

1                                   **COMPLAINT OF EMPLOYMENT DISCRIMINATION**  
2                                   **BEFORE THE STATE OF CALIFORNIA**  
3                                   **DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING**  
4                                   **Under the California Fair Employment and Housing Act**  
5                                   **(Gov. Code, § 12900 et seq.)**

6 In the Matter of the Complaint of  
7 Kurt Ho, Complainant.  
8 1999 Harrison Street, Suite 1600  
9 Oakland, California 94612

DFEH No. 610653-262315

10 vs.

11 University Of California, San Francisco,  
12 Respondent.  
13 505 Parnassus Ave.  
14 San Francisco, California 94143

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15 Complainant alleges:

16 1. Respondent **University Of California, San Francisco** is a **Public College/University** subject to suit under  
17 the California Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.). Complainant believes  
18 respondent is subject to the FEHA.

19 2. On or around **November 14, 2016**, complainant alleges that respondent took the following adverse actions  
20 against complainant: **Discrimination, Harassment, Retaliation Denied a work environment free of**  
21 **discrimination and/or retaliation, Terminated, .** Complainant believes respondent committed these actions  
22 because of their: **Age - 40 and over, National Origin - Including language use restrictions .**

3. Complainant **Kurt Ho** resides in the City of **Oakland**, State of **California**. If complaint includes co-  
respondents please see below.

**Additional Complaint Details:**

Robert Harrison, Kurt Ho, Audrey Hatten-Milholin, Brian Joyner, Leland Lam, Jason Macatangay, Emerson Mendoza, Vinny Tateo, and Nancy Toth (collectively, Complainants) allege that the University of California, San Francisco (UCSF) discriminated against them based on their national origin, age, sex, and/or race. With the exception of Toth, Complainants are among 61 UCSF Information Technology (IT) employees receiving notice of termination on or about July 20, 2016. An additional 18 vendor contractors were also terminated. The terminations are part of an outsourcing plan, under which UCSF employees will be replaced by individuals from HCL Technologies (HCL), an Indian IT services company. Toth was terminated on August 16, 2016, as part of the same outsourcing plan.

UCSF committed implementation of the workforce restructuring to the subjective discretion of its managers. Thus, UCSF purportedly outsourced the following IT services: data center operations, network operations, operations functions associated with communication and collaboration technologies, operational support for a limited set of applications, and application development projects. However, within those services, not all positions were eliminated.

After receiving notice of termination, the employees were forced to go through the indignity of training their significantly younger, male HCL replacements, who will then perform the work overseas. Equally troubling, UCSF and HCL plan to use the H1-B visa program to bring in foreign IT workers, despite the availability of skilled American workers. This is an abuse of the visa program, as it was not meant to facilitate the replacement of qualified American workers with those from other countries.

In sum, UCSF intentionally discriminated against employees, including Complainants, based on their national origin (United States), age, sex, and race. Furthermore, UCSF's outsourcing plan had a disproportionate adverse impact on employees based on their national origin (United States), age, sex, and race.

Prior to their wrongful termination, Complainants held the following positions with UCSF: Robert Harrison (age 57) was a Unified Communications Engineer, for approximately 2 years.

Audrey Hatten-Milholin (age 53) was an IT Architect 4, with 17 years of experience.

Kurt Ho (age 57) was a Systems Administrator, since November 2015.

Brian Joyner (age 56) was a Systems Administration Supervisor 2, for approximately 4 years.

Leland Lam (age 45) was a Systems Administrator, with 18 months of experience.

Jason Macatangay (age 48) was a Data Center Administrator, for approximately 2 years.

Emerson Mendoza (age 50) was a Communications and Network Technology Analyst 4, with more than 29 years of experience.

Vinny Tateo (age 43) was a Communications and Network Technology Analyst 3, with 3 years of experience.

Nancy Toth (age 58) was an IT Field Support Specialist, for more than 13 years.

1 VERIFICATION

2 I, **Robert Schwartz**, am the Attorney for Complainant in the above-entitled complaint. I have read the  
3 foregoing complaint and know the contents thereof. The same is true of my own knowledge, except as to those  
4 matters which are therein alleged on information and belief, and as to those matters, I believe it to be true.

5 On November 14, 2016, I declare under penalty of perjury under the laws of the State of California that the  
6 foregoing is true and correct.

7 **Oakland, CA**  
8 **Robert Schwartz**  
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