



Written by [Warren Mass](#) on January 26, 2016

Disney Employees Replaced With Foreign H-1B Visa Holders File Lawsuit

On January 25, two former IT employees at Walt Disney World in Orlando filed lawsuits in federal court in Tampa against Walt Disney Company and two global consulting companies, HCL and Cognizant, which brought in foreign H-1B visa workers to replace them.

The plaintiffs, Leo Perrero and Dena Moore, were among 250 Disney tech workers laid off about a year ago. The lawsuits seek class-action status. In addition to Disney, the suit names two global consulting companies, HCL and Cognizant, as defendants. Those firms brought in foreign workers who replaced the laid-off Disney employees. The suit charges that Disney and the consulting companies colluded to break the law by using temporary H-1B visas to bring in immigrant workers, knowing that American workers would be displaced from their jobs.



Sara Blackwell, an attorney for the plaintiffs, was quoted in the *Orlando Sentinel* as stating that the lawsuits seek to “kick them [outsourcing companies] at their business model, to stop them from systemically abusing the immigration system.”

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The *Sentinel* reported that the lawsuits assert that the offending companies violated federal law because the outsourcing firms made misleading statements when filling out forms to sponsor workers for the visas. The outsourcing firms stated in forms under oath (U.S. law requires that they so state to the Labor Department when hiring workers on the H-1B program) that working conditions of “similarly situated employees would not be adversely affected,” the lawsuits charged.

“Was I negatively affected?” Moore asked rhetorically. “Yeah, I was. I lost my job.”

“Every time they file these, they are lying and falsifying documents,” Blackwell said. “Disney is aware there are these requirements and Cognizant and HCL are lying.”

A particular sore point among those Disney employees who were replaced by the foreign workers was that they were required to train their replacements as a condition of receiving severance pay and bonuses. This seemed to them like having insult added to injury.

At least 30 former Disney employees have also filed complaints with the federal Equal Employment Opportunity Commission, claiming that they faced discrimination as U.S. citizens.

This latest lawsuit against Disney over its practice of laying off American workers and replacing them



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with foreign H-1B visa holders represents a continuation of legal actions taken against Disney and other companies since last October, as a result of practices that began a year before that. As we noted in [our article last October 7](#), the story had been thoroughly covered by Patrick Thibodeau, senior editor at *Computerworld*, who wrote several articles reporting on the impact of H-1B visa holders on American IT workers' jobs.

The story that Thibodeau related began in October 2014, when Disney H.R. staff began notifying its IT employees at Walt Disney Parks and Resorts of their layoffs, effective January 30, 2015. In an April 29 report about that large-scale termination, Thibodeau made an interested revelation:

Disney CEO Bob Iger is one of eight co-chairs of the Partnership for a New American Economy, which he described as a leading group advocating for an increase in the H-1B visa cap. (Other co-chairs of the group are Marriott Corporation Chairman Bill Marriott, Boeing CEO Jim McNerney, former San Antonio Mayor Julian Castro, former New York Mayor Michael Bloomberg, Philadelphia Mayor Michael Nutter, News Corp and 21st Century Fox Chairman Rupert Murdoch, and former Microsoft CEO Steve Ballmer.) On April 24, 2015, this partnership was a sponsor of an H-1B briefing at the U.S. Capitol for congressional staffers that was closed to the press.

Thibodeau reported that one of the briefing documents handed out at the congressional forum made this claim: "H-1B workers complement — instead of displace — U.S. Workers." The document asserted that as employers use foreign workers to fill "more technical and low-level jobs, firms are able to expand," which supposedly allows U.S. workers "to assume managerial and leadership positions."

In retrospect, the Disney claim that the H-1B workers would complement, rather than displace, U.S. workers was obviously false.

An October 1, 2015 *Computerworld* article quoted a statement from one of the Disney IT workers who lost his job: "Some of these folks were literally flown in the day before to take over the exact same job I was doing." The man was required to train his replacement and was angry over the fact he had to train someone from India "on site, in our country."

The *Computerworld* article also noted that Sara Blackwell, the attorney representing the laid-off Disney workers in this latest lawsuit, has established an organization called Protect U.S. Workers to stop the abuse of H-1B and other foreign-worker programs.

We noted in October that Disney was not the only company that had received criticism for discriminating against Americans and hiring H-1B contract workers. Another such firm was Southern California Edison (SCE), whose violations were addressed by members of Congress.

On April 9, U.S. Senators Jeff Sessions (R-Ala.), chairman of the Subcommittee on Immigration and the National Interest, and Senate Minority Whip Richard Durbin (D-Ill.) led a bipartisan coalition of senators in sending a letter to then-Attorney General Eric Holder, Homeland Security Secretary Jeh Johnson, and Labor Secretary Thomas Perez, asking them to investigate SCE's use of the H-1B guest-worker program to replace American workers. The letter began:

We are concerned about recent information that has come to light regarding the abuse of the H-1B visa program by Southern California Edison (SCE) and other employers to replace large numbers of American workers. We urge you to investigate this matter.

A number of U.S. employers, including some large, well-known, publicly-traded corporations, have reportedly laid off thousands of American workers and replaced them with H-1B visa holders. To



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add insult to injury, many of the replaced American employees report that they have been forced to train the foreign workers who are taking their jobs.

The senators also asked whether the U.S. companies (or the IT consulting contractors that they retained) — by laying off American workers and replacing them with H-1B workers — “have engaged in prohibited citizenship status discrimination against U.S. citizens.”

Sessions and several other senators who signed the letter, including Charles Grassley (R-Iowa), and (perhaps surprisingly) Bernie Sanders (I-Vt.), have waged a continuing battle to protect American workers from losing their jobs to foreign workers admitted by means of visa programs such as H-1B and L-1B.

It will be interesting to see how important this issue will become during the upcoming presidential campaigns of both Republican and Democratic candidates.

UPDATE: January 26 — In response to this story, Kim Prunty sent Disney’s response to the allegations against it:

These lawsuits are based on an unsustainable legal theory and are a wholesale misrepresentation of the facts. Contrary to reports, Ms. Moore was offered another position in the company at comparable pay, and more than 100 of the workers affected by the changes were rehired. Hundreds of employers use the H1B visa program, including the *New York Times*, whose current CEO is working in the U.S on an H1B visa — a fact that it regularly fails to disclose in its reporting.

UPDATE: January 27 — Disney requested a change to its response. It now reads as follows:

Official statement from TWDC: This lawsuit is completely and utterly baseless. The fact is that, since our reorganization, Disney Parks has hired more than 140 US IT workers, and is currently recruiting candidates to fill over 100 more IT positions. Additionally, we also rehired more than 100 workers affected by the reorganization into other roles in the company. The complaints by one of the plaintiffs, Ms. Moore, that she was not offered a position are completely false — she was offered a position at comparable pay and turned it down. Those are the facts.”

Facts regarding *New York Times* reporting on this issue: The *NY Times* has deliberately and continuously misrepresented the facts to further its own agenda, while regularly failing to disclose the fact that the *Times* itself is a user of the H-1B program. In fact, the *Times* only belatedly disclosed that it secured an H-1B visa for its current President and CEO Mark Thompson, who replaced an American CEO after her 28 years of service, and by its own admission has 70 employees currently working in the US on foreign work visas.

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