FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

2016 JAN 25 AM 11:35

DENA MOORE

PLAINTIFF,

Vs.

COGNIZANT INC. TECHNOLOGY Solutions
and WALT DISNEY WORLD

DEFENDANTS.

CASE NO.: 6:16-CV-113-ORL-28KRS

CLASS ACTION ALLEGATIONS

JURY TRIAL DEMANDED

VERIFIED CLASS ACTION COMPLAINT AGAINST COGNIZANT INC. AND WALT DISNEY WORLD

Plaintiff, DENA MOORE ("Plaintiff"), by and through undersigned counsel, hereby brings this nationwide class action on behalf of herself and similarly situated persons, who, like Plaintiff, were caused injury by the Defendants, COGNIZANT INC. TECHNOLOGY Solutions (COGNIZANT) and WALT DISNEY WORLD ("DISNEY"), and states as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of the causes of action in this Complaint by virtue of:

(A) federal question jurisdiction pursuant to 28 U.S.C. Section 1331, involving an action pursuant to 18 U.S.C. Sections 1964(c), the Federal Racketeer Influenced and Corrupt Organizations Act ("RICO"). This Court has subject-matter jurisdiction over this action pursuant to 28 U.S.C. §1332;

$400
TPA 034530

(B) diversity jurisdiction pursuant to 28 U.S.C. Section 1332(a)(1), involving an action between citizens of diverse states with an amount in controversy in excess of seventy-five thousand dollars ($75,000.00), exclusive of interest and costs;

(C) supplemental jurisdiction pursuant to 28 U.S.C. Section 1367(a), involving claims that are so related to claims in the action within the Court's original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution; and

2. This Court has jurisdiction over the persons of the Defendants because each Defendant either resides or transacts business within this judicial district; and each Defendant is amenable to service of process within the meaning of Federal Rule of Civil Procedure 4(e), 4(f), and 18 U.S.C. Section 1965(b).

3. Venue is proper in this district pursuant to 18 U.S.C. Section 1965 and 28 U.S.C. Section 1391 because Defendants either reside or transact business in this district or, alternatively, this district is where a substantial part of the events or omissions giving rise to the claim occurred.

PARTIES

4. Plaintiff, Dena Moore, is a resident of Orlando, Florida. Class members are citizens of different states.

5. Defendant, COGNIZANT, is authorized and doing business within this judicial district.

6. Defendant, DISNEY, is authorized and doing business within this judicial district.

GENERAL ALLEGATIONS AND FACTS

7. Plaintiff has satisfied all conditions precedent.

8. Plaintiff has hired the undersigned attorney and agreed to pay all fees and costs related to this matter.

9. Plaintiff requests a jury trial for all issues so triable.

H1B Program and Applications

10. The US Government introduced the H1B visa program to offer and enable skilled International Professionals and International Students from all over the world the opportunity to live and work in the USA. The H1B is the most popular and sought after US work visa and US Immigration requires 'every' foreign national to obtain a visa in order to legally work in America.

11. The regular application process for a H1B visa is as follows:

A. Offer & Acceptance of H1B Employment - H1B Sponsoring Company files a Petition

An employer can be an individual, partnership or corporation. Applications are "job specific." The visa is only valid for work with the employer that filed the original petition. The USCIS requires employment letters which provide specific information addressing the positions held; the exact duties of the position; the exact dates of employment; and information regarding the supervisors and co-workers of the beneficiary.

B. The 'Prevailing Wage' and actual wage must be determined and compared. The H1B sponsoring company is required to pay the higher of the two. The prevailing wage is determined by the State Employment Security Agency by completing a special form, which asks the employer for the responsibilities, skills and experience needed for the job. The actual wage is determined by comparing other workers in the same positions with the same level of experience.

C. Documents to Be Filed.

ETA Form 9035/9035E- Labor Condition Application- (LCAs)

This form, along with the ETA Form 9035-CP, Instructions, is attached as Exhibit 1. The Instructions provide, in relevant part, as follows:

Anyone, who knowingly and willingly furnishes any false information in the preparation of ETA Form 9035 or 9035E and any supporting documentation, or aids, abets, or counsels another to do so is committing a federal offense, punishable by fine or imprisonment up to five years or both (18 U.S.C. §§ 2, 1001). Other penalties apply as well to fraud or misuse of this immigration document and to perjury with respect to this form (18 U.S.C. §§ 1546, 1621 (perjury)). ETA Form 9035CP, page 1.

Every sponsoring employer must agree to labor condition statements, para. **H (2) which state that the employer will provide working conditions which will not adversely affect the working of conditions of workers similarly situated.** Moreover, every sponsoring employer which is deemed to be a H-1B dependent, such as HCL,[1] must also certify to the requirements of Section I., as follows:[2]

I. b. Subsection 2- A. Displacement: *that their hiring of a H1B employee will not cause displacement of the U.S. workers in the employer's*

[1] See 9035CP, Section I, a. Subsection 1, question 1

[2] See 9035CP, Section I, a. Subsection 1- All employers that are (1) H-1B dependent (as defined above) **and/or** (2) have been found to have committed a willful violation or a misrepresentation of a material fact during the five (5) year period preceding the date of this application (and after October 20, 1998), must read and agree to statements (A) through (C) below and demonstrate that agreement by marking "Yes" in Subsection 2 of Section I of this application.

workforce: B. Secondary Displacement, the hiring will not cause displacement of U.S. workers in another employer's workforce; and C. the hiring will not affect the recruitment of U.S. workers and hiring of U.S. workers who are equally or better qualified that the H 1-B workers. See Section I. [3]

Therefore, in summary, COGNIZANT, believed to be a H-B dependent employer, must sign and agree to the Employer Labor Condition Statements in Section H, and I, and sign Section K., Declaration of Employer in which the sponsoring employer attests that the labor condition statements are true and accurate, and attests that the "making of fraudulent representations on this Form can lead to civil or criminal action under 18 U.S.C. § 1001, 18 U.S.C. § 1546, or other provisions of law."

When the LCA is approved, the Department of Labor (DOL) will return a certified copy to the H1B sponsoring company, and the employer can file the H1B visa petition.

ETA Forms 750A and 750B (Alien Employment Certification Form)

These forms are attached as Exh. 2 and 3. Sponsoring employers signed the ETA Form 750, under penalty of perjury with the following quote clearly posted above the signature line, "Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury the foregoing is true and correct." The ETA Form 750, Employer Certification, Section 23, asserts that the company (HCL in this particular case) swears the position is open to

[3] There are additional attestation requirements required by 20 C.F.R. § 655.736-.739. for H-1B Dependent employers, but HCL appears to be relieved of these additional requirements because additional attestation requirements do not apply to LCAs filed by the employer solely for the employment of an "exempt" H-1B nonimmigrant," who is an H-1B worker who earns at least $60,000 per year or holds a Master's degree or higher in a field related to the intended area of employment.

any qualified. ETA Form 750 Section 23 asserts "By virtue of my signature below, I HEREBY CERTIFY the following conditions of employment." "(h) The job opportunity has been and is clearly open to any qualified U.S. worker." ETA Form 750 Section 32 also requires the company to certify that a condition of employment is that "(e) The job opportunity does not involve unlawful discrimination by race, creed, color, national origin, age, sex, religion, handicap, or citizenship."

COGNIZANT's and DISNEY's Conspiracy To Displace U.S. Workers

12. Plaintiff alleges that in October 2014 she and about 200-300 other DISNEY employees who are U.S. workers and worked in the DISNEY IT department were told by DISNEY management to begin to train hundreds of H1B visa-holders. Plaintiff and the other employees were told by DISNEY management that they were being fired on January 30, 2015, but they had 90 days to train the visa-holders as their replacements. Plaintiff alleges that she and the other DISNEY IT employees were told that if they did not stay and train they would not get a bonus and severance, which most employees reluctantly accepted. The severance agreement did not require the employees to sign away their rights to sue DISNEY, or speak of the severance. Although DISNEY management told the Plaintiff and other 200-300 employees that there were job openings for them, very few (only a couple) employees were rehired after being fired on January 30, 2015.

13. Some terminated DISNEY employees were told that they were blackballed from working at DISNEY in any capacity for at least a year. One putative class member, Mr. Keith Barrett, who worked in a technical position at Disney and was terminated during this displacement of workers, received an e-mail from a recruiter on February 12,

2015, stating that he could not be rehired in another technical position at DISNEY for one year. This occurred although Mr. Barrett will aver that he was extremely qualified for the position he sought. The recruiter stated in their e-mail that they had just learned of this "rule" change from DISNEY.

14. After receiving notification of her dismissal, Plaintiff specifically applied for multiple jobs with DISNEY for which she was qualified, and after interviews with DISNEY management, she was told she was not selected. Plaintiff states that she was DISNEY management stated that the jobs would be only for the H1B visa-holders and not U.S. workers.

15. Plaintiff was told by the HB1 visa-holders she was training that they were being sponsored by COGNIZANT. Pursuant to a contract between COGNIZANT and DISNEY, these visaholders were leased or contracted for employment with DISNEY. Plaintiff alleges that once the H1B visaholders were trained, she, along with approximately 200-300 DISNEY U.S. workers, were terminated from employment on January 30, 2015.

16. Because of the direct knowledge that COGNIZANT was acting as a sponsoring employer of at least hundreds of H1B visaholders, COGNIZANT would have had to complete and file with the federal government at least hundreds of individual Immigration Foreign Labor Certifications for H1B visas, i.e., the ETA Form 750(A) and 750(B), and hundreds of individual LCAs, i.e., Form 9035 and 9035A. Copies of the labor certifications filed by COGNIZANT in connection with DISNEY are the subject of a FOIA request with the U.S. Department of Labor.

17. As mentioned, because of Plaintiff's first-hand knowledge that at least hundreds of H1B visa-holders were being sponsored by HCL and were being contracted to DISNEY, HCL must have signed and swore under oath on LCAs Forms 9035 and 9035E that the working conditions of similarly situated workers would not be adversely affected and/or U.S. workers would not be displaced. Information show that nationwide, each year, HCL files many (at least, hundreds) foreign Labor Certifications and LCAs.

18. Plaintiff alleges that she had numerous conversations with COGNIZANT sponsored H 1-B visaholders whom she trained, and alleges that, based on these conversations, he knew that DISNEY would terminate (and not re-hire) the American workers with the job duties taken over by COGNIZANT H1B visa holders. Plaintiff has the names of H1B visaholders who replaced the U.S. workers. COGNIZANT paid the H1B visaholders during the training period in which the American workers employed by DISNEY trained the H1B visa holders.

19. Plaintiff alleges and news reports and research document that the program to adversely affect the working conditions of similarly situated workers by displacement of DISNEY workers and replacing them with less qualified but cheaper foreign workers contracted from COGNIZANT was and has been directed by a senior DISNEY manager, Mr. Tilak Mandadi, DISNEY's SVP, CIO, and Global Principal Tech Officer. Mr. Mandadi's Linked-In page reveals that in 2010 (and possibly other years) he worked for American Express as a Senior Vice-President of Information Technology. The Linked-In page also states that prior to American Express, Mr. Mandadi worked, in 2009 (and possibly other years), as V-P of Information Technology at Fed Ex Kinkos; and worked before those years as Director of Information Technology at Dell and Enron

companies. Plaintiff alleges that upon information and belief that while Mr. Mandadi worked at senior positions with these companies, these companies contracted with sponsoring employers such as HCL (and the like) to replace IT workers with H1B visaholders.

20. COGNIZANT and DISNEY have a written contract which covers the scope of the duties and projects. This contract is not publicly available. Plaintiff alleges that on information and belief, it is a long-term contract, has spanned at least two years to date (from year 2014 to the present), and embodies the agreement to contract hundreds of H1B visaholders to DISNEY over a multi-year period.

21. The contractual relationship between COGNIZANT and DISNEY is ongoing. Based on the Plaintiff's statements and his testimony that 200-300 U.S. workers on January 30, 2015, were summarily terminated once completing training of the visaholders, it is believed that this is COGNIZANT's and DISNEY's regular way of conducting business. Thus, COGNIZANT knew, or consciously avoiding the fact, DISNEY would intentionally adversely affect the working conditions of similarly situated workers by terminating American workers and immediately replacing the American workers with COGNIZANT's H1B workers, in direct contradiction to Section **H (2) which states that the employer will provide working conditions which will not adversely affect the working of conditions of workers similarly situated.** Termination of similarly situated workers is a patent adverse effect of the working conditions. Moreover, it is a direct contravention of COGNIZANT's representations under oath in the ETA Form 9035/9035E that American workers would not be displaced.

22. Plaintiff alleges that prior displacements have occurred, and subsequent lay-offs and displacements will occur unless the Defendants are forced to cease their illegal business practices.

23. Plaintiff has specific standing to bring the claims alleged in this Complaint because Plaintiff was directly affected by COGNIZANT and DISNEY's violations of federal and state law, respectively. Plaintiff was a U.S. employee of DISNEY and was similarly situated as the COGNIZANT H1B employee who took Plaintiff's job after Plaintiff was terminated as a direct result of the racketeering activity. Plaintiff trained COGNIZANT hired H1B employees, then she was terminated. The COGNIZANT H1B employees she trained immediately took over her job duties after her termination.

24. Over the past two years, hundreds of American DISNEY workers were fired from their positions with their companies and were immediately replaced by COGNIZANT H1B workers with the specific knowledge of COGNIZANT of such actions.

Violations of 18 U.S.C. § 1546

25. 18 U.S.C. § 1961(1) includes section 1546 as a RICO predicate crime ("fraud and misuse of visas, passports, and other documents"). Section 1546 proscribes criminal violations when, in relevant part: Whoever knowingly makes under oath, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, knowingly subscribes as true, any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other document which contains any such false statement or which fails to contain any reasonable basis in law or fact (emphasis added). False statements and false

attestations relating to material facts (such as that the working conditions of similarly situated workers would not be adversely affected and the non-displacement of American workers provisions) on the labor certification forms 750A and B, and the LCAs 9035 and 9035E constitute fraud and misuse of immigration documents and would violate section 1546.

CLASS ACTION ALLEGATIONS

26. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, Plaintiff brings this action against Defendants as a national class action for itself and all members of the following Class of all others similarly situated ("Class Members"):

27. All American individuals who were employed by DISNEY who were terminated and immediately replaced by foreign workers who were H1B visaholders and whom COGNIZANT falsely certified on ETA Forms 750(A) 750(B) and 9035 and 9035E that the working conditions of similarly situated employees would not be adversely affected and/or that the job opportunity is open to any qualified U.S. worker when COGNIZANT knew, consciously avoided the fact, and/or conspired with DISNEY that DISNEY would adversely affect similarly situated employees and displace such workers and immediately replace them with H1B visaholders.

28. Excluded from the Class are Defendants; the Co-Conspirators; any entity in which any Defendant or Co-Conspirator has a controlling interest; the members, officers, directors, shareholders, agents and legal representatives of COGNIZANT and DISNEY, and the Court and Court personnel.

29. There are hundreds of Class Members, who are so numerous and geographically dispersed that their joinder is impracticable. The precise number and identities of

Class Members are currently unknown to Plaintiff, but can be derived from the employment records of COGNIZANT and DISNEY and documents filed with the DOL.

30. There are questions of law and fact common to the Class as a whole that predominate over any questions affecting only individual Class Members including, *inter alia:*

a. whether Defendants' above-described wrongful actions violated 18 U.S.C. § 1962(c) and/or (d);

b. whether Defendants' above-described wrongful actions, constituted conspiracy at common law;

c.. whether Plaintiff and Class Members sustained damages because of Defendants' above-described wrongful actions;

d. whether Plaintiff and Class Members are entitled to recover actual damages, consequential damages, incidental damages, and/or RICO treble damages, and pre- and post-judgment interest, and attorneys' fees; whether Plaintiff and Class Members are entitled to disgorgement and/or other forms of equitable relief; injunctive relief and in what form.

31. Plaintiff's claims are typical of Class Members' claims because Plaintiff and Class Members are all victims of Defendants' above-described wrongful actions.

32. Plaintiff and her counsel will fairly and adequately represent the interests of Class Members. Plaintiff has no interests antagonistic to, or in conflict with, any of the Class Members' interests. Plaintiff's lawyers are experienced in prosecuting class actions and complex commercial litigation, including successful class actions asserting RICO and violations.

33. A class action is superior to all other available methods for fairly and efficiently adjudicating Plaintiff's and Class Members' claims. Plaintiff and Class Members have been irreparably harmed as a result of Defendants' above-described wrongful actions. Litigating this case as a class action is appropriate because (i) it will avoid a multiplicity of suits and the corresponding burden on the courts and Parties, (ii) it would be virtually impossible for all Class Members to intervene as parties-plaintiff in this action, (iii) it will allow numerous individuals and entities with claims too small to adjudicate on an individual basis because of prohibitive litigation costs to obtain redress for their injuries, and (iv) it will provide court oversight of the claims process once Defendants' liability is adjudicated.

34. Certification of the Class is appropriate under Fed. R. Civ. P. 23(b)(3) because the above common questions of law or fact predominate over any questions affecting individual Class Members, and a class action is superior to other available methods for the fair and efficient adjudication of this controversy.

35. Defendants' wrongful actions are generally applicable to the Class as a whole, for which Plaintiff seeks, *inter alia,* damages and equitable remedies.

36. Absent a class action, Defendants will retain the benefits of their wrongdoing despite their serious violations of the law and infliction of harm on Plaintiff's and Class Members' businesses and property.

CLAIM I: VIOLATION OF CIVIL-RICO; 18 USC § 1962(c) AGAINST COGNIZANT

37. Paragraphs 1 through 36 are reasserted and reaffirmed herein.

38. At all times material hereto, Defendant, COGNIZANT was a "person" as defined by 18 USC 1961(3) in that it is capable of holding a legal or beneficial interest in property.

THE ENTERPRISE

39. At all relevant times, COGNIZANT and DISNEY associated in fact with each other, and with others known and unknown, so as to constitute an "enterprise" within the meaning of 18 U.S.C. Sections 1961(4). At all times relevant to this Complaint, the enterprise was engaged in, and its activities affected, interstate and foreign commerce, *e.g.*, COGNIZANT sponsored H1B visaholders to travel from foreign countries for work at U.S. companies, including DISNEY; and DISNEY is a multi-national company which sponsors, among other things, theme parks attracting the travel of international visitors, and a company which contracts for the purchase and sale of numerous goods and services in interstate and foreign commerce.

40. The "association in fact" enterprise, the "COGNIZANT-Disney Enterprise," existed apart from its predicate acts. As explained below, the enterprise had the requisite "structural features," i.e., a purpose, relationships among those associated with the enterprise and longevity sufficient to permit these associates to pursue the enterprise's purpose. *Boyle v. United States*, 129 S.Ct. 2237, 2244 (2009), also holding that the finding of an "association in fact enterprise" is to be liberally construed and such association does not require the existence of any business-like attributes. Each Defendant is distinct and separate from the association-in-fact enterprise of which they are a component part. Each company associated with the enterprise through its involvement in the underlying

racketeering offenses as well as through the continuous concealment and promotion of the activities of the enterprise.

41. The "COGNIZANT-Disney Enterprise" existed for a common purpose, i.e., for the economic benefit and gain of its participant entities. COGNIZANT falsely and fraudulently attested that there would be no adverse affect to workers similarly situated and/or there would be non-displacement of U.S workers in the employer's workplace. See Form 9035, Section H, I, and K, while COGNIZANT knew, or consciously avoided the fact, because of past dealings with Mr. Mandadi and past practices with DISNEY that DISNEY would be immediately displacing U.S. workers once the H1B visaholders were trained which patently qualifies as an adverse affect of the working conditions of similarly situated workers. COGNIZANT knew of the discharges, or consciously avoided the fact that DISNEY would discharge U.S. workers because of its past practices with DISNEY, and its business model would only be viable if it could contract with willing recipient companies, such as DISNEY, to hire large number of visaholders with the resulting displacement of U.S. workers.

42. Thus, the large number of hirings and resulting illegal firings created an economic interdependence between COGNIZANT and Disney so as to create an association-in-fact, "the COGNIZANT-Disney Enterprise." Officials of each company engaging in the violations were not only conducting the affairs of their respective companies through the commission of section 1546 violations, but were involving themselves in the affairs of each company through the plan to hire large numbers of H1B workers, lease them to the recipient company (Disney), who would then have agreed to displace U.S. workers (adversely affecting the working conditions of those similarly situated workers).

43. As a result, in furtherance of the enterprise, COGNIZANT committed numerous racketeering acts by attesting to false statements on the ETA Forms 9035, Sections I, H, and K, in violation of Section 1546, with the knowing agreement by DISNEY who contracted with COGNIZANT to hire the visaholders and then knowingly and willingly terminate its U.S. workers once the H1B visaholders were trained which was an adverse affect on the working conditions of similarly situated workers. This arrangement mutually benefitted both COGNIZANT and DISNEY, who could then hire the H1B visaholders contracted to DISNEY by COGNIZANT, who were eligible to apply for Green Cards (legal permanent resident) at a much lower wage and salary. By virtue of these roles, each Defendant conducted or participated, directly or indirectly, in the conduct of the affairs of the other company and in the affairs of the resulting COGNIZANT-Disney Enterprise.

THE RACKETEERING VIOLATION

44. From on or about a time unknown, and continuing over at least a two year period to the present time, COGNIZANT, aforementioned Defendant, a person associated with, or employed by the Enterprise, did knowingly and unlawfully conduct or participate, directly or indirectly, in the affairs of the Enterprise through a pattern of racketeering activity within the meaning of 18 U.S.C. § 1961(1) and § 1961(5), all in violation of 18 U.S.C. § 1962(c).

45. Plaintiff alleges that COGNIZANT engaged in the attesting of false statements on ETA Forms 750A and 9035/9035E, for the purpose of completing H1B visas for hundreds of foreign workers when COGNIZANT knew, or consciously avoided the fact, that DISNEY would be adversely affecting the working conditions of similarly situated employees by discharging such U.S. workers when it contracted with COGNIZANT for large numbers of H1B visaholders.

46. Plaintiff alleges that these activities constitute fraud and misuse of the documents and constitutes conduct committed by and through multiple violations of 18 U.S.C. § 1546, acts indictable as 'racketeering activity," as that term is defined in 18 U.S.C. §§ 1961(1)(B).

PATTERN OF RACKETEERING ACTIVITY

47. Plaintiff alleges that the course of conduct engaged in by the RICO Defendant constituted both "continuity" and "relatedness" of the racketeering activity, thereby constituting a pattern of racketeering activity, as that term is defined in 18 U.S.C. § 1961(5). Plaintiff can show the relatedness prong because the predicate acts have the "similar purposes, results, participants, or methods of commission or are related to the affairs of the Enterprise." All predicate acts had the same purpose by COGNIZANT of misrepresenting the nature of the employment of the H1B visaholder in order obtain approvals for such visaholders who could then by leased or contracted with DISNEY.

48. Plaintiff alleges that the continuity of the pattern of racketeering activity is closed-ended inasmuch as the conduct was a series of repeated conduct of related predicate offenses extending over a multi-year period of time (a substantial period of time) and affecting many hundreds of victims. Moreover, the continuity of the pattern of racketeering can be established under "open-ended continuity" as the predicate offenses are part of the COGNIZANT-Disney Enterprise's regular way of doing business, and/or where the predicates are attributed to Defendants operating as part of a long-term association that exists for criminal purposes.

RACKETEERING ACTS

49. Within the Middle District of Florida, and elsewhere, from date unknown but for a multi-year period beginning in 2014 and continuing to the present time, the Defendant COGNIZANT committed multiple racketeering acts in violation of Section 1546, i.e., by making under oath false statements with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations, i.e., in ETA Forms 750A and 9035/9035E, and/or by knowingly presenting any such application, affidavit, or other document which contains any such false statement which failed to contain any reasonable basis in law or fact. Each making of false and fraudulent statement on an individual visaholder's H1B application constituted a separate racketeering act. This activity has occurred over the past two to four years, and is ongoing. As represented above, documents currently being sought under a FOIA request will provide additional information regarding the specific names and dates of hirings of COGNIZANT H1B visaholders.

50. COGNIZANT has violated the provisions 18 USC § 1962(c) as COGNIZANT conducted and participated, directly and/or indirectly, in the conduct of the affairs of the Enterprise's affairs through a pattern of racketeering activity.

51. COGNIZANT's pattern of racketeering activity has continued for more than two years and continues through the present day.

52. The pattern of COGNIZANT's continual violation of 18 USC §1962(c) has caused injury to hundreds of American workers, including, but not limited to, Plaintiff and other class members.

53. COGNIZANT knowingly attested to false statements knowing such statements were false but subscribing such statements as the truth in violation of 18 USC § 1546.

54. COGNIZANT's false statements were material facts in an application required by immigration law and regulation in violation of 18 USC § 1546.

55. COGNIZANT signed and attested to thousands of labor foreign certification applications that no similarly situated workers working conditions would be adversely affected and, at times, swearing under oath that the job opportunity for the potential H1B worker for which the application was being submitted was clearly open to any qualified U.S. worker when COGNIZANT knew, or consciously avoided the fact, that DISNEY would adversely affect the working conditions of similarly situated employees including termination and that DISNEY would be discharging large numbers of qualified U.S. workers who would not be rehired.

56. It is likely that COGNIZANT signed and attested to thousands of labor foreign certification applications swearing under oath that the job opportunity did not involve unlawful discrimination by race, creed, color, national origin, age, sex, religion, handicap, or citizenship.

57. COGNIZANT's contract with DISNEY was ultimately intended to adversely affect the working conditions of the similarly situated workers at DISNEY by terminating American workers and forcing them to train the H1B workers their jobs before the termination. Also, COGNIZANT's contract with Disney was intended to discriminate against the American worker based on race, national origin and, many times, age.

58. COGNIZANT knew, or consciously avoided the fact, the jobs for which their H1B employees would be filling were already filled with qualified American citizens.

59. COGNIZANT attested to false and fraudulent information in the execution of the ETA Form 750A and 9035/9035E (Sections H, I and K).

60. The U.S. workers who were terminated were directly harmed by COGNIZANT's violations of 18 USC §1546.

61. Plaintiff was specifically and directly harmed by COGNIZANT's violations of 18 USC §1546. Plaintiff's termination from his job was directly caused by COGNIZANT's violations of 18 USC §1546.

62. The other 200 to 300 DISNEY workers terminated and whose job duties were taken over by COGNIZANT's H1B workers were also directly harmed by COGNIZANT's violations of 18 USC §1546.

63. DISNEY U.S. workers terminated from their jobs in the past two (2) years only to have their job duties taken over by COGNIZANT's H1B visa holders were also directly harmed by COGNIZANT's violations of 18 USC § 1546.

64. COGNIZANT participated in a pattern and practice of hundreds of racketeering activities at the other companies in which it contracted in the past two years with the contracted company terminating American workers and the job duties immediately transferred to COGNIZANT, H1B workers.

CLAIM TWO

[RICO § 1962(d) Conspiracy]

[Against COGNIZANT and DISNEY]

65. Paragraphs 1 through 64 are reasserted and reaffirmed herein.

66. Plaintiff alleges that commencing at a time unknown but from at least year 2014 and continuing to the present time, COGNIZANT and DISNEY, the RICO Defendants, conspired to violate section 1962(c), i.e., each Defendant agreed that a conspirator would conduct or participate in the affairs of the Enterprise through a pattern of racketeering,

i.e., the commission of acts indictable under 18 U.S.C. § 1546, as more fully described in Claim One, all in violation of 18 U.S.C. § 1962(d).

67. Plaintiff alleges that the conspiratorial objective was for COGNIZANT to misrepresent the nature of the employment of the H1B visaholder in order obtain Department of Labor approvals for such visaholders, who could then be leased or contracted with DISNEY, who would then, knowing that HCL would have made false and fraudulent representations on ETA Forms, would terminate the employment of U.S. workers and hire the H1B visaholders at a much lower wage and salary. DISNEY upper management, such as Mr. Mandadi, who had extensive experience entering into contracts for H1B visaholders at other companies, knew full well under the H1B visa process that COGNIZANT would have to represent under oath that there would be no adverse affect on the working conditions of similarly situated workers and/or there would be non-displacement of U.S workers in the employer's workplace. See Form 9035, Section I, but yet agreed with COGNIZANT to receive COGNIZANT's visaholders by contract and then immediately after completion of the visaholders' training terminate its U.S. workers from employment – which was a clear adverse affect of the working conditions of similarly situated employees. Such conspiratorial conduct violates RICO § 1962(d), and such conduct caused direct injury to Plaintiff and similarly situated Class Members.

68. Each Defendant agreed that at least one conspirator (COGNIZANT and/or DISNEY) would commit multiple racketeering acts, i.e., violations of Section 1546, in the conduct of the affairs of the enterprise.

WHEREFORE, Plaintiff prays that the Court would render judgment against Defendants DISNEY and COGNIZANT, for damages, treble damages, costs, and attorney fees.

CLAIM III: COMMON LAW CONSPIRACY AGAINST COGNIZANT and DISNEY

69. Paragraphs 1 through 68 are reasserted and reaffirmed herein.

70. Under Florida law, Defendants may be charged with civil conspiracy if there is

1) An agreement between two or more parties;

2) To do an unlawful act or do a lawful act by unlawful means;

3) The doing of some overt act in pursuance of the conspiracy; and

4) Damage to plaintiff as a result of the acts done under the conspiracy.[4]

71. COGNIZANT and DISNEY have made an agreement to cause COGNIZANT to make false and fraudulent representations of material fact, which is an unlawful act under Florida law.

72. COGNIZANT and DISNEY have taken overt acts in pursuant of the conspiracy by causing the extreme adverse affect of the working conditions of similarly situated workers, i.e. termination, and/or the displacement of qualified U.S. workers with H1B visaholders contracted by COGNIZANT to DISNEY.

73. As a result of this conspiracy, the Plaintiff, and similarly situated class members, have incurred damages resulting from their loss of employment.

WHEREFORE, with regard to this Claim III, Plaintiff prays that the Court would render judgment against Defendants, COGNIZANT and DISNEY, for damages, treble

[4] *See Rey v. Philip Morris*, 75 So.3d 378, 381 (Fla. Dist. Ct. App. 2011)

damages, costs, attorney fees, injunctive relief and other equitable relief authorized by law and jurisprudence.

JURY DEMAND

Plaintiff demands trial by jury for all issues so triable.

Dated this 19th of Jan. 2016

Respectfully submitted,

Sara Blackwell
Fl. Bar. No. 90443
The Blackwell Firm
sara@theblackwellfirm.com
1800 2nd St. Suite 882
Sarasota, Fl. 34236
(941) 961-3046
Attorney for Plaintiff

DECLARATION OF VERACITY

I, Dena S. Moore, declare under penalty of perjury and swear that I reviewed the Complaint and that all facts therein are true and correct to the best of my personal knowledge and any information for which I do not have personal knowledge, I believe to be true.

Dena S. Moore
Printed Name

Dena S Moore
Signature

1/13/2016
Date

JS 44 (Rev 09/10)

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

CIVIL COVER SHEET

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law.

Plaintiff(s):

First Listed Plaintiff:
Dena Moore ;
County of Residence: Orange County

Defendant(s):

First Listed Defendant:
Cognizant Technologies Solutions Services LLC ;
County of Residence: Outside This District

6:16 CV 113 ORL 28 KRS

County Where Claim For Relief Arose: Orange County

Plaintiff's Attorney(s):

Attorney Sara K. Blackwell (Dena Moore)
The Blackwell Firm
1800 Second Street Suite 882
Sarasota, Florida 34236
Phone: 941-961-3046
Fax:
Email: Sara@TheBlackwellFirm.com

Attorney Sara K. Blackwell
The Blackwell Firm
1800 Second Street Suite 882
Sarasota, Florida 34236
Phone: 941-961-3046
Fax:
Email: Sara@TheBlackwellFirm.com

Defendant's Attorney(s):

2016 JAN 25 AM 11:

Basis of Jurisdiction: 3. Federal Question (U.S. not a party)

Citizenship of Principal Parties (Diversity Cases Only)

Plaintiff: N/A

Defendant: N/A

Origin: 1. Original Proceeding

Nature of Suit: 470 Civil RICO Actions
Cause of Action: 18 USC 1964; Violation of Civil Rico

Requested in Complaint

Class Action: Class Action Under FRCP23

Monetary Demand (in Thousands):

Jury Demand: Yes

Related Cases: Is NOT a refiling of a previously dismissed action

---

Signature: Sara Blackwell

Date: 1/13/16

If any of this information is incorrect, please close this window and go back to the Civil Cover Sheet Input form to make the correction and generate the updated JS44. Once corrected, print this form, sign and date it, and submit it with your new civil action.

OMB Approval: 1205-0310
Expiration Date: 05/31/2018

Labor Condition Application for Nonimmigrant Workers
ETA Form 9035CP – General Instructions for the 9035 & 9035E
U.S. Department of Labor

IMPORTANT: Please read these instructions carefully before completing the ETA Form 9035 or 9035E –Labor Condition Application for Nonimmigrant Workers. These instructions contain full explanations of the questions and attestations that make up the ETA Form 9035 and 9035E. ***In accordance with Federal Regulations at 20 CFR 655.730(b), incomplete or obviously inaccurate Labor Condition Applications (LCAs) will not be certified by the Department of Labor. If the employer received approval by the Department of Labor to submit this form non-electronically, ALL required fields/items must be completed as well as any fields/items where is a response is conditioned on the response to another required field/item.***

Anyone, who knowingly and willingly furnishes any false information in the preparation of ETA Form 9035 or 9035E and any supporting documentation, or aids, abets, or counsels another to do so is committing a federal offense, punishable by fine or imprisonment up to five years or both (18 U.S.C. §§ 2, 1001). Other penalties apply as well to fraud or misuse of this immigration document and to perjury with respect to this form (18 U.S.C. §§ 1546, 1621).

OMB Notice: These reporting instructions have been approved under the Paperwork Reduction Act of 1995. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. Obligations to reply to the ETA 9035 or ETA 9035E are mandatory (Immigration and Nationality Act, Sections 212(n) and (t) and 214(c). Public reporting burden for this collection of information is estimated to average 45 minutes per response, including the time to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Labor, Room C-4312, 200 Constitution Ave. NW, Washington, DC 20210. (Paperwork Reduction Project OMB 1205-0310.

HOW TO FILE

A. Who May File:
A United States employer who desires to apply for a labor condition application on behalf of a foreign worker(s) must file the ETA Form 9035 or 9035E.

B. How to File and Retention of Records

1. For all occupations, online filing of the ETA Form 9035E is required through the LCA Online System accessible at http://www.foreignlaborcert.doleta.gov. Employers with physical disabilities that prohibit them from filing electronic applications or employers without Internet access can file the LCA by U.S. mail. These employers must obtain permission to file their application by U.S. mail by submitting a written request to the following address:

   Office of Foreign Labor Certification
   Employment & Training Administration
   U.S. Department of Labor
   200 Constitution Avenue, NW, Room C-4312
   Washington, DC 20210
   Attn: Temporary Programs Manager

2. In accordance with 20 CFR 655, Subpart H, either at the employer's principal place of business in the U.S. or at the place of employment, the employer shall retain copies of the records required by this subpart for a period of one year beyond the last date on which any H-1B nonimmigrant is employed under the labor condition application or, if no nonimmigrants were employed under the labor condition application, one year from the date the labor condition application expired or was withdrawn. Required payroll records for the H-1B employees and other employees in the occupational classification shall be retained at the employer's principal place of business in the U.S. or at the place of employment for a period of three years from the date(s) of the creation of the record(s), except that if an enforcement action is commenced, all payroll records shall be retained until the enforcement proceeding is completed through the procedures set forth in 20 CFR 655, Subpart I. For a complete list of documents that must be retained and/or made available for public access see 20 CFR 655.760.

Ex 1

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Labor Condition Application for Nonimmigrant Workers
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Section A
Employment - Based Nonimmigrant Visa Information

1. Enter one of the following classification symbols to indicate the type of visa supported by this application: **"H-1B"**, **"H-1B1 Chile"**, **"H-1B1 Singapore"** or **"E-3 Australian."** When filing this application electronically, the system will provide a dropdown of these approved visa classification symbols.

   The **H-1B** visa allows an employer to temporarily employ a foreign professional worker in the U.S. on a nonimmigrant basis in a specialty occupation or as a fashion model of distinguished merit and ability. A specialty occupation requires the theoretical and practical application of a body of specialized knowledge and a bachelor's degree or the equivalent in the specific specialty (e.g., sciences, medicine and health care, education, biotechnology, and business specialties, etc...).

   The **H-1B1-Chile** visa applies to those employers temporarily hiring business professionals who are nationals of Chile under the Chile Free Trade Agreement.

   The **H-1B1-Singapore** visa applies to those employers temporarily hiring business professionals who are nationals of Singapore under the Singapore Free Trade Agreement.

   The **E-3** visa applies to those employers temporarily hiring business professionals who are nationals of Australia under Title V of the REAL ID Act of 2005 (Division B) in the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005.

Section B
Temporary Need Information

1. Enter the title of the job opportunity for which the labor condition application is being sought by the employer.

2. Enter the six or eight-digit Standard Occupational Classification (SOC)/Occupational Network (O*NET) code for the occupation, which most clearly describes the work to be performed.. For example, the six-digit SOC code for a computer systems analyst is 15-1051.00. **Appendix I** provides a mapping of the current 3-digit Dictionary of Occupational Title (DOT) codes to the SOC/O*NET classification system authorized for use with this form. You may use the 3-digit DOT code to complete the I-129 petition for USCIS.

3. Enter the occupational title associated with the SOC/O*NET (OES) code. For example, the occupational title associated with SOC/O*NET code 15-1051.00 is "Computer Systems Analyst".

4. Enter whether this position is full-time by indicating "Yes" or "No". Although there is no regulatory definition for full-time employment, the Department generally considers 35 hours per week as the distinction point between full-time and part-time.

   Note: If this position is part-time, the employer attests that the foreign worker(s) supported by the LCA will not regularly work more than the number of hours indicated (which may be a range of hours) on the United States Citizenship and Immigration Services Form(s) I-129 filed for the nonimmigrant(s). Note: All foreign workers under the LCA must be part-time if question 4 is marked "No"; all foreign workers must be full- time if question 4 is marked "Yes."

5. Enter the beginning date for the worker's period of employment. Use a month/day/full year (MM/DD/YYYY) format.

6. Enter the end date for the worker's period of employment, which cannot be more than three years after the start date for H-1B LCAs and initial H-1B1 LCAs. The end date for the worker's period of employment for E-3 LCAs and H-1B1 extensions cannot be more than two years after the start date. Use a month/day/full year (MM/DD/YYYY) format.

7. The collection of this item contains two parts. First, enter the number of worker positions being requested for certification. Second, use collection items (a) through (f) to enter the number of foreign workers in each applicable USCIS defined category under which you plan to file various Form I-129s for the workers so that the sum of the numbers in (a) through (f) equals the total number of worker positions requested. Every box MUST be filled. If the employer plans to request no foreign workers in a particular category, please indicate "0 (zero)."

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Section C
Employer Information

1. Enter the full legal name of the business, person, association, firm, corporation, or organization, i.e., the employer filing this application. The employer's full legal name is the exact name of the individual, corporation, LLC, partnership, or other organization that is reported to the Internal Revenue Service.

2. Enter the full trade name or "Doing Business As" (DBA) name, if applicable, of the business, person, association, firm, corporation, or organization, i.e., the employer filing this application.

3. Enter the street address of the employer's principal place of business.

4. If additional space is needed for the street address, use this line to complete the employer's street address.

5. Enter the city of the employer's principal place of business. If the city and country are the same, the name must still be entered in both fields.

6. Enter the state of the employer's principal place of business.

7. Enter the postal (zip) code of the employer's principal place of business.

8. Enter the country of the employer's principal place of business. If the city and country are the same, the name must still be entered in both fields.

9. Enter the province of the employer's principal place of business, if applicable.

10. Enter the area code and telephone number for the employer's principal place of business. Include country code, if applicable.

11. **Enter the extension of the telephone number for the employer's principal place of business, if applicable.**

12. **Enter the nine-digit Federal Employer Identification Number (FEIN) as assigned by the IRS. Do not enter a social security number.**

    Note: All employers, including private households, MUST obtain an FEIN from the IRS before completing this application. Information on obtaining an FEIN can be found at www.IRS.gov.

13. **Enter the four to six-digit North American Industry Classification System (NAICS) code that best describes the employer's business, not the foreign worker's job. A listing of NAICS codes can be found at http://www.census.gov/epcd/www/naics.html**

Section D
Employer Point of Contact Information

An employer point of contact is an employee of the employer whose position authorizes the employee to provide information and supporting documentation concerning this Labor Condition Application for Nonimmigrant Workers and to communicate with the Department of Labor on behalf of the employer. The employer point of contact should be the individual most familiar with the content of this application and circumstances of the foreign worker's employment.

Note: The employer point of contact information in this Section, specifically the name, telephone number, and email address, must be different from the attorney/agent information listed in Section E, unless the attorney is an employee of the employer.

1. Enter the last (family) name of the employer's point of contact.

2. Enter the first (given) name of the employer's point of contact.

3. Enter the middle initial of the employer's point of contact. In the absence of a middle name, enter N/A.

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4. Enter the job title of the employer's point of contact.
5. Enter the business street address for the employer's point of contact.
6. If additional space is needed for the street address, use this line to complete the street address.
7. Enter the city of the employer's point of contact. If the city and country are the same, the name must still be entered in both fields.
8. Enter the state of the employer's point of contact.
9. Enter the postal (zip) code of the employer's point of contact.
10. Enter the country of the employer's point of contact. If the city and country are the same, the name must still be entered in both fields.
11. Enter the province of the employer's point of contact, if applicable.
12. Enter the area code and business telephone number of the employer's point of contact. Include country code, if applicable.
13. Enter the extension of the telephone number of the employer's point of contact, if applicable.
14. Enter the business e-mail address of the employer's point of contact in the format name@emailaddress.top-level domain.

Section E
Attorney or Agent Information (if applicable)

Note: The attorney/agent information in this Section, specifically the name, telephone number, and email address, must be different from the employer's point of contact information in Section D, unless the attorney is an employee of the employer.

1. Identify whether the employer is represented by an attorney or agent in the process of filing this application. Only mark one box. If "Yes" complete the remainder of Section E. If "No" in question 1, skip questions 2 to 19 and continue to Section F.
2. Enter the last (family) name of the attorney/agent.
3. Enter the first (given) name of the attorney/agent.
4. Enter the middle initial of the attorney/agent.
5. Enter the street address of the attorney/agent.
6. If additional space is needed for the street address, use this line to complete the attorney/agent's street address.
7. Enter the city of the attorney/agent. If the city and country are the same, the name must still be entered in both fields.
8. Enter the state of the attorney/agent.
9. Enter the postal (zip) code of the attorney/agent.
10. Enter the country of the attorney/agent. If the city and country are the same, the name must still be entered in both fields.
11. Enter the province of the attorney/agent, if applicable.
12. Enter the area code and telephone number of the attorney/agent. Include country code, if applicable.

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Section E
Attorney or Agent Information (continued)

13. **Enter the extension of the telephone number of the attorney/agent, if applicable.**

14. **Enter the e-mail address of the attorney/agent in the format name@emailaddress.top-level domain.**

15. **Enter the attorney/agent's law firm or business name.**

16. Enter the attorney/agent's law firm or business nine-digit FEIN as assigned by the IRS. Do not enter a social security number.

17. Enter the attorney's state Bar number. If the attorney is licensed in more than one state, enter only one state Bar number. If submitting this form electronically and the attorney is licensed in a state which does not issue state Bar numbers, leave the field blank and once confirmed it will be automatically prepopulated with "N/A."

Note: The answers to questions 18 and 19 below should correspond to the same state for which a Bar number was provided in question 17, if any.

18. Enter the state of the highest court where the attorney is in good standing.

19. Enter the name of the highest court in the state where the attorney is in good standing.

Section F
Rate of Pay

1. Enter the rate of pay to be paid to the foreign worker(s). If the wage offer is expressed as a range, enter the bottom of the wage range to be paid.

   Enter the top of the wage range to be paid to the foreign worker(s). in the section indicating "Rate Up to (Optional)."

2. Enter whether the rate of pay is in terms of per year, month, two weeks, week or hour in the section indicating "Rate is Per."

Section G
Employment and Prevailing Wage Information

Note: ***It is important for the employer to define the place of intended employment with as much geographic specificity as possible. The place of employment address listed must be a physical location and cannot be a Post Office (P.O.) Box. The employer may use this section to identify up to three (3) physical locations and corresponding prevailing wages covering each location where work will be performed. If the employer has received approval from the Department of Labor to submit this form non-electronically and the work is expected to be performed in more than one location, an attachment must be submitted in order to complete this section.***

a. **Place of Employment**

See the definition of "place of employment" in 20 Code of Federal Regulations (CFR) 655.715 and regulation concerning short term placement in 20 CFR 655.735.

1. Enter the street address of the place of intended employment. If primary address is not known, please enter "N/A".

2. If additional space is needed for the street address, use this line.

3. Enter the city of the place of intended employment.

4. Enter the county of the place of intended employment. If there is no county designation or it is not known, please enter "N/A".

5. Enter the state/district/territory of the place of intended employment.

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6. Enter the postal (zip) code of the place of intended employment. If there is no postal code designation or it is not known, please enter "N/A".

Section G
Employment and Prevailing Wage Information (continued)

PREVAILING WAGE INFORMATION

7. If the employer received a Prevailing Wage Determination (PWD) from the State Workforce Agency (SWA) or an OFLC National Processing Center (NPC), enter the state/district/territory of the Agency which issued the PWD. If the employer did not obtain a PWD from the SWA or NPC, enter "N/A." **Use this field ONLY where the employer obtained a prevailing wage from the SWA or NPC.**

7(a). Enter the prevailing wage tracking number assigned by the SWA or NPC. If the SWA or NPC did not assign a prevailing wage tracking number **OR** the employer did not obtain a PWD from the SWA or NPC, enter "N/A". **Use this field ONLY where the employer obtained a prevailing wage from the SWA or NPC.**

8. If the employer received a prevailing wage from either the SWA , NPC or the Foreign Labor Certification Data Center Online Wage Library at http://www.flcdatacenter.com, identify whether the wage (skill) level of the job opportunity is a level I, II, III, or IV. Only mark one box. Otherwise, mark "N/A".

9. Enter the prevailing wage for the job opportunity.

10. Identify whether the prevailing wage is per hour, week, bi-weekly, month, or year. Only mark one box.

11. Identify whether the prevailing wage source is Occupational Employment Statistics (OES); Collective Bargaining Agreement (CBA); Davis-Bacon Act (DBA); McNamara-O'Hara Service Contract Act (SCA); or Other (includes employer-provided independent authoritative source survey). In accordance with 20 CFR 655.731, employers may use an independent authoritative wage source in lieu of a SWA or NPC prevailing wage determination or another legitimate source of wage information as long as the data source used meets all the criteria set forth under 20 CFR 655.731(b)(3)(iii)(B) or (C), as appropriate. **Only mark one box.**

   Note: Mark "OES" in circumstances where the prevailing wage was obtained from either the SWA, NPC or the Foreign Labor Certification Data Center Online Wage Library at http://www.flcdatacenter.com

11(a). Enter the year in which the data source used to list the prevailing wage was published.

11(b). Specify the name of the company and exact wage survey used by the employer for the prevailing wage.

   Note: This field should be used in circumstances where the employer has marked "Other" in question 11 **OR** "OES" in question 11 **and** the employer did not obtain a prevailing wage from the SWA or NPC. For example, if the employer obtained a prevailing wage using OES data from the Foreign Labor Certification Data Center Online Wage Library at http://www.flcdatacenter.com, then the words "OFLC Online Data Center" must be entered in the space provided

Section H
Employer Labor Condition Statements

The employer must read and agree to statements (1) and (4) below and demonstrate that agreement by marking "Yes" to Question 1 in Section H of the Form ETA 9035E and by signing the application. The employer agrees to develop and maintain documentation supporting labor condition statements (1) and (4) as specified in 20 CFR 655.731 and 655.734, and to make this document available to Department of Labor officials upon request. The employer also agrees to make available for public examination a copy of the labor condition application and necessary supporting documentation as specified in 20 CFR 655.760 within one (1) working day after the date on which the application has been filed with the Department of Labor. This documentation must be retained for public examination at the place of employment or the employer's principal place of business as specified in Section J of this form.

(1) **Wages:** The employer attests that H-1B, H-1B1 or E-3 foreign workers will be paid wages which are at least the higher of the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the specific employment in

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question or the prevailing wage level for occupational classification in the area of intended employment. By marking "Yes" to Question 1 of Section H, the employer also attests that it will pay these nonimmigrants the required wage for time in nonproductive status due to a decision of the employer or due to the nonimmigrant's lack of a permit or license. The employer further attests that these nonimmigrants will be offered benefits and eligibility for benefits on the same basis, and in accordance with the same criteria, as offered to U.S. workers. See 20 CFR 655.731.

(2) **Working Conditions:** The employer attests that H-1B, H-1B1 or E-3 foreign workers in the named occupation will not adversely affect the working conditions of workers similarly employed. The employer further attests that nonimmigrants will be afforded working conditions on the same basis, and in accordance with the same criteria, as offered to U.S. workers. See 20 CFR 655.732.

(3) **Strike, Lockout, or Work Stoppage:** The employer attests that on the date the application is signed and submitted, there is not a strike, lockout, or work stoppage in the course of a labor dispute in the named occupation at the place of employment and that, if such a strike, lockout, or work stoppage occurs after the application is submitted, the employer will notify the Employment & Training Administration (ETA) within three (3) days of such occurrence and the application will not be used in support of a petition filing with the United States Citizenship and Immigration Services (USCIS) for H-1B, H-1B1 or E-3 nonimmigrants to work in the same occupation at the place of the employment until ETA determines the strike lockout or work stoppage has ceased . See 20 CFR 655.733.

(4) **Notice:** The employer attests that as of the date of filing, notice of the Labor Condition Application (LCA) has been or will be provided to workers employed in the named occupation. Notice of the application shall be provided to workers through the bargaining representative, or where there is no such bargaining representative, notice of the filing shall be provided either through physical posting in conspicuous locations where H-1B, H-1B1 or E-3 nonimmigrants will be employed, or through electronic notification to employees in the occupational classification for which nonimmigrants are sought. The employer further attests that each nonimmigrant employed pursuant to the application will be provided with a copy (or original, as appropriate) of the certified Form ETA 9035E, or ETA 9035 (if applicable). As stated above for H-1B, H-1B1 or E-3 nonimmigrants, the employer must provide the certified LCA to the nonimmigrant, who must follow the H-1B, H-1B1 or E-3 procedures of USCIS and the Department of State. The notification shall be provided no later than the date the nonimmigrant reports to work at the place of employment. See 20 CFR 655.734.

1. Mark "Yes" or "No". The employer must agree to all four labor condition statements listed as (1) to (4). **Please note that marking "Yes" indicates that you have read and agree to the above-listed statements.**

Section I
Additional Employer Labor Condition Statements – H-1B Employers ONLY

All H-1B employers are required to complete Section I of this form in order for an application regarding an H-1B nonimmigrant to be processed. See 20 CFR 655.736 for more detailed guidance as to what constitutes an "H-1B employer" or a "willful violator."

a. Subsection 1

NOTE: The determination as to whether an employer is H-1B dependent is a function of the number of H-1B nonimmigrants employed as a proportion of the total number of full-time equivalent employees employed in the United States. The following table can be used to determine whether the employer is an H-1B dependent employer:

NUMBER OF FULL-TIME EQUIVALENT EMPLOYEES (U.S. WORKERS AND H-1B WORKERS)	NUMBER OF H-1B NONIMMIGRANT EMPLOYEES
1 to 25	8 or more
26 to 50	13 or more
51 or more	15% or more of the workforce (US and H-1B workers)

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1. Mark "Yes" or "No" if the employer is H-1B dependent. The employer is an H-1B dependent employer if the number of H-1B nonimmigrants employed by the employer as a proportion of the total number of full-time equivalent employees employed in the United States matches the chart above.

   If an employer marks "No" and is or becomes H-1B dependent, the submitted labor condition application shall be deemed invalid and may not be used in support of a new petition or extension of a petition for an H-1B nonimmigrant. By marking "No", the employer also acknowledges that if it uses this application despite its invalidity, it is required to comply with the Additional Employer Labor Condition Statements in Subsection 2 of section H.

2. Mark "Yes" or "No" if the employer is a willful violator. The employer is willful violator if the employer has been found during the five (5) years preceding the date of the application (and after October 20, 1998) to have committed a willful violation or a misrepresentation of a material fact.

   If an employer marks "No" and was found, prior to the date of filing, to have committed a willful violation or a misrepresentation, the submitted labor condition application shall be deemed invalid and may not be used in support of a new petition or extension of a petition for an H-1B nonimmigrant. By marking "No," the employer also acknowledges that if it uses this application despite its invalidity, it is required to comply with the Additional Employer Labor Condition Statements in Subsection 2 of section I.

3. Mark "Yes" or "No" to this question after marking "Yes" to question 1 or 2 of Subsection 1 in Section I AND the employer intends to use this application ONLY to support H-1B petitions or extensions of status for expected H-1B nonimmigrants who will receive wages at a rate equal to at least $60,000 per year, or have attained a master's degree (or equivalent or higher degree) in a specialty related to the employment. The employer also agrees to maintain documentation required by 20 CFR 655.737.

   If an employer marks "Yes" the employer acknowledges that if it uses this application in support of a petition or extension of a petition of an H-1B nonimmigrant who is not exempt, it is required to comply with the Additional Employer Labor Condition Statements in Subsection 2 of section I with respect to all H-1B nonimmigrants supported by this application.

b. Subsection 2

All employers that are (1) H-1B dependent (as defined above) and/or (2) have been found to have committed a willful violation or a misrepresentation of a material fact during the five (5) year period preceding the date of this application (and after October 20, 1998), **must read and agree to statements (A) through (C) below and demonstrate that agreement by marking "Yes" in Subsection 2 of Section I of this application.** The employer agrees to develop and maintain documentation supporting labor condition statements (1) and (4) as specified in 20 CFR 655.738 and 655.739, and to make this document available to Department of Labor officials upon request. The employer also agrees to make available for public examination a copy of the labor condition application and necessary supporting documentation as specified in 20 CFR 655.760 within one (1) working day after the date on which the application has been filed with the Department of Labor. This documentation must be retained for public examination at the place of employment or the employer's principal place of business as specified in Section J of this form. The employer agrees:

(A) **Displacement:** The employer will not displace any similarly employed U.S. worker within the period beginning 90 days before and ending 90 days after the date of filing a petition for an H-1B nonimmigrant supported by this application.

(B) **Secondary Displacement:** The employer will not place any H-1B nonimmigrant employed pursuant to this application with any other employer or at another employer's worksite UNLESS the employer applicant first makes a bona fide inquiry as to whether the other employer has displaced or intends to displace a similarly employed U.S. worker within the period beginning 90 days before and ending 90 days after the placement, and the employer applicant has no contrary knowledge.

If the other employer displaces a similarly employed U.S. worker during such period, the displacement will constitute a failure to comply with the terms of the labor condition application and the employer applicant may be subject to civil money penalties and debarment. See 20 CFR 655.738.

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(C) **Recruitment and Hiring:** Prior to filing any petition for an H-1B nonimmigrant pursuant to this application, the employer took or will take good faith steps meeting industry-wide standards to recruit U.S. workers for the job for which the nonimmigrant is sought, offering compensation at least as great as required to be offered to the H-1B nonimmigrant. The employer will (has) offer(ed) the job to any U.S. worker who (has) applied and is equally or better qualified that the H-1B nonimmigrant

Under the Immigration and Nationality Act (INA) Section 212 (n)(1)(G)(ii), 8 U.S.C. 1182), this labor condition statement "C" does not apply to the employment of an H-1B nonimmigrant who is a "priority worker" (defined as a person with extraordinary ability, or outstanding professors or researchers, or certain multi-national executives or managers) within the meaning of Section 203 (b)(1)(A), (B), or (C) of the INA, 8 U.S.C. 1153.

4. Mark "Yes" or "No". The employer must agree to all four labor condition statements listed above #4 as (A) to (C) of Subsection 2 of Section I. Answer this question only if you marked "Yes" to either or both question one and two above in Section I indicating that you are either an H-1B dependent employer or a willful violator or both.

Section J
Public Disclosure Information

1. Please indicate whether the employer's required public disclosure information will be located at the employer's principal place of business AND/**OR** the place of employment.

Section K
Declaration of Employer

Note: If submitting this form non-electronically, the employer must sign and date the application prior to submission. If submitting this form electronically, the employer must sign and date the application immediately upon receipt of the certified application and before submission to USCIS. An attorney or agent should not sign this section unless the attorney or agent is an employee of the employer and has authority to sign as the employer.

1. Enter the last (family) name of the person with authority to sign as the employer.
2. Enter the first (given) name of the person with authority to sign as the employer.
3. Enter the middle initial of the person with authority to sign as the employer. In the absence of a middle name, enter N/A.
4. Enter the job title of the person with authority to sign as the employer.
5. The person with authority to sign as the employer must sign the application. Read the entire application and verify all contained information prior to signing.

The person with authority to sign as the employer must date the application. Use a month/day/full year (MM/DD/YYYY) format.

Section L
Preparer Information

This section must be completed if the preparer of this LCA is a person other than the one identified in either Section D (employer point of contact) or E (attorney or agent) of this application. For example, an employee of the attorney (e.g., paralegal) would complete the LCA preparer section. If the employer or attorney/agent contact listed in sections D and E was the person preparing and submitting the LCA, then this section will be left blank.

1. Enter the last (family) name of the person preparing this LCA by or on behalf of the employer.
2. Enter the first (given) name of the person preparing this LCA by or on behalf of the employer.
3. Enter the middle initial of the person with preparing this LCA by or on behalf of the employer.

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Labor Condition Application for Nonimmigrant Workers
ETA Form 9035CP – General Instructions for the 9035 & 9035E
U.S. Department of Labor

4. **Enter the Firm/Business name of the person with preparing this LCA by or on behalf of the employer.**

5. **Enter the email address of the person with preparing this LCA by or on behalf of the employer. Format must be in the format name@emailaddress.top-level domain.**

Section M
U.S. Government Agency User ONLY

Read this section. No entries required.

Section N
Signature Notification and Complaints

Read this section. No entries required.

Section O
OMB *Paperwork Reduction Act/Information Control Number 1205-0310*

Read this section. No entries required.

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Labor Condition Application for Nonimmigrant Workers
ETA Form 9035 & 9035E
U.S. Department of Labor

Electronic Filing of Labor Condition Applications For The H-1B Nonimmigrant Visa Program

This Department of Labor, Employment and Training Administration (ETA), electronic filing system enables an employer to file a Labor Condition Application (LCA) and obtain certification of the LCA. This Form must be submitted by the employer or by someone authorized to act on behalf of the employer.

A) I understand and agree that, upon my receipt of ETA's certification of the LCA by electronic response to my submission, I must take the following actions at the specified times and circumstances:

- print and sign a hardcopy of the electronically filed and certified LCA;
- maintain a signed hardcopy of this LCA in my public access files;
- submit a signed hardcopy of the LCA to the United States Citizenship and Immigration Services (USCIS) in support of the I-129, on the date of submission of the I-129;
- provide a signed hardcopy of this LCA to each H-1B nonimmigrant who is employed pursuant to the LCA.

☐ Yes ☐ No

B) I understand and agree that, by filing the LCA electronically, I attest that all of the statements in the LCA are true and accurate and that I am undertaking all the obligations that are set out in the LCA (Form ETA 9035E) and the accompanying instructions (Form ETA 9035CP).

☐ Yes ☐ No

C) I hereby choose one of the following options, with regard to the accompanying instructions:

☐ I choose to have the Form ETA 9035CP electronically attached to the certified LCA, and to be bound by the LCA obligations as explained in this form

☐ I choose not to have the Form ETA 9035CP electronically attached to the certified LCA, but I have read the instructions and I understand that I am bound by the LCA obligations as explained in this form

Case Number:_____ Case Status: _____ Period of Employment: _____ to _____

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Labor Condition Application for Nonimmigrant Workers
ETA Form 9035 & 9035E
U.S. Department of Labor

Please read and review the filing instructions carefully before completing the ETA Form 9035 or 9035E. A copy of the instructions can be found at http://www.foreignlaborcert.doleta.gov/. In accordance with Federal Regulations at 20 CFR 655.730(b), incomplete or obviously inaccurate Labor Condition Applications (LCAs) will not be certified by the Department of Labor. If the employer has received permission from the Administrator of the Office of Foreign Labor Certification to submit this form non-electronically, ALL required fields/items containing an asterisk (*) must be completed as well as any fields/items where a response is conditional as indicated by the section (§) symbol.

A. Employment-Based Nonimmigrant Visa Information

1. Indicate the type of visa classification supported by this application *(Write classification symbol)*: *	

B. Temporary Need Information

1. Job Title *		
2. SOC (ONET/OES) code *	3. SOC (ONET/OES) occupation title *	
4. Is this a full-time position? * ☐ Yes ☐ No	**Period of Intended Employment**	
	5. Begin Date * *(mm/dd/yyyy)*	6. End Date * *(mm/dd/yyyy)*

7. Worker positions needed/basis for the visa classification supported by this application

☐ **Total Worker Positions Being Requested for Certification ***

Basis for the visa classification supported by this application
(*Indicate the total workers in each applicable category based on the total workers identified above*)

☐ a. New employment *	☐ d. New concurrent employment *
☐ b. Continuation of previously approved employment * without change with the same employer	☐ e. Change in employer *
☐ c. Change in previously approved employment *	☐ f. Amended petition *

C. Employer Information

1. Legal business name *		
2. Trade name/Doing Business As (DBA), if applicable		
3. Address 1 *		
4. Address 2		
5. City *	6. State *	7. Postal code *
8. Country *	9. Province	
10. Telephone number *	11. Extension	
12. Federal Employer Identification Number (FEIN from IRS) *	13. NAICS code (must be at least 4-digits) *	

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Labor Condition Application for Nonimmigrant Workers
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D. Employer Point of Contact Information

Important Note: The information contained in this Section must be that of an employee of the employer who is authorized to act on behalf of the employer in labor certification matters. The information in this Section must be different from the agent or attorney information listed in Section E, unless the attorney is an employee of the employer.

1. Contact's last (family) name *	2. First (given) name *	3. Middle name(s) *
4. Contact's job title *		
5. Address 1 *		
6. Address 2		
7. City *	8. State *	9. Postal code *
10. Country *	11. Province	
12. Telephone number *	13. Extension	14. E-Mail address

E. Attorney or Agent Information (If applicable)

1. Is the employer represented by an attorney or agent in the filing of this application? * If "Yes", complete the remainder of Section E below.	☐ Yes ☐ No

2. Attorney or Agent's last (family) name §	3. First (given) name §	4. Middle name(s) §
5. Address 1 §		
6. Address 2		
7. City §	8. State §	9. Postal code §
10. Country §	11. Province	
12. Telephone number §	13. Extension	14. E-Mail address
15. Law firm/Business name §		16. Law firm/Business FEIN §
17. State Bar number (only if attorney) §		18. State of highest court where attorney is in good standing (only if attorney) §
19. Name of the highest court where attorney is in good standing (only if attorney) §		

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Labor Condition Application for Nonimmigrant Workers
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F. Rate of Pay

1. Wage Rate (Required)	2. Per: (Choose only one) *
From: $ _____ . _____ * To: $ _____ . _____	☐ Hour ☐ Week ☐ Bi-Weekly ☐ Month ☐ Year

G. Employment and Prevailing Wage Information

Important Note: It is important for the employer to define the place of intended employment with as much geographic specificity as possible. The place of employment address listed below must be a physical location and cannot be a P.O. Box. The employer may use this section to identify up to three (3) physical locations and corresponding prevailing wages covering each location where work will be performed and the electronic system will accept up to 3 physical locations and prevailing wage information. If the employer has received approval from the Department of Labor to submit this form non-electronically and the work is expected to be performed in more than one location, an attachment must be submitted in order to complete this section.

a. Place of Employment 1

1. Address 1 *	
2. Address 2	
3. City *	4. County *
5. State/District/Territory *	6. Postal code *

***Prevailing Wage Information** (corresponding to the place of employment location listed above)*

7. Agency which issued prevailing wage §	7a. Prevailing wage tracking number (if applicable) §
8. Wage level * ☐ I ☐ II ☐ III ☐ IV ☐ N/A	
9. Prevailing wage * $ _____ . _____	10. Per: (Choose only one) * ☐ Hour ☐ Week ☐ Bi-Weekly ☐ Month ☐ Year
11. Prevailing wage source (Choose only one) * ☐ OES ☐ CBA ☐ DBA ☐ SCA ☐ Other	
11a. Year source published *	11b. If "OES", and SWA/NPC did not issue prevailing wage OR "Other" in question 11, specify source §

H. Employer Labor Condition Statements

! ***Important Note:*** In order for your application to be processed, you MUST read Section H of the Labor Condition Application – General Instructions Form ETA 9035CP under the heading "Employer Labor Condition Statements" and agree to all four (4) labor condition statements summarized below:

(1) **Wages:** Pay nonimmigrants at least the local prevailing wage or the employer's actual wage, whichever is higher, and pay for non-productive time. Offer nonimmigrants benefits on the same basis as offered to U.S. workers.
(2) **Working Conditions:** Provide working conditions for nonimmigrants which will not adversely affect the working conditions of workers similarly employed.
(3) **Strike, Lockout, or Work Stoppage:** There is no strike, lockout, or work stoppage in the named occupation at the place of employment.
(4) **Notice:** Notice to union or to workers has been or will be provided in the named occupation at the place of employment. A copy of this form will be provided to each nonimmigrant worker employed pursuant to the application.

1. I have read and agree to Labor Condition Statements 1, 2, 3, and 4 above and as fully explained in Section H of the Labor Condition Application – General Instructions – Form ETA 9035CP. *	☐ Yes ☐ No

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Labor Condition Application for Nonimmigrant Workers
ETA Form 9035 & 9035E
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I. Additional Employer Labor Condition Statements – H-1B Employers ONLY

Important Note: In order for your H-1B application to be processed, you MUST read Section I – Subsection 1 of the Labor Condition Application – General Instructions Form ETA 9035CP under the heading "Additional Employer Labor Condition Statements" and answer the questions below.

a. Subsection 1

1. Is the employer H-1B dependent? §	☐ Yes ☐ No
2. Is the employer a willful violator? §	☐ Yes ☐ No
3. If "Yes" is marked in questions I.1 and/or I.2, you must answer "Yes" or "No" regarding whether the employer will use this application ONLY to support H-1B petitions or extensions of status for exempt H-1B nonimmigrants? §	☐ Yes ☐ No ☐ N/A

If you marked "Yes" to questions I.1 and/or I.2 and "No" to question I.3, you MUST read Section I – Subsection 2 of the Labor Condition Application – General Instructions Form ETA 9035CP under the heading "Additional Employer Labor Condition Statements" and indicate your agreement to all three (3) additional statements summarized below.

b. Subsection 2

A. **Displacement:** Non-displacement of the U.S. workers in the employer's workforce
B. **Secondary Displacement:** Non-displacement of U.S. workers in another employer's workforce; and
C. **Recruitment and Hiring:** Recruitment of U.S. workers and hiring of U.S. workers applicant(s) who are equally or better qualified than the H-1B nonimmigrant(s).

4. I have read and agree to Additional Employer Labor Condition Statements A, B, and C above and as fully explained in Section I – Subsections 1 and 2 of the Labor Condition Application – General Instructions Form ETA 9035CP. §	☐ Yes ☐ No

J. Public Disclosure Information

Important Note: You must select from the options listed in this Section.

1. Public disclosure information will be kept at: *	☐ Employer's principal place of business ☐ Place of employment

K. Declaration of Employer

By signing this form, I, on behalf of the employer, attest that the information and labor condition statements provided are true and accurate; that I have read sections H and I of the Labor Condition Application – General Instructions Form ETA 9035CP, and that I agree to comply with the Labor Condition Statements as set forth in the Labor Condition Application – General Instructions Form ETA 9035CP and with the Department of Labor regulations (20 CFR part 655, Subparts H and I). I agree to make this application, supporting documentation, and other records available to officials of the Department of Labor upon request during any investigation under the Immigration and Nationality Act. Making fraudulent representations on this Form can lead to civil or criminal action under 18 U.S.C. 1001, 18 U.S.C. 1546, or other provisions of law.

1. Last (family) name of hiring or designated official *	2. First (given) name of hiring or designated official *	3. Middle Initial *
4. Hiring or designated official title *		
5. Signature *	6. Date signed *	

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Labor Condition Application for Nonimmigrant Workers
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L. LCA Preparer

Important Note: Complete this section if the preparer of this LCA is a person other than the one identified in either Section D (employer point of contact) or E (attorney or agent) of this application.

1. Last (family) name §	2. First (given) name §	3. Middle initial §
4. Firm/Business name §		
5. E-Mail address §		

M. U.S. Government Agency Use (ONLY)

By virtue of the signature below, the Department of Labor hereby acknowledges the following:

This certification is valid from _____ to _____.

_____ — _____
Department of Labor, Office of Foreign Labor Certification — Determination Date (date signed)

_____ — _____
Case number — Case Status

The Department of Labor is not the guarantor of the accuracy, truthfulness, or adequacy of a certified LCA.

N. Signature Notification and Complaints

The signatures and dates signed on this form will not be filled out when electronically submitting to the Department of Labor for processing, but **MUST** be complete when submitting non-electronically. If the application is submitted electronically, any resulting certification **MUST** be signed *immediately upon receipt* from the Department of Labor before it can be submitted to USCIS for further processing.

Complaints alleging misrepresentation of material facts in the LCA and/or failure to comply with the terms of the LCA may be filed using the WH-4 Form with any office of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor. A listing of the Wage and Hour Division offices can be obtained at http://www.dol.gov/esa. Complaints alleging failure to offer employment to an equally or better qualified U.S. worker, or an employer's misrepresentation regarding such offer(s) of employment, may be filed with the U.S. Department of Justice, Office of the Special Counsel for Immigration-Related Unfair Employment Practices, 950 Pennsylvania Avenue, NW, Washington, DC, 20530. Please note that complaints should be filed with the Office of Special Counsel at the Department of Justice only if the violation is by an employer who is H-1B dependent or a willful violator as defined in 20 CFR 655.710(b) and 655.734(a)(1)(ii).

O. OMB Paperwork Reduction Act *(1205-0310)*

These reporting instructions have been approved under the Paperwork Reduction Act of 1995. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. Obligations to reply are mandatory (Immigration and Nationality Act, Section 212(n) and (t) and 214(c). Public reporting burden for this collection of information, which is to assist with program management and to meet Congressional and statutory requirements is estimated to average 1 hour per response, including the time to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Labor, Room C-4312, 200 Constitution Ave. NW, Washington, DC 20210. (Paperwork Reduction Project OMB 1205-0310.) **Do NOT send the completed application to this address.**

OMB Approval No. 1205-0015 Expires: 06/30/2017

U.S. DEPARTMENT OF LABOR
Employment and Training Administration

APPLICATION FOR ALIEN EMPLOYMENT CERTIFICATION

IMPORTANT: READ CAREFULLY BEFORE COMPLETING THIS FORM

PRINT legibly in ink or use a typewriter. If you need more space to answer questions in this form, use a separate sheet. Identify each answer with the number of the corresponding question. SIGN AND DATE each sheet in original signature.

To knowingly furnish any false information in the preparation of this form and any supplemental thereto or to aid, abet, or counsel another to do so is a felony punishable by $10,000 fine or 5 years in the penitentiary, or both (18 U.S.C. 1001)

PART A. OFFER OF EMPLOYMENT

1. Name of Alien (Family name in capital letter, First, Middle, Maiden)

2. Present Address of Alien (Number, Street, City and Town, State ZIP code or Province, Country)

3. Type of Visa (if in U.S.)

The following information is submitted as an offer of employment

4. Name of Employer (Full name of Organization)

5. Federal Taxpayer ID – EIN

6. Address (Number, Street, City and Town, State ZIP code)

7. Address Where Alien Will Work (If different than item 6)

8. Nature of Employer's Business Activity	9. Name of Job Title	10. Total Hours Per Week		11. Work Schedule	12. Rate of Pay	
		a. Basic	b. Overtime	(Hourly) a.m. p.m.	a. Basic $ per	b. Overtime $ per

13. Describe Fully the job to be Performed (Duties)

14. State in detail the MINIMUM education, training, and experience for a worker to perform satisfactorily the job duties described in item 13 above.

EDUCATION (Enter number of years)	Grade School	High School	College	College Degree Required (specify)	Major Field of Study
TRAINING	No. Yrs.		No. Mos.	Type of Training	
EXPERIENCE	Job Offered (Number) Yrs.	Mos.	Related Occupation (Number) Yrs.	Mos.	Related Occupation (specify)

15. Other Special Requirements

16. Occupational Title of Person Who Will Be Alien's Immediate Supervisor

17. Number of Employees Alien Will Supervise

ENDORSEMENTS
(Make no entry in section – for Government use only)

Date Forms Received	
L.O.	S.O.
R.O.	N.O.
Ind. Code	Occ. Code
Occ. Title	

ETA 750 (Nov. 2007)

Ex 2

18. COMPLETE ITEMS ONLY IF JOB IS TEMPORARY			19. IF JOB IS UNIONIZED (Complete)	
a. No. of Openings To Be Filled by Aliens Under Job Offer	b. Exact Dates You Expect To Employ Alien		a. Number of Local	b. Name of Local
	From	To		c. City and State

20. STATEMENT FOR LIVE-AT-WORK JOB OFFERS (Complete for Private Household ONLY)

a. Description of Residence		b. No. Persons residing at Place of Employment				c. Will free board and private room not shared with anyone be provided?	("X" one)
("X" one)	Number of Rooms	Adults		Children	Ages		
☐ House			BOYS				☐ YES ☐ NO
☐ Apartment			GIRLS				

21. DESCRIBE EFFORTS TO RECRUIT U.S. WORKERS AND THE RESULTS. (Specify Sources of Recruitment by Name)

22. Applications require various types of documentation. Please read Part II of the Instructions to assure that appropriate supporting documentation is included with your application.

23. EMPLOYER CERTIFICATIONS

By virtue of my signature below, I HEREBY CERTIFY the following conditions of employment.

a. I have enough funds available to pay the wage or salary offered the alien.

b. The wage offered equal or exceeds the prevailing wage and I guarantee that, if a labor certification is granted, the wage paid to the alien when the alien begins work will equal or exceed the prevailing wage which is applicable at the time the alien begins work.

c. The wage offered is not based on commissions, bonuses, or other incentives, unless I guarantee a wage paid on a weekly, bi-weekly, or monthly basis.

d. I will be able to place the alien on the payroll on or before the date of the alien's proposed entrance into the United States.

e. The job opportunity does not involve unlawful discrimination by race, creed, color, national origin, age, sex, religion, handicap, or citizenship.

f. The job opportunity is not:

(1) Vacant because the former occupant is on strike or is being locked out in the course of a labor dispute involving a work stoppage.

(2) At issue in a labor dispute involving a work stoppage.

g. The job opportunity's terms, conditions and occupational environment are not contrary to Federal, State or local law.

h. The job opportunity has been and is clearly open to any qualified U.S. worker.

24. DECLARATIONS

DECLARATION OF EMPLOYER — Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury the foregoing is true and correct.

SIGNATURE	DATE

NAME (Type or Print)	TITLE	
EMAIL ADDRESS	CONTACT TELEPHONE	FAX TELEPHONE

AUTHORIZATION OF AGENT OF EMPLOYER — I HEREBY DESIGNATE the agent below to represent me for the purposes of labor certification and I TAKE FULL RESPONSIBILITY for accuracy of any representations made by my agent.

SIGNATURE OF EMPLOYER	DATE

NAME OF AGENT (Type or Print)	ADDRESS OF AGENT (Number, Street, City, State, ZIP code)	
EMAIL ADDRESS	CONTACT TELEPHONE	FAX TELEPHONE

OMB No.: 1205-0015 OMB Burden Hours averages 1.5 hours. OMB Burden Statement: These reporting instructions have been approved under the Paperwork Reduction Act of 1995. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. Obligations to reply are mandatory. (Title 8 U.S.C. §§ 1882, 1884, and 1188) Public reporting burden for this collection of information, which is to assist with planning and program management, includes the time to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Labor, Room C-4312, 200 Constitution Ave. NW, Washington, DC 20210. (Paperwork Reduction Project OMB 1205-0015.)

PRIVACY ACT STATEMENT

In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), you are hereby notified that the information provided herein is protected under the Privacy Act. The Department of Labor (DOL) is maintaining a System of Records titled Employer Application and Attestation File for Permanent and Temporary Alien Workers (DOL/ETA-7).

Case files developed in processing labor certification applications, labor condition applications, or labor attestations, may be released to the employers which filed such applications, their representatives, and to named alien beneficiaries or their representatives, if requested, to review Employment and Training Administration (ETA) actions in connection with appeals of denials before the DOL Office of Administrative Law Judges and federal courts; to participating agencies such as the DOL Office of Inspector General, Employment Standards Administration. Department of Homeland Security's U.S, Citizenship and Immigration Services and Bureau of Immigration and Customs Enforcement, and Department of State in connection with administering and enforcing related immigration laws and regulations; and to the DOL Office of Administrative Law Judges and Federal Courts in connection with appeals of denials of labor certification requests, labor condition applications, and labor attestations.

Further disclosures may be made under the following circumstances: in connection with federal litigation; for law enforcement purposes; to authorized parent locator persons under Pub. L. 93-647; to an information source in connection with personnel, procurement, or benefit-related matters, to a contractor or their employees, consultants, grantees or their employees, or volunteers who have been engaged to assist the agency in the performance of a contract; for Federal debt collection purposes: the Office of Management and Budget in connection with its legislative review, coordination, and clearance activities; if a person about whom this record is maintained submits a written request to a Member of Congress or their staff and that request is forwarded to the Department, we may release the information to the Member of Congress or Congressional staff in response to the inquiry made on behalf of the subject of the record: and to the news media and the public when a matter under investigation becomes public knowledge, the Solicitor of Labor determines the disclosure is necessary to preserve confidence or integrity of the Department, or the Solicitor of Labor determines that a legitimate public interest exists in the disclosure of information unless the disclosure would constitute an unwarranted invasion of personal privacy.

U.S. DEPARTMENT OF LABOR
EMPLOYMENT AND TRAINING ADMINISTRATION
APPLICATION FOR ALIEN EMPLOYMENT CERTIFICATION

OMB Approval No. 1205-0015 Expires: 08/30/2017

PART B. STATEMENT OF QUALIFICATIONS OF ALIEN

FOR ADVICE CONCERNING REQUIREMENTS FOR ALIEN EMPLOYMENT CERTIFICATION: If the alien is in the U.S., contact nearest office of the United States Citizenship and Immigration Service. If the alien is outside the U.S., contact nearest U.S. Consulate.

IMPORTANT: READ ATTACHED INSTRUCTIONS BEFORE COMPLETING THIS FORM.

Print legibly in ink or use a typewriter. If you need more space to fully answer any questions on this form, use a separate sheet. Identify each answer with the number of the corresponding question. Sign and date each sheet.

1. Name of Alien (Family name in capital letters)	First name	Middle name	Maiden name

2. Present Address (No., Street, City and Town, State or Province and ZIP code)	Country	3. Type of Visa (If in U.S.)

4. Alien's Birth date (Month, Day, Year)	5. Birthplace (City or Town, State or Province)	Country	6. Present Nationality or Citizenship (Country)

7. Address in the United States Where Alien Will Reside	

8. Name and Address of Prospective Employer if Alien has job offer in U.S.	9. Occupation in which Alien is Seeking Work

10. "X" the appropriate box below and furnish the information required for the box marked

	City in Foreign Country	Foreign Country
a. ☐ Alien will apply for a visa abroad at the American Consulate in →		
	City	**State**
b. ☐ Alien is in the United States and will apply for adjustment of status to that of a lawful permanent resident in the office of the United States Citizenship and Immigration Service at →		

11. Names and Addresses of Schools, Colleges and Universities Attended (Include trade or vocational training facilities)	Field of Study	FROM Month	FROM Year	TO Month	TO Year	Degrees or Certificates Received

SPECIAL QUALIFICATIONS AND SKILLS

12. Additional Qualifications and Skills Alien Possesses and Proficiency in the use of Tools, Machines or Equipment Which Would Help Establish if Alien Meets Requirements for Occupation in Item 9.

13. List Licenses (Professional, journeymen, etc.)

14. List Documents Attached Which are Submitted as Evidence that Alien Possesses the Education, Training, Experience, and Abilities Represented

Endorsements

DATE REC. DOL

O.T. & C.

(Make no entry in this section - FOR Government Agency USE ONLY)

(Items continued on next page)

Ex 3

15. WORK EXPERIENCE	List all jobs held during the last three (3) years. Also, list any other jobs related to the occupation for which the alien is seeking certification as indicated in item 9.		
a. NAME AND ADDRESS OF EMPLOYER			
NAME OF JOB	DATE STARTED Month / Year	DATE LEFT Month / Year	KIND OF BUSINESS
DESCRIBE IN DETAIL THE DUTIES PERFORMED, INCLUDING THE USE OF TOOLS, MACHINES OR EQUIPMENT			NO. HOURS PER WEEK
b. NAME AND ADDRESS OF EMPLOYER			
NAME OF JOB	DATE STARTED Month / Year	DATE LEFT Month / Year	KIND OF BUSINESS
DESCRIBE IN DETAIL THE DUTIES PERFORMED, INCLUDING THE USE OF TOOLS, MACHINES OR EQUIPMENT			NO. HOURS PER WEEK
c. NAME AND ADDRESS OF EMPLOYER			
NAME OF JOB	DATE STARTED Month / Year	DATE LEFT Month / Year	KIND OF BUSINESS
DESCRIBE IN DETAIL THE DUTIES PERFORMED, INCLUDING THE USE OF TOOLS, MACHINES OR EQUIPMENT			NO. HOURS PER WEEK

16. DECLARATIONS		
DECLARATION OF ALIEN →	Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury the foregoing is true and correct.	
SIGNATURE OF ALIEN E-mail address of Alien:		DATE
AUTHORIZATION OF AGENT OF ALIEN →	I hereby designate the agent below to represent me for the purposes of labor certification and I take full responsibility for accuracy of any representations made by my agent.	
SIGNATURE OF ALIEN		DATE
NAME OF AGENT (Type or print) E-mail address of Agent:	ADDRESS OF AGENT (No., Street, City, State, ZIP code)	

OMB No.: 1205-0015 OMB Burden Hours averages 1.5 hours. OMB Burden Statement: These reporting instructions have been approved under the Paperwork Reduction Act of 1995. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. Obligations to reply are mandatory. (Title 8 U.S.C. §§ 1882, 1884, and 1188) Public reporting burden for this collection of information, which is to assist with planning and program management, includes the time to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Labor, Room C-4312, 200 Constitution Ave. NW, Washington, DC 20210. (Paperwork Reduction Project OMB 1205-0015.)

PRIVACY ACT STATEMENT

In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), you are hereby notified that the information provided herein is protected under the Privacy Act. The Department of Labor (DOL) is maintaining a System of Records titled Employer Application and Attestation File for Permanent and Temporary Alien Workers (DOL/ETA-7).

Case files developed in processing labor certification applications, labor condition applications, or labor attestations, may be released to the employers which filed such applications, their representatives, and to named alien beneficiaries or their representatives, if requested, to review Employment and Training Administration (ETA) actions in connection with appeals of denials before the DOL Office of Administrative Law Judges and federal courts; to participating agencies such as the DOL Office of Inspector General, Employment Standards Administration. Department of Homeland Security's U.S, Citizenship and Immigration Services and Bureau of Immigration and Customs Enforcement, and Department of State in connection with administering and enforcing related immigration laws and regulations; and to the DOL Office of Administrative Law Judges and Federal Courts in connection with appeals of denials of labor certification requests, labor condition applications, and labor attestations.

Further disclosures may be made under the following circumstances: in connection with federal litigation; for law enforcement purposes; to authorized parent locator persons under Pub. L. 93-647; to an information source in connection with personnel, procurement, or benefit-related matters, to a contractor or their employees, consultants, grantees or their employees, or volunteers who have been engaged to assist the agency in the performance of a contract; for Federal debt collection purposes: the Office of Management and Budget in connection with its legislative review, coordination, and clearance activities; if a person about whom this record is maintained submits a written request to a Member of Congress or their staff and that request is forwarded to the Department, we may release the information to the Member of Congress or Congressional staff in response to the inquiry made on behalf of the subject of the record: and to the news media and the public when a matter under investigation becomes public knowledge, the Solicitor of Labor determines the disclosure is necessary to preserve confidence or integrity of the Department, or the Solicitor of Labor determines that a legitimate public interest exists in the disclosure of information unless the disclosure would constitute an unwarranted invasion of personal privacy.