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9 **UNITED STATES DISTRICT COURT**  
10 **NORTHERN DISTRICT OF CALIFORNIA**  
11 **OAKLAND DIVISION**

12 STEVEN HELDT,  
13 BRIAN BUCHANAN, and  
14 CHRISTOPHER SLAIGHT,

15 Plaintiffs,

16 v.

17 TATA CONSULTANCY SERVICES,  
18 LTD.,

19 Defendant.

Case No.: 4:15-cv-01696-YGR

**SECOND AMENDED COMPLAINT**

**FOR EMPLOYMENT  
DISCRIMINATION**

**CLASS ACTION**

**DEMAND FOR JURY TRIAL**

20 Plaintiffs Steven Heldt, Brian Buchanan, and Christopher Slaight (“Plaintiffs”) bring this action on behalf of themselves and a class of similarly situated individuals to remedy pervasive, ongoing race and national origin discrimination by Defendant Tata Consultancy Services, Ltd. (“Tata”), and allege as follows:

21 **NATURE OF THE ACTION**

22 1. Tata is an Indian company that employs approximately 14,000 employees in  
23 the United States. While roughly 1-2% of the United States population is South Asian,  
24 approximately 95% of Tata’s United States-based workforce is South Asian (primarily  
25 from India). This grossly disproportionate workforce is the result of Tata’s intentional

1 pattern and practice of employment discrimination against individuals who are not  
2 South Asian (or who are not of Indian national origin), including discrimination in  
3 hiring, placement, and termination decisions.<sup>1</sup> For example, recruiters within Tata's  
4 United States recruiting unit have been explicitly instructed to focus primarily on  
5 hiring Indians for positions in the United States. Moreover, Mr. Heldt was told by a  
6 South Asian Tata manager, after Mr. Heldt was removed from a position, that he  
7 would have a hard time finding a new job within Tata because he was not South  
8 Asian.  
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11  
12 2. Indeed, Plaintiffs' experiences with Tata are representative of Tata's  
13 discrimination against non-South Asians. For example, after Southern California  
14 Edison ("SCE") announced that it would transition much of its IT needs from in-house  
15 employees to Tata, Mr. Buchanan learned he would lose the SCE job he had held for  
16 many years. Mr. Buchanan applied for a job with Tata yet, despite being imminently  
17 qualified, Tata failed to hire him, choosing rather to staff its SCE project with an  
18 almost 100% South Asian workforce.  
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21 3. The comparatively few non-South Asians that Tata does hire likewise face  
22 discrimination. For example, Mr. Heldt began working for Tata in June 2012. Within  
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24 <sup>1</sup> As used herein, "South Asian race" refers to individuals who trace their ancestry to  
25 the Indian sub-continent. *See, e.g., Fonseca v. Sysco Food Serv. of Az., Inc.*, 374 F.3d  
26 840, 850 (9th Cir. 2004) ("Under 42 U.S.C. § 1981, discrimination based on ancestry  
27 or ethnic characteristics is prohibited" as discrimination based on race) (citation  
28 omitted). "Indian national origin" refers to individuals born in India, or whose  
ancestors came from India. *See Dawavendewa v. Salt River Project Agric.  
Improvement and Power Dist.*, 154 F.3d 1117, 1119 (9th Cir. 1998) (holding that  
"national origin" refers to both a person's place of birth, and the country from which  
his or her ancestors came).

1 a week of starting, Mr. Heldt was removed from a project he was well qualified for.  
2 Over his 20 months with Tata, Mr. Heldt was transferred between five different  
3 positions, often assigned only menial responsibilities, and spent approximately 13  
4 months “benched” with no substantive work to perform even while Tata continued to  
5 service the client organizations to which Mr. Heldt had been assigned, using  
6 approximately 99% South Asian workers. While benched, Mr. Heldt was repeatedly  
7 passed over and not hired for positions, in favor of (upon information and belief)  
8 South Asian workers. Throughout his employment, Mr. Heldt experienced substantial  
9 anti-American sentiment – *e.g.*, being told by Tata management: “This is why I don’t  
10 like dealing with Americans,” being told that he would have difficulty finding work  
11 within Tata because he is American, and being told that Tata was not even looking for  
12 Americans to hire. He was ultimately terminated.  
13  
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16

17 4. Similarly, Mr. Slaughter started with Tata in June 2012 as a software engineer.  
18 Over the following year, Tata assigned Mr. Slaughter absolutely no substantive work. He  
19 was ultimately terminated after being benched for several weeks.  
20

21 5. Tata’s employment practices violate Title VII of the Civil Rights Act of 1964,  
22 as amended, 42 U.S.C. § 2000e, *et seq.* (“Title VII”), and the Civil Rights Act of  
23 1866, as amended, 42 U.S.C. § 1981 (“§ 1981”). Plaintiffs seek, on their own behalf,  
24 and on behalf of a class of similarly situated individuals, declaratory, injunctive, and  
25 other equitable relief, compensatory and punitive damages, including pre- and post-  
26 judgment interest, attorneys’ fees, and costs to redress Tata’s pervasive pattern and  
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28

1 practice of discrimination.

2 **PARTIES**

3  
4 6. Plaintiff Steven Heldt is a citizen of the United States, born in the United  
5 States, and of American national origin and Caucasian race, ancestry and ethnicity.  
6 Mr. Heldt is an experienced and highly skilled IT professional with considerable  
7 academic and work experience. Mr. Heldt has a Bachelor of Arts degree in Economics  
8 from the University of North Carolina, Chapel Hill, a Masters of Information  
9 Technology degree from American InterContinental University, a Security+  
10 certification from CompTia, and the CISA, CISM, CRISC, and COBIT 5 Foundations  
11 certifications from ISACA.  
12  
13

14 7. Mr. Heldt has been employed in the IT field since 1996. As a result of his  
15 training and experience, Mr. Heldt has a wide array of skills that include expertise in  
16 project management, business analysis, software development, networking, IT  
17 operations, IT governance, IT Security, IT risk management, IT auditing, IT  
18 compliance, and business continuity and disaster recovery.  
19  
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21 8. In addition, Mr. Heldt served with distinction in the 101st Airborne Division of  
22 the United States Army, was a squad leader, served in Fort McClellan, Alabama, and  
23 was honorably discharged at the enlisted rank of Specialist E-4.  
24

25 9. Plaintiff Brian Buchanan is a citizen of the United States of America, born in  
26 the United States, and of American national origin and ancestry. He is Caucasian. Mr.  
27 Buchanan has over 30 years of advanced training and job experience in IT services  
28

1 and project management.

2 10. Mr. Buchanan has been employed in the IT field since 1982. Over the course  
3 of his career, Mr. Buchanan has filled many roles, including providing system  
4 availability, reliability, and data integrity for several IT and business unit projects,  
5 leading major and minor application implementation projects, and ensuring  
6 compliance with government processes, contracts, and regulations. In addition, Mr.  
7 Buchanan performed implementation, configuration, maintenance, and upgrades of  
8 enterprise server applications, network and management systems, and security  
9 systems, among other roles. In addition, Mr. Buchanan has served in supervisor and  
10 manager roles at various times throughout his career.  
11  
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14 11. Plaintiff Christopher Slaight is a citizen of the United States, born in the  
15 United States, and of American national origin and ancestry. He is Caucasian. Mr.  
16 Slaight has a Bachelor of Science degree in Computer Information Systems and  
17 Database Management from DeVry University.  
18  
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20 12. Plaintiffs are all members of a protected class, as recognized by Title VII of the  
21 Civil Rights Act of 1964, as amended, (42 U.S.C. § 2000e, *et seq.*) and the Civil  
22 Rights Act of 1866, as amended, (42 U.S.C. § 1981). Further, Mr. Heldt has exhausted  
23 his administrative remedies and complied with the statutory prerequisites of filing a  
24 Title VII complaint by filing a discrimination complaint against Tata with the U.S.  
25 Equal Employment Opportunity Commission (“EEOC”), and filing a timely claim of  
26 Title VII discrimination following receipt of a right to sue notice from the EEOC.  
27  
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1 13. Defendant Tata is a business that provides consulting, technology, and  
2 outsourcing services. Tata, headquartered in Mumbai, India, operates approximately  
3 19 offices in the United States, including in Santa Clara, California. Tata employs at  
4 least 14,000 persons in the United States.  
5

6 **JURISDICTION**  
7

8 14. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331; 42  
9 U.S.C. § 2000e-5(f), *et seq.*, and 42 U.S.C. § 1981(a).

10 15. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(a) as  
11 the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest  
12 and costs, and is between a citizen of a state and a foreign corporation.  
13

14 16. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(d) as  
15 this matter is a class action with an amount in controversy of greater than \$5 million,  
16 exclusive of interest and costs, and involves at least one class member who is a citizen  
17 of a state and is brought against a foreign corporation.  
18

19 17. This Court has personal jurisdiction over Tata because it engages in continuous  
20 and systematic business contacts within the State of California and maintains a  
21 substantial physical presence in this State, including the operation of several offices  
22 here. Additionally, Plaintiffs' claims arise, in part, out of Tata's activities in  
23 California.  
24  
25

26 **VENUE AND INTRADISTRICT ASSIGNMENT**  
27

28 18. Venue is proper in the Northern District of California pursuant to 28 U.S.C. §

1 1391 and 42 U.S.C. § 2000e-5(f)(3) because Tata resides in this District, conducts  
2 business in this District and engaged in discriminatory conduct in this District.  
3  
4 Assignment in this Division is proper pursuant to Civil L.R. 3-2(c) because a  
5 substantial part of the events giving rise to this matter's claims occurred in this  
6 Division. For example, and as discussed further below, Mr. Heldt interviewed and was  
7  
8 hired to assist with Tata's servicing of Kaiser Permanente in Pleasanton, California, in  
9 Alameda County. He relocated to and worked for Tata in Pleasanton. In addition,  
10 during periods of non-productive, benched time, Mr. Heldt interviewed – and was not  
11  
12 hired – for positions in Northern California, including a position servicing Apple in  
13 Cupertino, California, a position servicing Cisco in Silicon Valley, and a position  
14 servicing Genetech in San Francisco. Additionally, Tata engages in continuous and  
15  
16 systematic business contacts within this District, and maintains a substantial physical  
17 presence in this District, including the operation of an office in Santa Clara,  
18 California. During his employment, Mr. Heldt frequently reported to Jeevak Sharma, a  
19  
20 Human Resources representative located at Tata's Santa Clara, California office.

### 21 **STATEMENT OF FACTS**

22  
23 19. Tata has engaged in a systematic, company-wide, pattern and practice of  
24 discriminating in favor of South Asians and against individuals who are not South  
25 Asians in hiring, job placement, and termination.

#### 26 *Tata's Grossly Disproportionate Workforce*

27  
28 20. Tata provides consulting, IT, and outsourcing services to companies in the

1 United States and throughout the world.

2 21. Tata is the third largest IT employer in the world and has about 14,000  
3 employees in the United States. Tata made over \$13 billion in revenue in the past  
4 fiscal year. Tata derives over 50% of its revenue from North America, the vast  
5 majority of which is derived from the United States.  
6

7  
8 22. Tata's employment demographics stand in stark contrast with the population of  
9 the United States. During the 2010 census, all Asian subgroups combined made up 4.8  
10 percent of the United States population. South Asians made up 1-2% of the United  
11 States population.<sup>2</sup> Approximately 95% of Tata's United States-based workforce is  
12 South Asian (primarily from India). This grossly disproportionate workforce  
13 demonstrates an intentional pattern and practice of discrimination, and cannot be  
14 explained by coincidence or business necessity.  
15  
16

17 *Tata's Senior Management Discriminates*

18 23. On information and belief, all or most of Tata's United States-based business  
19 units are headed by individuals of South Asian race and Indian national origin.  
20 Among these senior managers, there is a culture of hostility towards, and non-  
21 acceptance of American workers. These senior managers have resisted efforts to  
22 increase racial and/or national origin diversity among Tata's workforce. Because of  
23  
24

25 \_\_\_\_\_  
26 <sup>2</sup> Available data also suggest that South Asians make up a very small portion of the IT  
27 professionals in the United States. The Association of Information Technology  
28 Professionals ("AITP") – an IT professional organization – conducted a demographic  
study of its members in 2007 and found that only 2% of the membership was of Asian  
ethnic origin.



1 anti-American and pro-South Asian sentiment by senior management, Tata's United  
2 States-based workforce has been, and remains, highly disproportionate, with  
3 approximately 95% South Asian workers (primarily from India) in the United States.  
4

5 24. Tata maintains in the United States a recruiting unit called the Talent  
6 Acquisition Unit, which focuses on hiring employees for Tata's United States  
7 operations. M.P. Saravanan has served as the Vice President of Human Resources,  
8 overseeing the Talent Acquisition Unit. Mr. Saravanan has instructed the recruiters  
9 within the Talent Acquisition Unit to focus primarily on hiring Indians for positions in  
10 the United States.  
11  
12

13 25. For example, in front of recruiters and management, Mr. Saravanan has  
14 expressed his dislike for American workers. He has also stated that he believes Indians  
15 were smarter and better qualified than Americans. On at least one occasion, Mr.  
16 Saravanan gave explicit instructions to two recruiters in the Talent Acquisition Unit to  
17 hire only Indians, rather than Americans, for positions in the United States. Similarly,  
18 while Tata typically allows South Asian employees to apply for and take different  
19 positions within different Tata business units (referred to as "verticals"), Tata typically  
20 does not allow the comparatively few "American Hires" (as locally hired, non-South  
21 Asian employees are commonly referred to within Tata) to apply for and take  
22 positions outside of the business unit to which these employees are assigned.  
23  
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27 *Methods by Which Tata Achieves its Discriminatory Goals*

28 26. Tata achieves its discriminatory goals in at least three ways. First, Tata

1 employs in the United States a large number of South Asians (primarily Indian) visa  
2 workers, including individuals with H-1B, L-1, B-1, and other visas. Tata secures  
3 visas for these individuals. H-1B visas are intended to be used to bring specialized  
4 foreign workers to the United States when there are insufficient United States workers  
5 to perform the jobs at issue. Tata is consistently one of the top three H-1B sponsors in  
6 the United States. For example, Tata sponsored 8,701 new H-1B visas in 2013, 6,692  
7 new H-1B visas in 2012, and 5,365 new H-1B visas in 2011. Similarly, L-1 visas are  
8 intended to be used to bring management level employees to the United States for  
9 temporary assignments. Between 2002 and 2011, Tata sponsored 25,908 L-1 visas. On  
10 information and belief, Tata sponsored all, or the vast majority, of these visas for  
11 South Asian workers (primarily Indian). Tata is currently being investigated by the  
12 federal government for visa abuse.<sup>3</sup>

17 27. Second, Tata discriminates in “local hiring,” *i.e.*, even when Tata hires non-  
18 visa dependent individuals who reside locally in the United States, such persons are  
19 still disproportionately South Asian.

21 28. Third, for the comparatively few non-South Asians workers that Tata hires, it  
22 disfavors these individuals in its employment decisions, including, for example, in  
23 placement, promotion/demotion, and termination decisions.

25 29. The end result of Tata’s general policy of discrimination is a workforce that  
26

27 <sup>3</sup> Plaintiffs take no position on whether Tata’s use of visa workers is a violation of visa  
28 law.

1 consists of approximately 95% South Asians (primarily from India), a number grossly  
2 disproportionate with the demographic makeup of the United States (which consists of  
3 approximately 1-2% South Asians).  
4

5 30. Tata's discrimination is intentional and done with malice and reckless  
6 indifference to Plaintiffs' federally protected rights. As a proximate result of Tata's  
7 willful and unlawful discrimination, Plaintiffs and other non-South Asians, have lost  
8 jobs, job opportunities (through Tata's failure to hire these non-South Asians), wages,  
9 benefits, and other financial and non-financial injuries, and have suffered emotional  
10 distress. Plaintiffs' experiences demonstrate the human toll of Tata's pattern and  
11 practice of intentional discrimination.  
12  
13

14 *Plaintiff Buchanan's Experiences*

15  
16 31. Mr. Buchanan began working for Southern California Edison ("SCE")<sup>4</sup> in 1986  
17 as a networking specialist. In or around 2003, SCE promoted Mr. Buchanan to IT  
18 Specialist 4 – a senior IT position.  
19

20 32. In that role, Mr. Buchanan served on SCE's Infrastructure General Application  
21 Support Team ("Mr. Buchanan's Team" or "the Team"), personally supporting  
22 approximately 25 different applications necessary for SCE's day-to-day business.  
23 These applications included, for example, an enterprise document management  
24 application, a records management application, a GIS mapping application, a building  
25  
26

27 <sup>4</sup> SCE is the primary electricity supplier for southern California and employs about  
28 14,000 people. It is a subsidiary of Edison International.

1 management system, an HR call recording application, IT Help Desk Apropos, and a  
2 SVY Vovici survey application.

3  
4 33. Mr. Buchanan consistently received positive performance reviews from SCE  
5 and was never subject to disciplinary measures regarding performance or otherwise.

6  
7 34. In or around May 2012, SCE decided to restructure its IT department. SCE  
8 decided it would drastically reduce the number of workers it directly employed and, in  
9 large part, contract-out its IT needs. By early 2014, SCE decided it would retain Tata  
10 to perform the bulk of its IT needs.

11  
12 35. On July 21, 2014, SCE announced that Mr. Buchanan and about 400 others  
13 would be terminated. However, SCE asked Mr. Buchanan and many other employees  
14 if they would remain with the company for several more months to help perform a  
15 “knowledge transfer” – *i.e.*, training their replacements from Tata. Mr. Buchanan  
16 agreed to remain with SCE through January 9, 2015.<sup>5</sup> Under the terms of the SCE-  
17 Tata contract, Tata was scheduled to take primary responsibility for most of SCE’s IT  
18 needs by December 2014.  
19  
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21 36. As part of that transition, Mr. Buchanan was told that his Team, consisting of  
22 around 28 individuals, was to be terminated and all of the positions filled by Tata  
23 employees.  
24

25 37. By late summer or early fall 2014, it became apparent that Tata would not be  
26

27 <sup>5</sup> This employment end date was later extended into February 2015, after Tata was  
28 unable to meet its deadlines for taking primary responsibility of SCE’s IT needs.

1 able to meet the December 2014 deadline of assuming the SCE work. Accordingly,  
2 the December 2014 deadline was pushed back. On or about November 3, 2014, SCE  
3 asked Mr. Buchanan to extend his contract until February 6, 2015. Though Mr.  
4 Buchanan asked for a longer extension, SCE refused to extend his contract beyond  
5 February 6, 2015.  
6

7  
8 38. By January 2015, Tata had assigned only two workers to Mr. Buchanan's  
9 Team in California. Both of these Tata employees were South Asian from India and in  
10 the United States on visas. Mr. Buchanan was tasked with training these employees,  
11 who would eventually take over some of his responsibilities. These employees had  
12 very little or no relevant experience, and performing the "knowledge transfer" was a  
13 challenge. For example, when an SCE server stopped working, Mr. Buchanan had to  
14 supervise these individuals' repair efforts. During this process, Mr. Buchanan had to  
15 repeatedly instruct them where and how to look for issues on the server, including the  
16 very basic steps of checking application log files, web log files, and the event viewer.  
17 log.  
18  
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20  
21 39. In late October 2014, Mr. Buchanan attended a job fair in Arcadia, California,  
22 which SCE had organized for its soon-to-be terminated employees. Tata also attended  
23 the job fair, manning a booth at which it met with and sought potential employees.  
24 The Tata booth was staffed with several individuals, all of whom were South Asian.  
25 Mr. Buchanan attended the fair and spoke with an individual at the Tata booth who  
26 identified himself as a Tata regional manager. This Tata representative informed Mr.  
27  
28

1 Buchanan that Tata was hiring for positions servicing SCE, as well as for other  
2 positions in the Greater Los Angeles area unrelated to SCE. Mr. Buchanan gave the  
3 manager a copy of his resume and told him he was interested in positions with Tata  
4 servicing SCE, and in other positions with Tata. The manager said that Tata would  
5 contact him if Tata was interested in hiring him. Mr. Buchanan observed that the  
6 manager was dismissive and spent little time speaking with him. In comparison, Mr.  
7 Buchanan observed that the Tata employees spent considerably more time speaking  
8 with South Asian applicants and spoke to them in Hindi (an Indian language) about  
9 available positions. Tata did not hire Mr. Buchanan and did not contact him after the  
10 job fair, despite his excellent qualifications and considerable experience.  
11  
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13

14 40. Tata had numerous openings for positions on Mr. Buchanan's Team, as well  
15 as for other positions servicing SCE. Tata also had openings for other positions in the  
16 United States that did not involve SCE. Of the twenty-eight individuals originally  
17 working for SCE on Mr. Buchanan's Team, Tata hired only five of them. Three of  
18 these individuals Tata hired were South Asian, all from India. The other two were  
19 Korean and Vietnamese. Tata replaced the other twenty-three original Team members  
20 with South Asians. Likewise, beyond Mr. Buchanan's Team, Tata replaced the vast  
21 majority of displaced SCE IT workers with South Asians.  
22  
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25 41. Given his considerable experience and skill, Mr. Buchanan personally  
26 supported approximately 25 software applications for SCE. Despite his vast  
27 experience performing these tasks, Tata did not hire Mr. Buchanan. Rather, Tata hired  
28

1 less experienced South Asian employees to perform those tasks. Each was assigned to  
2 support approximately one application. Accordingly, on information and belief, Tata  
3 assigned numerous individuals, up to potentially 25, to fulfill the role Mr. Buchanan  
4 was performing single-handedly.  
5

6 42. Despite the availability of qualified non-South Asian workers, Tata was not  
7 able to meet its deadline to take primary responsibility for SCE's IT needs by  
8 February 2015 because Tata was unable to secure a sufficient number of its preferred  
9 South Asian employees. Additionally, many of the South Asian employees it did  
10 secure were unprepared to take over responsibilities from out-going SCE employees.  
11 Because of these delays, SCE asked Mr. Buchanan to extend his contract for another  
12 month in early 2015. Mr. Buchanan asked that his contract be extended until June, but  
13 SCE refused. On February 6, 2015, Mr. Buchanan's employment with SCE ended. As  
14 of February 6, 2015, Tata remained unable to take over primary responsibility for  
15 SCE's IT needs.  
16  
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20 43. Between July 2014 and February 2015, Mr. Buchanan observed that the vast  
21 majority of Tata's employees were South Asian, including those located in the United  
22 States.  
23

#### 24 *Plaintiff Heldt's Experiences*

25 44. Mr. Heldt interviewed with a manager recruiting for an IT GRC Project  
26 Manager position with Tata in June 2012, to service Tata client Kaiser Permanente in  
27 Pleasanton, California. The manager was located in Pleasanton, California. Mr. Heldt  
28

1 was hired, relocated to Pleasanton from Los Angeles, and started working at the  
2 Kaiser Permanente client site under Tata supervision in July 2012 in the role of IT  
3 GRC Project Manager.<sup>6</sup> Of the several hundred Tata employees assigned to service  
4 Kaiser, Mr. Heldt was one of only three non-South Asians.  
5

6 45. Within one week of starting with Tata, Mr. Heldt was removed by Tata from  
7 his IT GRC Project Manager position and was placed in another position to service  
8 Kaiser called an IT Project Manager – a position that had lesser responsibilities and  
9 was not commensurate with Mr. Heldt’s advanced skill and experience.  
10

11 46. In October 2012, Tata removed Mr. Heldt from the Kaiser Permanente account  
12 altogether and placed him on the “bench” – *i.e.* he was still employed by Tata but  
13 assigned no client work.  
14

15 47. Over the next several months, Mr. Heldt applied for various positions within  
16 Tata. Tata advertised internally for open jobs. Mr. Heldt was granted interviews with  
17 Tata managers (all of whom were South Asian) for positions across the United States.  
18 For example, during this time, Mr. Heldt interviewed with a Tata manager for a  
19 position in the Silicon Valley area servicing Tata client Cisco. Though Mr. Heldt was  
20 well qualified for this position, Tata did not select him. Mr. Heldt also interviewed  
21 with both a Tata manager and a client representative for a position in San Antonio,  
22  
23  
24

25  
26 <sup>6</sup> The IT GRC Project Manager position involved the project management of an IT  
27 Governance Risk and Compliance (“GRC”) system named Archer. The skills required  
28 to manage this position include traditional IT project management skills combined  
with more advanced skills related to the management of IT governance, risk and  
compliance.



1 Texas servicing Tata client USAA. While the client representative liked Mr. Heldt and  
2 he was well qualified for the position, Tata did not select him for the position, over the  
3 client's objections.  
4

5 48. At the start of his employment, Tata assigned Mr. Heldt to the Insurance and  
6 Health Care division or "vertical." This vertical was responsible for servicing  
7 insurance and health care companies, such as Kaiser Permanente. Mr. Heldt applied  
8 for and requested positions outside of the Insurance and Health Care vertical. Tata  
9 Resource Management Group ("RMG") lead Ambika Gopal refused to permit Mr.  
10 Heldt to interview for positions outside of his vertical, though Mr. Heldt was well  
11 qualified for these positions. Tata regularly permits South Asians to change positions  
12 when a position is available in a different vertical. However, it holds "American  
13 Hires" (as locally hired, non-South Asian employees are commonly referred to within  
14 Tata) to a different standard; American Hires like Mr. Heldt are typically not offered  
15 an available position in a different vertical.  
16  
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20 49. During his "benched" period, Mr. Heldt spoke with Mohan Reddy who  
21 supervised Mr. Heldt when he served as an IT GRC Project Manager servicing Kaiser.  
22 Mr. Heldt expressed to Mr. Reddy that he was concerned about the amount of time it  
23 was taking for him to find a new position within Tata. Mr. Reddy told Mr. Heldt that  
24 it would be difficult for him to find a new position because he was an American and  
25 not South Asian. Mr. Heldt also expressed concern that Tata was not allowing him to  
26 change verticals. Mr. Reddy responded that Tata usually does not permit "American  
27  
28

1 Hires” to change verticals. Mr. Reddy is of South Asian race and Indian national  
2 origin.

3  
4 50. In March 2013, Mr. Heldt was finally given a new position to serve as an IT  
5 Project Manager servicing Humana Insurance in Louisville, Kentucky. Again, this  
6 position was not commensurate with Mr. Heldt’s advanced skill and experience.

7  
8 51. Mr. Heldt relocated to Louisville to assume his new position. Mr. Heldt,  
9 however, was never “on-boarded” when he arrived in Louisville. Rather, Mr. Heldt  
10 was required to sit in the office lobby and was assigned menial tasks such as signing  
11 for FedEx packages, opening the secured door to the lobby area for visitors, and  
12 directing people to other workers in the office area. Of the several hundred Tata  
13 employees servicing Humana in Louisville, Mr. Heldt was one of only eight or nine  
14 non-South Asians.  
15

16  
17 52. In May 2013, after repeatedly complaining about having no substantive work,  
18 Mr. Heldt was removed from his IT Project Manager position and placed again on the  
19 bench. With Tata’s permission, Mr. Heldt relocated back to California. Mr. Heldt paid  
20 for his own moving expenses with the understanding that he would be reimbursed by  
21 Tata shortly after returning to California, per instructions from Tata’s Human  
22 Resources department and according to Tata policy.  
23  
24

25 53. Upon returning to California, Mr. Heldt requested that he be reimbursed for  
26 expenses incurred during his move to and from Louisville, per Tata policy. Mr. Heldt  
27 also was still awaiting reimbursement for expenses incurred during his move to  
28

1 Pleasanton from Los Angeles, so he again requested this money. Mr. Heldt's total  
2 expenses exceeded \$21,000. Reimbursements were handled by Srinivas Malladi, a  
3 Human Resources manager and Mr. Heldt's contact person in the Tata Human  
4 Resources department. On information and belief, Mr. Malladi is of South Asian race  
5 and Indian national origin. In his interactions with Mr. Heldt, Mr. Malladi was  
6 extremely hostile, rude, and abusive and he refused to reimburse Mr. Heldt for his full  
7 expenses. He also questioned Mr. Heldt on why he moved to Louisville and asked,  
8 sarcastically, whether he had gone there for a vacation. Mr. Malladi also made a  
9 number of anti-American comments. For instance, Mr. Malladi stated that "Americans  
10 need to start getting in line [with Tata] and stop being so selfish and demanding." He  
11 also stated that Americans demand too much and do not do their jobs correctly. He  
12 also criticized Americans for trying to "exercise their rights." During this  
13 conversation, Mr. Malladi also stated, "[t]his is why I don't like dealing with  
14 Americans."  
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20 54. During his second benched period, Mr. Heldt again applied and interviewed for  
21 multiple positions within Tata, each time interviewing with a South Asian manager.  
22 For example, during this time, Mr. Heldt interviewed with a Tata manager for a  
23 position in San Francisco, California servicing Tata client Genetech. Mr. Heldt also  
24 interviewed with a Tata manager for a position in Cupertino, California servicing Tata  
25 client Apple. Though Mr. Heldt was well qualified for these positions, Tata did not  
26 select him.  
27  
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1 55. Mr. Heldt requested that Ms. Gopal allow him to interview for open positions  
2 that were outside of his vertical. Ms. Gopal refused and was hostile and rude in her  
3 responses to Mr. Heldt's requests.  
4

5 56. In August 2013, Mr. Heldt was placed in a "General Project Manager" position  
6 to service Advanced Sterilization Products, a Johnson & Johnson company. Mr. Heldt  
7 was not properly on-boarded to the position by the local Tata manager, and he was not  
8 assigned work commensurate with his advanced skill and experience. Rather, Mr.  
9 Heldt was assigned a project creating an Excel spreadsheet to track project details.  
10  
11

12 57. Of the approximately 200 Tata employees assigned to service Advanced  
13 Sterilization Products, Mr. Heldt was the only non-South Asian. During a  
14 conversation, Saikat Gosh, Mr. Heldt's Tata manager at Advanced Sterilization  
15 Products, expressed concern to Mr. Heldt that he was having difficulty filling an open  
16 position in his group. Mr. Gosh stated that Tata was not even looking for Americans  
17 to fill the position. Rather, according to Mr. Gosh, Tata was waiting for a South Asian  
18 employee to become available to fill the position. Mr. Gosh is of South Asian race and  
19 Indian national origin. In September 2013, Mr. Heldt was removed from his General  
20 Project Manager position and was benched.  
21  
22  
23

24 58. From September 2013 through November 2013, Mr. Heldt applied for  
25 numerous positions within Tata and interviewed with multiple South Asian Tata  
26 managers. Mr. Heldt was well qualified for each position, but was not hired for any of  
27 them. During this period, Mr. Heldt again requested that Ms. Gopal allow him to  
28

1 interview for open positions that were outside of his vertical, but she refused and was  
2 hostile and rude in her responses.

3  
4 59. In November 2013, Mr. Heldt was placed in a new position as an IT Project  
5 Manager helping to service Farmers Insurance Group. This position did not involve  
6 work commensurate with Mr. Heldt's advanced skill and experience. Of the  
7 approximately 100 Tata employees assigned to Farmers Insurance, Mr. Heldt was the  
8 only non-South Asian. Mr. Heldt was stripped of his position in December 2013 and  
9 again benched.  
10

11  
12 60. In March 2014, Mr. Malladi called Mr. Heldt and told him he was being  
13 terminated, as he had been on the bench for 3 months. Mr. Malladi also stated that Mr.  
14 Heldt was being released because Mr. Heldt would only accept positions in California.  
15 In truth, Mr. Heldt was willing to accept a position anywhere in the United States, and  
16 he informed Mr. Malladi of this fact. Nevertheless, Tata terminated Mr. Heldt.  
17

18  
19 61. Over his tenure with Tata, Mr. Heldt observed that approximately 99% of Tata  
20 employees were South Asian. This percentage was true across all the client sites he  
21 was assigned, and at Tata offices he visited, across the country. Additionally, at each  
22 of the client sites to which Mr. Heldt was assigned, he observed that South Asian  
23 employees were promptly on-boarded and assigned work that was more substantive  
24 than work assigned to non-South Asians. Mr. Heldt also observed that South Asians  
25 were regularly permitted to apply for positions outside of, and transfer between,  
26 verticals. Similarly, Mr. Heldt observed Tata's lack of interest in hiring non-South  
27  
28

1 Asians to fill positions.

2 *Plaintiff Slaight's Experiences*

3 62. Mr. Slaight graduated in June 2012 from DeVry University with a Bachelor of  
4 Science degree in Computer Information Systems and Database Management. Mr.  
5 Slaight interviewed with a Tata Manager of College Recruiting & Relations in April  
6 2012 and was hired as a software engineer shortly thereafter. Mr. Slaight attended  
7 orientation in May 2012, and started full time on July 9, 2012. Over the following two  
8 months, Mr. Slaight underwent training in Cincinnati, Ohio and Chennai, India.  
9

10  
11 63. Upon returning from India, Mr. Slaight was assigned to a client project in  
12 Jersey City, New Jersey servicing client AXA.  
13

14 64. Mr. Slaight's assignment at AXA started October 1, 2012. He reported to work  
15 and was assigned to the AXA GIP COE Deployment Team, which was responsible for  
16 the deployment and maintenance of applications on the AXA server. Alok Bhalla, a  
17 South Asian of Indian national origin, was Tata's local Business Relationship  
18 Manager. Vignesh Ramanan, a South Asian of Indian national origin, was Tata's  
19 Senior Engagement Manager and Mr. Slaight's direct Tata supervisor. Mr. Slaight was  
20 eager to begin working as a software engineer and looked forward to gaining real-  
21 world experience. However, over the next six months, Tata failed to assign Mr.  
22 Slaight any substantive work. Nor did Tata provide him with any training. Each day,  
23 Mr. Slaight reported to work, only to sit at his desk waiting for an assignment.  
24 Approximately every week to two weeks, Mr. Slaight approached Mr. Bhalla and/or  
25  
26  
27  
28

1 Mr. Ramanan to request work. Yet neither Mr. Bhalla nor Mr. Ramanan ever assigned  
2 Mr. Slaight any work. On the other hand, Mr. Slaight observed that his South Asian  
3 colleagues were regularly assigned substantive work.  
4

5 65. On March 29, 2013, after six months without substantive work, Mr. Slaight  
6 was removed from the client project and placed on the bench. Mr. Slaight reached out  
7 to Tata's internal recruiters and the HR department seeking a new placement. On  
8 April 17, 2013, Mr. Slaight interviewed with several local Tata managers servicing  
9 Bank of America in Pennington, New Jersey. Each of these managers was South  
10 Asian and, upon information and belief, of Indian national origin. Despite performing  
11 well during these interviews, Tata did not select Mr. Slaight for the position.  
12  
13

14 66. On April 19, 2013, HR representative Debojyoti Sen informed Mr. Slaight that  
15 his employment with Tata had been terminated. Throughout his entire employment  
16 with Tata, Mr. Slaight was never assigned any substantive work.  
17

18 **CLASS ACTION ALLEGATIONS**  
19

20 67. Plaintiffs bring this Class Action pursuant to Federal Rule of Civil Procedure  
21 23(a), (b)(2), (b)(3), and (c)(4), seeking injunctive, declaratory, equitable, and  
22 monetary relief for Tata's systematic pattern and practice of discriminatory  
23 employment practices based upon individuals' race and/or national origins. This  
24 action is brought on behalf of the following individuals:  
25

26 All individuals who are neither of South Asian race nor Indian national  
27 origin who sought positions within Tata in the United States and were not  
28 hired or selected and/or were employed by Tata in the United States and  
were demoted (in title and/or responsibilities) or discharged.

1  
2 In the alternative, this action is brought on behalf of the following two subclasses of  
3 individuals:

4 A. All individuals who are neither of South Asian race nor Indian national  
5 origin who sought positions within Tata in the United States and were not  
6 hired or selected.

7 B. All individuals who are neither of South Asian race nor Indian national  
8 origin who were employed by Tata in the United States and were demoted  
(in title and/or responsibilities) or discharged.

9 68. The class or subclasses exclude all individuals who are either of South Asian  
10 race or Indian national origin (as defined in footnote 1). Thus, the class or subclasses  
11 would exclude a person of South Asian race irrespective of that person's national  
12 origin, visa status, or citizenship. Likewise, the class or subclasses would exclude a  
13 person of Indian national origin irrespective of that person's race.  
14

15  
16 69. The class<sup>7</sup> period runs from April 14, 2011 onwards.

17 70. Members of the class are so numerous and geographically dispersed across the  
18 United States that joinder is impracticable. While the exact number of class members  
19 is unknown to Plaintiffs, it is believed to be in the thousands. Furthermore, the class is  
20 readily identifiable from information and records in Tata's possession.  
21

22  
23 71. There are numerous questions of law and fact common to members of the  
24 class. Among the common questions of law or fact are: (a) whether Tata has  
25 intentionally discriminated against individuals who are not of South Asian race or  
26

27  
28 <sup>7</sup> All class allegations are alleged, in the alternative, on behalf of the two subclasses.



1 Indian national origin in making employment decisions; (b) whether Tata has  
2 intentionally favored South Asians (and individuals of Indian national origin) in  
3 hiring, placement, promotion/demotion, and retention decisions and/or whether Tata  
4 has intentionally disfavored non-South Asians (or individuals not of Indian national  
5 origin) in hiring, placement, promotion/demotion, and termination decisions; (c)  
6 whether Tata's policy and practice of relying on South Asian visa and local workers  
7 (primarily from India) is intentionally discriminatory; (d) whether Tata has violated  
8 Title VII; (e) whether Tata has violated § 1981; (f) whether equitable and injunctive  
9 relief is warranted for the class and (g) whether compensatory and/or punitive  
10 damages are warranted for the class.  
11  
12  
13

14 72. Plaintiffs' claims are typical of the class. All members of the class were  
15 damaged by the same discriminatory policies and practices employed by Tata.  
16

17 73. Plaintiffs will fairly and adequately protect the interest of other class members  
18 because they have no interest that is antagonistic to or which conflicts with those of  
19 any other class member, and Plaintiffs are committed to the vigorous prosecution of  
20 this action and have retained competent counsel experienced in class litigation to  
21 represent them and the class.  
22  
23

24 74. Plaintiffs and the class they seek to represent have suffered substantial losses  
25 in earnings and other employment benefits and compensation as a result of Tata's  
26 actions.  
27

28 75. Class certification is appropriate pursuant to Federal Rule of Civil Procedure

1 23(b)(2) because Tata has acted and/or refused to act on grounds generally applicable  
2 to the class, making declaratory and injunctive relief appropriate with respect to  
3 Plaintiffs and the class as a whole. Members of the class are entitled to declaratory and  
4 injunctive relief to end Tata's systematic, common, uniform, unfair, and  
5 discriminatory policies and practices.  
6

7  
8 76. Class certification is appropriate pursuant to Federal Rule of Civil Procedure  
9 23(b)(3) for determination of the damages claims of individual class members because  
10 the issue of liability is common to the class and the common nucleus of operative facts  
11 forms the central issue, which predominates over individual issues of proof. The  
12 primary question common to the class is whether Tata has discriminated on the basis  
13 of race and national origin in their employment practices. This question is central to  
14 the case and predominates over individual issues among the members of the proposed  
15 class. Tata has engaged in a common course of discriminatory conduct in a manner  
16 that has harmed all of the class members. Class certification under Rule 23(b)(3)  
17 would be superior to other methods for fair and efficient resolution of the issues  
18 because certification will avoid the need for repeated litigation by each individual  
19 class member. The instant case will be eminently manageable as a class action.  
20 Plaintiffs know of no difficulty to be encountered in the maintenance of this action  
21 that would preclude its maintenance as a class action.  
22  
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25

26  
27 77. Class certification is appropriate pursuant to Federal Rule of Civil Procedure  
28 23(c)(4) to litigate Plaintiffs' claims for prospective classwide compliance and

1 affirmative injunctive relief necessary to eliminate Tata's discrimination.  
2 Certification under this rule is also appropriate to decide whether Tata has adopted a  
3 systemic pattern and practice of national origin and racial discrimination in hiring and  
4 employment decisions. Certification under this rule is also appropriate to determine  
5 classwide damages, including punitive damages.  
6

7  
8 **COUNT I**  
9 **(Disparate Treatment on the Basis of Race and National Origin)**  
10 **(Violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §**  
11 **2000e, et seq.)**  
12 **(On behalf of Plaintiff Heldt and the Class)**

13 78. Mr. Heldt re-alleges each preceding paragraph as though fully set forth herein.

14 79. This claim is brought by Mr. Heldt on behalf of himself and the class.

15 80. Throughout the class liability period, Tata has engaged in a pattern and  
16 practice of discriminating against individuals who are not of South Asian race and  
17 Indian national origin by: (a) knowingly and intentionally favoring individuals of  
18 South Asian race and Indian national origin in employment decisions, including  
19 hiring, placement, promotion/demotion, and termination decisions, (b) knowingly and  
20 intentionally disfavoring individuals who are not of South Asian race and Indian  
21 national origin (including Mr. Heldt) in employment decisions, including hiring,  
22 placement, promotion/demotion, and termination decisions, (c) knowingly and  
23 intentionally creating and maintaining an overwhelmingly disproportionate workforce  
24 in the United States consisting of approximately 95% or more South Asian employees  
25 (primarily from India).  
26  
27  
28

1 81. As a direct and proximate result of Tata's intentional discrimination, Mr.  
2 Heldt and members of the class have been denied employment, denied the fair  
3 opportunity to obtain employment, and denied fair opportunities with regard to  
4 placement, compensation, and/or continued employment with Tata.  
5

6 82. Tata's actions constitute unlawful discrimination on the basis of race and  
7 national origin in violation of 42 U.S.C. § 2000e, *et seq.*  
8

9 **COUNT II**  
10 **(Disparate Treatment on the Basis of Race)**  
11 **(Violation of Civil Rights Act of 1866, as amended, 42 U.S.C. § 1981)**  
12 **(On behalf of all Plaintiffs and the Class)**

13 83. Plaintiffs re-allege each preceding paragraph as though fully set forth herein.

14 84. This claim is brought by all Plaintiffs on behalf of themselves and the class.

15 85. Throughout the class liability period, Tata has engaged in a pattern and  
16 practice of discriminating against individuals who are not of South Asian race by: (a)  
17 knowingly and intentionally favoring South Asian individuals in employment  
18 decisions, including hiring, placement, promotion/demotion, and termination  
19 decisions, (b) knowingly and intentionally disfavoring non-South Asian individuals  
20 (including Plaintiffs) in employment decisions, including hiring, placement,  
21 promotion/demotion, and termination decisions, (c) knowingly and intentionally  
22 creating and maintaining an overwhelmingly disproportionate workforce in the United  
23 States consisting of approximately 95% or more South Asian employees.  
24  
25

26 86. As a direct and proximate result of Tata's intentional discrimination, Plaintiffs  
27 and members of the class have been denied employment, denied the fair opportunity  
28

1 to obtain employment, and denied fair opportunities with regard to placement,  
2 compensation, and/or continued employment with Tata.

3  
4 87. Tata's actions constitute unlawful discrimination on the basis of race in  
5 violation of 42 U.S.C. § 1981.

6  
7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiffs and the class pray for relief as follows:

- 9 a. Certification of the case as a class action pursuant to Federal Rule of Civil  
10 Procedure 23;
- 11 b. Designation of Plaintiffs as representatives of the class;
- 12 c. Designation of Plaintiffs' counsel as counsel for the class;
- 13 d. A declaratory judgment that the practices complained of herein are unlawful and  
14 violate Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*;
- 15 e. A declaratory judgment that the practices complained of herein are unlawful and  
16 violate the Civil Rights Act of 1866, 42 U.S.C. § 1981;
- 17 f. A permanent injunction against Defendant and its officers, agents, successors,  
18 employees, representatives, and any and all persons acting in concert with them,  
19 from engaging in unlawful policies, practices, customs, and usages set forth herein;
- 20 g. Order Defendant to adopt a valid, non-discriminatory method for hiring,  
21 placement, termination, and other employment decisions;
- 22 h. Order Defendant to post notices concerning its duty to refrain from discriminating  
23 against employees on the basis of race or national origin;
- 24 i. Award Plaintiffs and the class compensatory damages for the harm they suffered as  
25 a result of Defendant's violations of Title VII and § 1981;
- 26 j. Award Plaintiffs and the class pre- and post-judgment interest at the prevailing rate  
27 on the compensatory damages as a result of Defendant's discriminating against  
28 them in violation of Title VII and § 1981;
- k. Award Plaintiffs and the class front- and back-pay, and such other equitable relief

1 as the Court deems just and appropriate;

2 l. Award Plaintiffs and the class exemplary and punitive damages;

3 m. Award reasonable attorneys' fees, expert witness fees, expenses, and costs of this  
4 action and of prior administrative actions; and

5 n. Award Plaintiffs and the class such other relief as this Court deems just and  
6 appropriate.

7 **JURY DEMAND**

8 Pursuant to Federal Rule of Civil Procedure 38, Plaintiffs and the class respectfully  
9 demand a trial by jury on all issues properly triable by a jury in this action.  
10

11 DATED: September 28, 2015

Respectfully submitted,

12  
13 By: /s/Daniel Low

14 Daniel Low, SBN 218387  
15 Daniel Kotchen (*pro hac vice*)  
16 Michael von Klemperer (*pro hac vice*)  
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