction with paragraphs 74–78 of the Fifth Amended Complaint, could give rise to a claim for breach of contract:

- Khalif Muhammad
 - “Dr. SYNQ: NCOBRA Responds to ADOS”
 - “Dr. SYNQ’s Effective Numbers Theory”
- Harvey Stubbs
 - “John Boyega and the directors who would work with him”
 - “Spike Lee and the Oscars”
- Denotra Nicole Lewis (“Nicole’s View”)
 - “In Memory of”

- “Say What!?: Billy Dee Williams Comes Out as ‘Gender Fluid’”
- “Halle Bailey & the New Little Mermaid Casting ‘Controversy’”
- Andrew Hepkins
 - “Anthony Joshua’s Redemption — The Responsibility of Success”
 - “Dear Gillette & America: ‘Toxic Masculinity’ Doesn’t Exist”
 - “Canelo Versus GGG — Who Wins and Why”
 - “Democratic Dilemma: Are Black Americans Ready to #WalkAway?”
- T-K Reyes
 - “Free Lunch – ‘Lick My Balls’ – Music Video – Hot New Hip Hop Rap Song 2018”
- T-O Ley
 - “How to make fake cuts or wounds with makeup step by step”

In discussing these videos, Google should address the comparator videos offered for each video and explain why they do not contribute to an inference that the plaintiffs’ videos were treated differently on the basis of their race. For purposes of its supplemental brief, Google should assume that it is contractually bound to refrain from considering the race (or other personal characteristics) of content creators in deciding whether to restrict their videos. The supplemental brief is due Friday, June 16 at 5:00 p.m. and should not exceed 20 pages. Google is reminded that the Court may only consider allegations in the complaint, materials incorporated into the complaint by reference, and anything properly subject to judicial notice.

IT IS SO ORDERED.

Dated: June 7, 2023



 VINCE CHHABRIA
 United States District Judge