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July 20, 2018

**Via USPS Priority Express Mail**

California Labor and Workforce Development Agency  
800 Capitol Mall, Suite 5000, MIC-55  
Sacramento, CA 92705

VMware Inc.  
Attn: Legal Department  
3401 Hillview Ave  
Palo Alto, CA 94304

Re: Sandy Vasquez v. VMware Inc.

Dear Labor and Workforce Development Agency and VMware Inc.:

I write to provide written notice, as required by California Labor Code § 2699.3(a)(1), of a specific Labor Code provision violated by VMware Inc. (“VMware” or the “Company”), and the facts and theories demonstrating the violations. The Mexican American Legal Defense and Educational Fund (“MALDEF”) represents Sandy Vasquez (“Claimant”) and intends to represent all other members of the general public who have been harmed by similar violations by VMware. Claimant alleges that VMware violated California Labor Code §1019.1(a)(3) in connection with Claimant’s employment application for a paid internship with the Company.

**I. Facts and Theories Supporting the Allegations Against VMware**

On or about January 2018, Claimant applied for a Technical Support Engineer paid internship position with VMware. On or about January 19, 2018, Claimant was contacted via email by Danielle French, a recruiter for VMware. Ms. French informed Claimant that she had received Claimant’s application, and that she thought Claimant would be a great fit for the position. Ms. French provided a link to Claimant so that Claimant could schedule a 15-minute conversation with Ms. French to learn more about Claimant and discuss the position. Claimant followed the link and scheduled a “15 Minute Pre-Screen” phone call with Ms. French for January 23, 2018, at 1:30 p.m.

On or about January 23, 2018, Claimant received a phone call from Ms. French for the scheduled 15-minute pre-screen. Claimant and Ms. French

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discussed the Technical Support Engineer position and Claimant's qualifications. The interview was going well, and Claimant believes Ms. French was going to invite Claimant to a formal interview when Ms. French abruptly asked Claimant if she was a U.S. citizen. Claimant responded that she is not a U.S. citizen, but instead has Deferred Action for Childhood Arrivals ("DACA"). Ms. French stated that VMware does not provide sponsorship to employees, and Claimant responded that DACA does not require sponsorship. Ms. French explained that VMware required that the applicant be either a U.S. citizen or a legal permanent resident and then ended the call. Claimant did not hear back from Ms. French or VMware.

California Labor Code §1019.1(a)(3) prohibits employers from "refus[ing] to honor . . . work authorization based upon the specific status or term of status that accompanies the authorization to work." Cal. Labor Code §1019.1(a)(3). Here, VMware refused to consider Claimant for employment because of the specific status and/or term of status that accompanies her authorization to work. Specifically, Claimant has authorization to work under DACA, and has an employment authorization document reflecting her authorization to work. Notwithstanding the clear requirements of §1019.1(a)(3), VMware has a policy of refusing to honor work authorization based on the specific status that accompanies the authorization to work, specifically, any authorization to work that is not based on U.S. citizenship or legal permanent residence. VMware's policy of refusing to accept work authorization other than authorization based on U.S. citizenship or legal permanent residence violates §1019.1(a)(3) of the Labor Code, and VMware violated §1019.1(a)(3) when it refused to accept Claimant's work authorization because it was obtained through Claimant's receipt of DACA. Based on these violations, Claimant seeks equitable relief enjoining VMware from continuing its unlawful policy and further relief in the form of penalties under the Labor Code.

\* \* \*

Should you have any questions or comments, please do not hesitate to contact me at (213) 629-2512, ext. 109, or at [jgomez@maldef.org](mailto:jgomez@maldef.org).

Sincerely,



Julia A. Gomez  
Staff Attorney  
MALDEF