

Templeton in his capacity as Executive Vice President and Chief Operating Officer of Texas Instruments Incorporated. Bernard Ficq, Plaintiff, alleges the following:

PRELIMINARY STATEMENT

This civil action arises from the Defendants' wrongful termination of Plaintiff's employment in connection with activities related to the series of layoffs during Spring 2001, Defendants conspiracy to deprive Plaintiff of civil rights, and Defendants' tortious conduct of discrimination against Plaintiff due to Plaintiff's status as U.S. Citizen and the Defendants' deprivation of Plaintiff's Constitutional and statutory rights.

The Defendants purposefully concealed the fact that U.S. Citizens were terminated in disproportionately large numbers while Defendants protected Foreign Workers employed by The Company. The Defendants continued to hire additional Foreign Workers in the aftermath of the layoffs in Spring 2001.

I. JURISDICTION

1. This action arises under U.S.C. Title 42, Section 1981, which guarantees equal rights, U.S.C. Title 42, Section 1983, which provides civil action for deprivation of rights and privileges and immunities that are secured by the laws of the United States or the United States Constitution, U.S.C. Title 42, Section 1985, which provides liability against a conspirator and allows the injured party to recover damages against any one or more of the conspirators engaging in the conspiracy to interfere with civil rights, and the Fourteenth Amendment to the Constitution of the United States, Section 1, as hereinafter more fully appears.

2. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. Section 1331 (Federal Question), 28 U.S.C. Section 1343 (Jurisdiction over U.S.C. Title 42, Section 1985) and 28 U.S.C. Section 1367 (Supplemental Jurisdiction).

3. Supplemental jurisdiction, pursuant to 28 U.S.C. Section 1367, over the subject matter of Plaintiff's claims related to humiliation, defamation, and fraud because those claims are so related to Plaintiff's federal claims as to form part of the same case or controversy under Article III of the United States Constitution.

II. VENUE

4. Venue for this action is predicated upon U.S.C. Title 28, Section 1391(b) because a substantial part of the events giving rise to this action occurred in the judicial district for the Northern District of Texas, and all defendants reside in the State of Texas.

5. Venue for this action is also predicated upon U.S.C. Title 28, Section 1391(c) because Defendant Texas Instruments Incorporated is deemed to reside in the Northern District of Texas. Defendant Texas Instruments Incorporated has its principal and executive offices located at 12500 TI Boulevard, Dallas, Texas. These offices reside within the jurisdiction of the Northern District of Texas.

6. Assignment to the Dallas Division of the Northern District of Texas is proper because a substantial part of the events giving rise to this action occurred in Dallas, Texas.

III. THE PARTIES

Plaintiff

7. Bernard Ficq is a citizen of the State of Texas and resides at 7421 Frankford Road, Apartment 2734, Dallas, Texas.

8. Bernard Ficq is a citizen of the United States.

9. Appendix A contains Plaintiff's statement to adhere to The Dondi Principles and The Local Rules.

Defendants

10. Texas Instruments Incorporated develops, manufactures and sells a variety of products used in the commercial electronic and electrical equipment industry, primarily for industrial and consumer markets.

11. Texas Instruments Incorporated is a Delaware Corporation with principal and executive offices located at 12500 TI Boulevard, Dallas, Texas. These offices reside within the jurisdiction of the Northern District of Texas.

12. Thomas J. Engibous is Chairman of the Board, President, and Chief Executive Officer of Texas Instruments Incorporated. During the relevant time period herein, Thomas J. Engibous was and acted as Chairman of the Board, President, and Chief Executive Officer of Texas Instruments Incorporated.

13. Thomas J. Engibous is a citizen of the State of Texas and resides at 20 Shady Bend Drive, Melissa, Texas.

14. Richard K. Templeton is Executive Vice President and Chief Operating Officer of Texas Instruments Incorporated. During the relevant time period herein, Richard K. Templeton was and acted as Executive Vice President and Chief Operating Officer of Texas Instruments Incorporated.

15. Richard K. Templeton is a citizen of the State of Texas and resides at 2607 Dublin Road, Plano, Texas.

IV. DEFINITIONS

16. Foreign persons who are authorized to work in the United States on a temporary basis, such as provided under the H1-B visa program, shall be referenced as Foreign Workers.

17. A foreign person who performs any type of work shall be referenced as Foreign Laborer.

18. Texas Instruments Incorporated shall be referenced as The Company.

19. Certain quotations that are included in this complaint refer to TI. TI is the same entity as Texas Instruments Incorporated.

20. Quotations from other sources refer to Tom Engibous. Tom Engibous is the same person as Thomas J. Engibous.

21. Quotations from other sources refer to Rich Templeton. Rich Templeton is the same person as Richard K. Templeton.

22. Texas Instruments Incorporated, Thomas J. Engibous, and Richard K. Templeton shall be referenced as Defendants.

V. THE FACTS

23. Plaintiff received a Notice of Right to Sue from the Equal Employment Opportunity Commission (EEOC) regarding Plaintiff's allegations as described in Charge No. 310 A2 01335.

24. Plaintiff filed a request under the Freedom of Information Act to obtain a copy of EEOC's investigation and The Company's response.

25. On June 13, 2002, Plaintiff conferred with Ms. Theresa Couch, Senior Counsel, Texas Instruments' Legal Department. Plaintiff asked Ms. Couch if The

Company would agree to Plaintiff's proposed Motion to Extend Time due to the facts that Plaintiff had not received the file from EEOC and the looming 90-day filing deadline.

26. Ms. Couch stated that The Company is OPPOSED to the Motion.

27. Due to The Company's opposition, Plaintiff submits this original complaint without benefit of the facts that are contained within the EEOC file.

28. Plaintiff anticipates that Plaintiff will ask leave of Court to amend this complaint pending receipt and reasonable time to review and act upon the contents of the EEOC file for Charge No. 310 A2 01335.

29. In June and July of 1998, Plaintiff was recruited by The Company to work as an engineer in The Company's Wireless Business Unit.

30. On August 3, 1998, the Plaintiff, pursuant to oral and written agreements, commenced employment with The Company.

31. On April 25, 2001, the Branch Manager, Stephen C. Kwan, requested that the Plaintiff meet with Stephen C. Kwan in Stephen C. Kwan's office at about 1:45pm.

32. Stephen C. Kwan shall be referenced hereinafter as Mr. Kwan.

33. The Plaintiff complied with Mr. Kwan's request for the meeting, and during the meeting on April 25, 2001, the Plaintiff was informed by Mr. Kwan that The Company had decided to terminate Plaintiff's employment with The Company.

34. The Company terminated Plaintiff's employment in conjunction with a mass layoff of The Company's employees on April 25, 2001.

35. The mass layoff on April 25, 2001, was part of a pattern of premeditated, and carefully planned layoffs initiated by The Company beginning in early 2001.

36. During the time period of Plaintiff's employment with The Company, Plaintiff received satisfactory performance evaluations during The Company's annual review of Plaintiff.

37. During the time period of Plaintiff's employment with The Company, Plaintiff did not receive notice nor warning from The Company of unsatisfactory performance at any time.

38. Throughout the day on April 25, 2001, Plaintiff took notice and observed The Company's employees that The Company had decided to terminate.

39. Throughout the day on April 25, 2001, Plaintiff observed that a gross, disproportionately large portion of the terminated employees were U.S. Citizens or Permanent Residents.

40. Plaintiff used common sense and arrived at reasonable conclusions based upon observation and information that is endowed upon a normal person to reach such conclusions about the citizenship status of the terminated employees.

41. Plaintiff is informed and believes, and upon such information and belief, alleges that a disproportionately large number of the affected employees were U.S. Citizens or Permanent Residents.

42. Plaintiff is informed and believes, and upon such information and belief, alleges relatively few Foreign Workers were affected.

VI. THE COUNTS

COUNT I

VIOLATION OF U.S.C. TITLE 42, SECTION 1981 EQUAL RIGHTS UNDER THE LAW DEFENDANTS' LIABILITY FOR DEPRIVATION OF CIVIL RIGHTS

43. Plaintiff re-alleges and incorporates by reference in this Count the allegations contained in paragraphs 1 through 42 above as if fully set forth herein.

44. Plaintiff invokes The Equal Protection Clause in Section 1 of the 14th Amendment to the United States Constitution.

45. Plaintiff invokes The Due Process Clause in The 5th Amendment to the United States Constitution.

46. Plaintiff invokes 42 U.S.C. Section 1981.

47. 42 U.S.C. Section 1981 grants Plaintiff equal rights including, but not limited to, the full and equal benefit of all laws and proceedings.

48. 42 U.S.C. Section 1981 protects Plaintiff against subjection to any special or unique punishment, pains, penalties, exactions or other discrimination or adverse action.

49. Plaintiff alleges that Defendants intentionally discriminated against Plaintiff based upon Plaintiff's citizenship status as a Citizen of the United States.

50. Plaintiff alleges that Defendants selected Plaintiff and other employees that The Company terminated on April 25, 2001 and similar dates, based upon Plaintiff's citizenship status and the individual and collective citizenship status of the group of affected employees that were terminated.

51. Defendants' intentional discrimination violated Plaintiff's rights under 42 U.S.C. Section 1981.

52. Plaintiff invokes 42 U.S.C. Section 1983.

53. 42 U.S.C. Section 1983 establishes Defendants' liability to Plaintiff for redress of Defendants' intentional deprivation of Plaintiff's rights.

54. 42 U.S.C. Section 1983 authorizes Plaintiff to pursue civil action for deprivation of rights guaranteed by the Constitution or other laws including, but not limited to, 42 U.S.C. Section 1981.

55. As a direct and proximate result of Defendants' intentional conduct, Plaintiff has suffered and continues to suffer substantial financial losses.

56. Plaintiff requests the assessment of compensatory and punitive damages against Defendants as a means of punishment and by way of example.

57. The Defendants' conduct has deprived Plaintiff of equal rights guaranteed by the United States Constitution or other laws or statutes.

58. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered substantial economic losses including, but not limited to, past and future compensation, benefits, loss of financial stability, peace of mind.

59. Plaintiff is informed and believes, and upon such information and belief, alleges that after Plaintiff suffered involuntary discharge on April 25, 2001, The Defendant assigned Plaintiff's work to Foreign Worker named Xiaoyu Frank Xi. Thus, U.S. Citizen was replaced by Foreign Worker.

60. Plaintiff is informed and believes, and upon such information and belief, alleges that Defendants hired Foreign Workers within two months of April 25, 2001.

61. Defendants' actions are morally reprehensible.
62. Defendants acted in conscious disregard of Plaintiff's rights.
63. Defendants' actions are rooted in wanton greed whereby Defendants seek to profit by effectively increasing the labor supply, increasing the number of Foreign Workers in the United States, and removing U.S. Citizens from The Company's payroll.

COUNT II

VIOLATION OF U.S.C. TITLE 42 SECTION 1985 - CONSPIRACY TO DEPRIVE CIVIL RIGHTS DEFENDANTS' LIABILITY FOR CONSPIRING TO INTERFERE WITH CIVIL RIGHTS

64. The Plaintiff re-alleges and incorporates by reference in this Count the allegations contained in paragraphs 1 through 60 above as if fully set forth herein.

65. Plaintiff invokes 42 U.S.C. Section 1985.

66. 42 U.S.C. Section 1985 establishes Defendants' liability to Plaintiff for conspiring to intentionally deprive Plaintiff of civil rights guaranteed by the Constitution or other laws including, but not limited to, 42 U.S.C. Section 1981.

67. 42 U.S.C. Section 1985 authorizes Plaintiff to pursue civil action for conspiracy to deprive Plaintiff of civil rights guaranteed by the Constitution or other laws including, but not limited to, 42 U.S.C. Section 1981.

68. 42 U.S.C. Section 1985 allows Plaintiff to recover damages occasioned by such injury or deprivation against any one or more of the conspirators.

69. Due to the nature of the series of layoffs at The Company in Spring 2001, and due to the nature of the execution of such layoffs at The Company in Spring 2001, and due to the nature of Defendant Engibous' position at The Company, and due to the

nature of Defendant Templeton's position at The Company, Defendant Engibous and Defendant Templeton conspired with The Company, and used The Company to commit the acts leading to the deprivation of Plaintiff's civil rights.

70. Defendants' actions are morally reprehensible.

71. Defendants acted in conscious disregard of Plaintiff's rights.

72. Defendants' actions are rooted in wanton greed whereby Defendants seek to profit by effectively increasing the labor supply, increasing the number of Foreign Workers in the United States, and removing U.S. Citizens from The Company's payroll.

73. As a direct and proximate result of Defendants' intentional conduct, Plaintiff has suffered and continues to suffer substantial financial losses.

74. Plaintiff requests the assessment of compensatory and punitive damages against Defendants as a means of punishment and by way of example.

75. The Defendants' conduct has deprived Plaintiff of equal rights guaranteed by the United States Constitution or other laws or statutes.

76. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered substantial economic losses including, but not limited to, past and future compensation, benefits, loss of financial stability, peace of mind.

COUNT III

GROSS NEGLIGENCE AND INCONSCIONABLE ACTS: GROSSLY NEGLIGENT PERFORMANCE OF VOLUNTARY UNDERTAKINGS

77. The Plaintiff re-alleges and incorporates by reference in this Count the allegations contained in paragraphs 1 through 60 above as if fully set forth herein.

78. During the recruitment process that started in June of 1998, and continuing throughout Plaintiff's employment by The Company, Plaintiff began to rely upon the voluntary statements made by The Company via The Company's literature and publications. These publications include, but are not limited to, The Company's website, annual reports, electronic mail, internal mail, and The Company's interview package.

79. The Company voluntarily shipped the interview package to Plaintiff on June 24, 1998.

80. The Company voluntarily shipped the interview package by Federal Express Priority Overnight which caused Plaintiff to believe that the contents of the package carried great importance.

81. The interview package, dated June 24, 1998, contained The Company's Employee Benefits booklet. The back cover of the Employee Benefits booklet states

"We will create an environment where people are valued as individuals and team members and treated with respect, dignity, and fairness."

82. Continuing through the period of Plaintiff's employment with The Company, Plaintiff received numerous communications from The Company where The Company made voluntary statements to promote The Company's image among The Company's employees.

83. During the period of Plaintiff's employment with The Company, The Company made voluntary statements to the public to promote The Company's image through various and on-going public relations campaigns.

84. Early in the time period of Plaintiff's employment with The Company, and continuing through until The Company terminated Plaintiff, Plaintiff relied upon the

voluntary statements made by The Company via The Company's literature and publications. These publications include, but are not limited to, The Company's website, annual reports, open letters from Defendant Engibous to The Company's employees, open letters from Defendant Templeton to The Company's employees, as well as brochures, handbooks, and internal email for The Company's employees.

85. In 1998, during Plaintiff's employment with The Company, Plaintiff received "The Values and Ethics of TI" packet from The Company.

86. "The Values and Ethics of TI" packet contained "The Values and Ethics of TI" booklet.

87. The enclosed cover letter, on The Company's letterhead, is addressed "To TIers Worldwide" and states

"Enclosed is your copy of The Values and Ethics of TI. This publication represents a renewed commitment by TI leadership to the cornerstones of this company."

... "it is the beginning of a new TI" ...

"Throughout 1998, new tools will join this booklet to support decision-making based on TI's values and principles. Watch for them - they will be important resources to help each of us reinforce our strong reputation as a trustworthy company. We ask you to join us in accepting these values professionally and personally."

The letter is signed by The TI Strategy Leadership Team including Tom Engibous and Rich Templeton.

88. Page 3 of the booklet states

" 'But we don't want to confuse that with the fact that we're ethical and we're moral. We're very responsible, and we live up to what we say.'

Tom Engibous, President and CEO, Texas Instruments - 1997"

89. Page 12 of the booklet states

"WE TAKE RESPONSIBILITY BY" . . .

"Respecting codes of conduct, rules of business and laws of countries, abiding by both the letter and the spirit."

90. In the Defendant's publication titled, TI 2001, the Summary Annual Report for Texas Instruments Incorporated for the year 2001, page 7 states the following under the subtitle "Ethics."

"TI has a time-honored tradition of conducting business in an ethical and legal manner, and employees worldwide have a shared understanding of basic values and principles of integrity that guide their daily actions."

91. The Defendant's voluntary statements continue as,

... "the company established the TI Ethics Office to ensure that company activities are aligned with ethical principles" ...

92. The Defendant's voluntary statements continue as,

"TI's dedication to ethical behavior provides a competitive advantage as our customers know our reputation and trust us to act responsibly."

93. The Summary Annual Report is a public document.

94. The Defendant transferred a brochure to the Plaintiff during Plaintiff's employment by The Company.

95. The brochure, titled "The Values and Ethics of TI" states on page 12:

. . . "Respecting codes of conduct, rules of business and laws of countries, abiding by both the letter and the spirit."

96. The brochure was accompanied by a letter signed by Defendant Engibous and also signed by Defendant Templeton.

97. These voluntary statements by Defendants were disseminated to the United States government, The Company's stockholders, the public, and/or The Company's employees depending upon the particular publication.

98. The Defendants' voluntarily and purposely made such statements to create a perception among The Company's employees and the public that Defendants act in ways that are ethical, moral, lawful in both the letter and the spirit of the law, and other ways as described.

99. Defendants purposefully made such statements to gain advantage by advertising such wholesome qualities to customers, potential customers, employees of The Company, potential employees of The Company, and the general public so as to encourage customers, potential customers, employees of The Company, potential employees of The Company, and the general public to hold Defendants in high repute.

100. The Defendants' voluntary statements as described are not consistent with Defendants' intentional acts of discrimination and conspiracy.

101. Defendants created a bond of trust with Plaintiff by Defendants' on-going affirmative assertions through such voluntary statements.

102. By the continuing pattern of advertising such affirmative voluntary statements, Defendants voluntarily assumed the duties that are contained in such voluntary statements.

103. Defendants actions are grossly negligent and violated such duties in the conduct and manner of Plaintiff's termination.

104. Defendants' actions are morally reprehensible.

105. Defendants acted in conscious disregard of Plaintiff's rights.

106. Defendants' actions are rooted in wanton greed whereby Defendants seek to profit by effectively increasing the labor supply, increasing the number of Foreign Workers in the United States, and removing U.S. Citizens from The Company's payroll.

107. Plaintiff suffered significant harm due to Defendants' negligent performance of Defendants' voluntary undertakings including, but not limited to, loss of wages, loss of benefits, loss of stock options, loss of income due to the forced liquidation of stock options by Defendants.

108. As a direct and proximate result of Defendants' intentional conduct, Plaintiff has suffered and continues to suffer substantial financial losses.

109. Plaintiff requests the assessment of compensatory and punitive damages against Defendants as a means of punishment and by way of example.

110. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered substantial economic losses including, but not limited to, past and future compensation, benefits, loss of financial stability, peace of mind.

COUNT IV

HUMILIATION

111. The Plaintiff re-alleges and incorporates by reference in this Count the allegations contained in paragraphs 1 through 60 above as if fully set forth herein.

112. On April 25, 2001, the Branch Manager, Mr. Kwan, requested that the Plaintiff meet with Mr. Kwan in Mr. Kwan's office at 1:45pm.

113. The Plaintiff complied with Mr. Kwan's request for the meeting, and during the meeting on April 25, 2001, the Plaintiff was informed by Mr. Kwan that The Company had decided to terminate Plaintiff's employment with The Company.

114. The Company terminated Plaintiff's employment in conjunction with a mass layoff of The Company's employees on April 25, 2001.

115. The mass layoff on April 25, 2001, was part of a pattern of layoffs initiated by The Company beginning in early 2001.

116. During Mr. Kwan's meeting with Plaintiff on April 25, 2001, Mr. Kwan transferred to Plaintiff a sealed white envelope containing documents related to The Company's decision to terminate the Plaintiff's employment.

117. The white envelope contained the Notification Letter for Surplus Situation which claimed that

"the following factors were used to determine which positions would be declared surplus:

1. Performance: Current work outcomes.
2. Skills: Specific skills and the ability to apply these skills in varying work assignments.
3. TI Service: Completed years of TI employment, as defined by TI policy and counted through the last day of the Notification Period as defined below."

118. The white envelope contained the EEO List. The EEO List describes in detail the composition with respect to age of The Company's employees in the Wireless Business Group that The Company had decided to terminate.

119. Upon the completion of Mr. Kwan's meeting with Plaintiff on April 25, 2001, Mr. Kwan informed Plaintiff that Plaintiff must attend a meeting with The Company's Human Resources representative.

120. Kwan informed Plaintiff that Plaintiff must follow Kwan to the meeting room.

121. By the nature of the closed-door meeting between Kwan and Plaintiff on the day, April 25, 2001, and within the timeframe of, The Company's actions to terminate

a large number of The Company's employees, and due to the glass window in Kwan's office, and due to the proximity of the cubicles of Plaintiff's coworkers, Plaintiff's coworkers became knowledgeable of The Company's action against Plaintiff.

122. Plaintiff's coworkers became knowledgeable about The Company's action against Plaintiff because a casual glance by a person passing Kwan's office in the hallway will readily reveal the occupants of Kwan's office and because the white envelope is unique and conspicuous compared to the typical paperwork in Kwan's office and because the white envelope is positioned on the office table in plain, unobstructed view to any person passing in the hallway and because P subsequently became the subject of rumor and speculation among P's co-workers.

123. Upon completion of the meeting, Kwan led Plaintiff into the hallway outside of Kwan's office. The hallway was bordered on both sides by the cubicles and offices of Plaintiff's co-workers.

124. Some of Plaintiff's co-workers had gathered near the cubicles in the vicinity of Kwan's office, and as Kwan led Plaintiff down the hallway, Plaintiff was subjected to the embarrassment of stares and whisperings as the on-looking co-workers gawked at Plaintiff.

125. Upon the completion of the meeting between The Company's Human Resources representative, Mr. HR Rep and Plaintiff, Mr. HR Rep informed Plaintiff that Plaintiff must attend a second meeting.

126. The Company's HR Representative instructed Plaintiff that Plaintiff must follow HR Rep to the second meeting room.

127. Plaintiff complied with HR Rep instructions as required.

128. Upon arrival at the second meeting room, HR Rep informed Plaintiff that, upon the conclusion of the second meeting, an employee of The Company would meet Plaintiff at the second meeting room and escort Plaintiff to Plaintiff's assigned cubicle.

129. The actions and statements of The Company's employees, HR Rep and Branch Manager, clearly conveyed to Plaintiff that Plaintiff was not free nor welcome to move about or travel within the building.

130. Prior to the meeting with Branch Manager and HR Rep on April 25, 2001, Plaintiff was allowed, and as the nature of P employment required, access to all parts and locations in The Company's building that were normally accessed and available to The Company's employees.

131. Upon the completion of the second meeting, the Branch Manager's Administrative Assistant met Plaintiff at the location of the second meeting and informed Plaintiff that Plaintiff must follow Administrative Assistant to Plaintiff's cubicle.

132. Plaintiff followed Administrative Assistant as required and upon arrival at the beginning of the long corridor leading to Plaintiff's work area, Plaintiff observed a group of eight of Plaintiff's co-workers gathered at the far end of the long corridor.

133. Plaintiff continued to follow Admin Asst as instructed and required.

134. Certain members of the group of eight co-workers promptly noticed Plaintiff as Plaintiff and Administrative Assistant proceeded toward the group of eight.

135. Moments later, after brief discussion by the group, discussion which included those certain members of the group who had noticed Plaintiff approaching under the escort of Administrative Assistant, each and every person in the group of eight co-

workers turned to look, watch, and stare at Plaintiff as Plaintiff was escorted in the long corridor towards the group of eight co-workers.

136. The Plaintiff continued walking down the long corridor towards the group of co-workers as instructed and required by the Administrative Assistant.

137. The group of eight co-workers continued to watch and stare at Plaintiff during the entire time that Plaintiff approached the group.

138. During the entire time that Plaintiff approached the group under the escort of Admin Asst, Plaintiff noticed that individuals in the group made comments to the group and made comments to other individuals in the group as those individuals watched and stared at Plaintiff.

139. As Plaintiff arrived at the far end of the long corridor where the group of eight had gathered, individuals in the group made comments and remarks which indicated their knowledge of The Company's action against Plaintiff.

140. The Company's purposeful, pre-planned, pre-meditated, calculated, actions caused Plaintiff to become the subject of rumor, speculation among Plaintiff's co-workers and a spectacle for onlookers both known and unknown to Plaintiff.

141. Shortly thereafter on the afternoon of April 25, 2001, Plaintiff returned to Plaintiff's assigned cubicle. As Plaintiff sat in the assigned cubicle, The Company posted a guard in the hallway outside Plaintiff's cubicle.

142. The guard paced back and forth in the hallway in the immediate area adjacent to Plaintiff's cubicle and within the surrounding vicinity outside Plaintiff's cubicle.

143. The guard was situated in plain view such that any person in the lengthy hallway leading to Plaintiff's cubicle would take notice of the guard.

144. The nature of the guard's presence and the nature of the guard's actions caused the guard's presence to be conspicuous and noticeable to any reasonable person in the lengthy hallway leading to Plaintiff's cubicle.

145. Subsequently, a number of The Company's employees, which included the Plaintiff's coworkers, friends, and acquaintances, began arriving individually at Plaintiff's cubicle.

146. Each and every visitor had heard rumors or received news through the grapevine that The Company had decided to terminate Plaintiff's employment.

147. The visitors sought to speak with Plaintiff in Plaintiff's cubicle.

148. Each and every visitor noticed the guard.

149. The guard's presence and actions caused Plaintiff humiliation and embarrassment in front of each and every visitor.

150. Earlier in the day on April 25, 2001, Plaintiff had observed The Company's way of handling other employees of The Company that The Company had chosen to terminate.

151. During these observations made by Plaintiff, Plaintiff observed that The Company posted no guard outside the affected observed employees' cubicles or offices. Plaintiff observed none of the observed affected.

152. Throughout the day on April 25, 2001, Plaintiff took notice and observed The Company's employees that The Company had decided to terminate.

153. Throughout the day on April 25, 2001, Plaintiff observed that a gross, disproportionately large portion of the terminated employees were U.S. Citizens or Permanent Residents.

154. Plaintiff used common sense and reasonable inference that a normal person would use to reach conclusions about the citizenship status of people affected by the layoff.

155. Due to Defendants' actions, Plaintiff suffered extreme humiliation as Plaintiff's co-workers and others unknown to Plaintiff stared at Plaintiff during the events described herein.

156. Due to Defendants' actions, Plaintiff suffered extreme humiliation as Plaintiff's name became the subject of gossip and rumor among Plaintiff's co-workers and others unknown to Plaintiff.

157. Due to Defendants' actions, Plaintiff suffered extreme humiliation because Plaintiff's co-workers, both known and unknown, and Plaintiff's potential future employers, developed an immediate bias toward Plaintiff because Plaintiff's employment has been terminated and therefore Plaintiff must be deficient, unable, or unqualified.

158. Defendants actions caused Plaintiff to suffer extreme humiliation as Plaintiff was paraded through the hallways of The Company's building.

159. Plaintiff requests the assessment of compensatory and punitive damages against Defendants as a means of punishment and by way of example.

160. Defendants acted in conscious disregard of Plaintiff's rights.

161. Defendants' actions are rooted in wanton greed whereby Defendants seek to profit by effectively increasing the labor supply, increasing the number of Foreign Workers in the United States, and removing U.S. Citizens from The Company's payroll.

COUNT V

DEFAMATION

162. Plaintiff re-alleges and incorporates by reference in this Count the allegations contained in paragraphs 1 through 60 and paragraphs 112 through 158 above as if fully set forth herein.

163. Defendants caused significant and permanent damage to Plaintiff's reputation by terminating Plaintiff's employment, or by terminating Plaintiff's employment in the manner which occurred.

164. Defendants caused a stigma to be associated to Plaintiff's name with Plaintiff's former co-workers, and with employees of The Company.

165. Defendants caused Plaintiff's name to become the subjects of gossip or rumor among Plaintiff's former coworkers.

166. Due to Defendants' actions, Plaintiff suffered extreme humiliation because Plaintiff's co-workers, both known and unknown, and Plaintiff's potential future employers, developed an immediate bias toward Plaintiff because Plaintiff's employment has been terminated and therefore Plaintiff must be deficient, unable, or unqualified.

167. Defendants acted in conscious disregard of Plaintiff's rights.

168. As a direct and proximate result of Defendants' intentional conduct, Plaintiff has suffered and continues to suffer substantial and permanent damage to Plaintiff's reputation.

169. Plaintiff requests the assessment of punitive damages against Defendants as a means of punishment and by way of example.

COUNT VI

FRAUDULENT MISREPRESENTATION, FRAUDULENT CONCEALMENT, FRAUDULENT OMISSION

170. Plaintiff re-alleges and incorporates by reference in this Count the allegations contained in paragraphs 1 through 60 and paragraphs 112 through 154 above as if fully set forth herein.

171. Paragraph 117 outlines the statements that Defendants' claim as the reasons for termination of Plaintiff's employment.

172. These statements are not consistent with the claim of a "surplus situation."

173. Defendants used these statements to deflect investigation or further inquiry into the details of the mass layoff.

174. Defendants used these statements as a smokescreen to obscure the illegal discrimination against U.S. Citizens or Permanent Residents.

175. Defendants knew, or should have known, that Defendants' statements concerning the "surplus situation" were materially false.

176. Defendants knew, or should have known, that Defendants' statements concerning the "surplus situation" fraudulently concealed the purpose or result of the mass layoff.

177. Defendants knew, or should have known, that Defendants' statements concerning the "surplus situation" fraudulently omitted the purpose or result of the mass layoff.

178. Plaintiff is informed and believes, and upon such information and belief, alleges that after Plaintiff suffered involuntary discharge on April 25, 2001, The Defendants assigned Plaintiff's work to Foreign Worker named Xiaoyu Frank Xi. Thus, U.S. Citizen was replaced by Foreign Worker.

179. Plaintiff is informed and believes, and upon such information and belief, alleges that Defendants hired Foreign Workers within two months of April 25, 2001.

180. These intentional actions indicate that the statements made in paragraph 117 are false.

181. Defendants knew or should have known that the statements were false.

182. Defendants knew or should have known that the statements were actually fraudulently misrepresenting, fraudulently concealing and fraudulently omitting the facts and the true nature and intent of the mass layoff.

183. The Defendant purposefully concealed the fact that U.S. Citizens were terminated in disproportionately large numbers while Defendants protected Foreign Workers employed by The Company.

184. The Defendants continued to hire additional Foreign Workers in the aftermath of The Company's termination of a large disproportionate number of U.S. Citizens or Permanent Residents.

185. Defendants' actions are morally reprehensible.

186. Defendants acted in conscious disregard of Plaintiff's rights.

187. Defendants' actions are rooted in wanton greed whereby Defendants seek to profit by effectively increasing the labor supply, increasing the number of Foreign Workers in the United States, and removing U.S. Citizens from The Company's payroll.

188. Plaintiff has suffered and continues to suffer significant financial losses, significant loss of reputation among co-workers known and unknown, significant disadvantage in obtaining similar employment due to the stigma associated with The Company's termination of Plaintiff.

189. Plaintiff requests the assessment of punitive damages against Defendants as a means of punishment and by way of example.

VII. PRAYER FOR RELIEF

190. Plaintiff Bernard Ficq prays for relief and judgment, and requests that this Court:

191. Issue a declaratory judgment stating that the actions of Defendants violated Plaintiff's civil rights guaranteed by U.S.C. TITLE 42, SECTION 1981.

192. Issue a declaratory judgment stating the Defendants' liability to Plaintiff for Defendants' intentional deprivation of Plaintiff's rights as provided by 42 U.S.C. Section 1983.

193. Enter judgment in favor of Plaintiff and against Defendants for back pay in the amount of wages and fringe benefits together with interest that Plaintiff lost due to Defendants' unlawful conduct.

194. Enter judgment in favor of Plaintiff and against Defendants for front pay in the amount of wages and fringe benefits that Plaintiff is likely to lose because of Defendants' unlawful conduct.

195. Enter judgment in favor of Plaintiff and against Defendants with respect to Count I and award Plaintiff compensatory and punitive damages in the amount of

four million U.S. dollars (\$4,000,000.00).

196. Enter judgment in favor of Plaintiff and against Defendants with respect to Count II and award Plaintiff compensatory and punitive damages in the amount of four million U.S. dollars (\$4,000,000.00).

197. Enter judgment in favor of Plaintiff and against Defendants with respect to Count III and award Plaintiff compensatory and punitive damages in the amount of four million U.S. dollars (\$4,000,000.00).

198. Enter judgment in favor of Plaintiff and against Defendants with respect to Count IV and award Plaintiff compensatory and punitive damages in the amount of four million U.S. dollars (\$4,000,000.00).

199. Enter judgment in favor of Plaintiff and against Defendants with respect to Count V and award Plaintiff compensatory and punitive damages in the amount of four million U.S. dollars (\$4,000,000.00). Award Plaintiff the costs of this civil action.

200. Enter judgment in favor of Plaintiff and against Defendants with respect to Count VI and award Plaintiff punitive damages in the amount of four million U.S. dollars (\$4,000,000.00).

201. Award Plaintiff the costs of this civil action.

202. Declare a permanent injunction to now and forever bar the Defendants, including The Company and its successors, The Company's directors, officers, and agents, The Company's future re-organizations, The Company's future re-incorporations, The Company's subsidiaries and all future subsidiaries, The Company's corporate acquisitions and all future acquisitions, and The Company's future mergers, from obtaining, in any manner, work or the product of work due to a Foreign Laborer. This

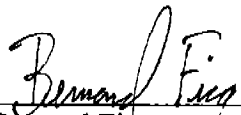
prohibition includes the employment of a Foreign Laborer through hire, contract, volunteer, or in any other manner.

203. Such other and further relief to which Plaintiff may be entitled and which the Court deems just and appropriate.

IX. JURY DEMAND

204. Plaintiff demands a trial by jury on all claims and/or issues to which Plaintiff is entitled.

Dated, this 18th day of June, 2002



Bernard Ficq

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