

1 Thomas A. Saenz (State Bar No. 159430)
2 Belinda Escobosa Helzer (State Bar No. 214178)
3 Andres Holguin-Flores (State Bar No. 305860)
4 MEXICAN AMERICAN LEGAL DEFENSE
5 AND EDUCATIONAL FUND
6 634 S. Spring St., 11th Floor
7 Los Angeles, CA 90014
8 Telephone: (213) 629-2512
9 Facsimile: (213) 629-0266
10 tsaenz@maldef.org
11 bescobosa@maldef.org
12 aholguin-flores@maldef.org

13 *Attorneys for Plaintiff*
14 Carlos Abanto Shinno

15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA

17 CARLOS ABANTO SHINNO,
18
19 Plaintiff,

20 vs.

21 HEWLETT PACKARD ENTERPRISE,
22
23 Defendant.

Case No. 5:19-cv-07175

COMPLAINT

DEMAND FOR JURY TRIAL

Action Filed: October 30, 2019

24 **INTRODUCTION**

25 1. Plaintiff CARLOS ABANTO SHINNO brings this civil action against Defendant
26 HEWLETT PACKARD ENTERPRISE (“Defendant” or “HP”), for discriminating against
27 Plaintiff by denying him the opportunity for employment because he is a recipient of Deferred
28 Action for Childhood Arrivals (“DACA”). Plaintiff Abanto started as a full-time summer intern
for Defendant HP and extended, by request, his internship for three years, believing that his
education, tenure and experience would lead to a full-time position as a Data Analyst for
Defendant HP. Plaintiff Abanto told Defendant HP that he was interested in applying for a full-
time position and expressed his willingness to relocate if needed. However, Plaintiff Abanto’s
rise at Defendant HP ended as an intern. Instead, Defendant HP hired a white United States
citizen with less experience and education than Plaintiff Abanto. Defendant HP’s actions, policy

1 and practice of discriminating against Plaintiff Abanto and other DACA recipients on the basis of
2 alienage, immigration status, and national origin violates 42 U.S.C. § 1981.

3 **JURISDICTION AND VENUE**

4 2. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1343(a),
5 as well as under 42 U.S.C. §§ 1983 and 1988. Under 28 U.S.C. § 1391(b), venue is proper
6 because Defendant HP's principal place of business is in the Northern District of California.

7 **PARTIES**

8 **Plaintiff**

9 3. Plaintiff CARLOS ABANTO SHINNO is Latino, he resides in the Northern
10 District of California, and worked for Defendant during the events alleged in this action.

11 4. Plaintiff Abanto is a graduate of the University of Houston and he received a
12 Master's degree in Computing and Information Science from Sam Houston State University.

13 5. Plaintiff Abanto is not a citizen of the United States. The U.S. Department of
14 Homeland Security ("DHS") granted Plaintiff Abanto deferred action and authorization to work
15 in the U.S. through the DACA initiative. At all times during his paid internship with Defendant
16 HP, Plaintiff Abanto had work authorization. Plaintiff Abanto continues to have work
17 authorization and deferred action. Plaintiff Abanto does not require a sponsor to be authorized to
18 work in the United States.

19 **Defendant**

20 6. Defendant HEWLETT PACKARD ENTERPRISE is a multinational information
21 technology company headquartered in San Jose, California. The events in the Complaint
22 generally took place at Defendant HP's location in Roseville, California.

23 **FACTUAL ALLEGATIONS**

24 7. Around June of 2014, Plaintiff Abanto started a paid student summer internship at
25 Defendant HP's location in Roseville, California after he finished the first year of his Master's
26 degree program in computer science at Sam Houston State University.

27 8. Early in the internship, Plaintiff Abanto informed his Defendant HP supervisors
28 and managers that he is a DACA recipient. Plaintiff Abanto showed his DACA employment

1 authorization document (“EAD”) to Defendant HP’s Human Resources Department when he
2 completed the I-9 form on his first day at Defendant HP.

3 9. Defendant HP extended Plaintiff Abanto’s paid 40 hour per week internship for
4 another year at the end of his 2014 summer internship because, upon information and belief,
5 Plaintiff Abanto had positive work evaluations from that summer. Defendant HP told Plaintiff
6 Abanto that it could only retain him as an intern if he was technically a student. As a result, Sam
7 Houston State University allowed Plaintiff Abanto to retain student status even though he was not
8 a full-time student that year. Plaintiff Abanto’s title at Defendant HP in Roseville was “Data
9 Science Intern.”

10 10. Plaintiff Abanto consistently told his supervisors that he was interested in
11 Defendant HP hiring him as a full-time Data Analyst after he completed his internship, and that
12 he was willing to relocate from Roseville, California for a full-time employment position.

13 11. Because Plaintiff Abanto was told by his supervisors that they did not have any
14 full-time employment positions available, Plaintiff Abanto delayed completing his Master’s
15 degree to retain his internship at Defendant HP in 2015, 2016, and 2017. Plaintiff Abanto’s
16 internship was so successful that he believed that once a position became available he would get
17 an opportunity to apply for that position and would ultimately be hired as a full-time employee.

18 12. An advisor from Sam Houston State University informed Plaintiff Abanto that he
19 needed to complete his Master’s program in the subsequent semesters.

20 13. In the Summer of 2017, Defendant HP brought in a new group of interns,
21 including an individual in Plaintiff Abanto’s group who is a Caucasian undergraduate student
22 who is a United States citizen (“the Student”).

23 14. Plaintiff Abanto again asked his Defendant HP supervisor if there were any
24 opportunities to be hired by Defendant HP as a full-time employee after Plaintiff Abanto
25 completed his Master’s degree. Defendant HP supervisors told Plaintiff Abanto that Defendant
26 HP would not hire Plaintiff Abanto because Defendant HP would not sponsor Plaintiff Abanto for
27 employment authorization.

28 15. Plaintiff Abanto’s last day as an intern at Defendant HP was November 1, 2017.

1 He left Defendant HP to complete his Master's degree from Sam Houston State University,
2 understanding that Defendant HP would not hire him because he is a DACA recipient.

3 16. On or around May 2018, Defendant HP hired the Student who has less experience
4 and education than Plaintiff Abanto.

5 **FIRST CLAIM**

6 **Alienage Discrimination**

7 **42 U.S.C. § 1981**

8 17. Plaintiff Abanto re-alleges and incorporates by reference the allegations set forth
9 in all prior paragraphs of this Complaint.

10 18. Plaintiff Abanto is not a citizen of the United States.

11 19. Plaintiff Abanto was born in Peru and migrated to the United States with his
12 family when he was a child.

13 20. In 2012, Plaintiff Abanto applied for and received DACA; he successfully
14 renewed his DACA grant in 2014, 2016, and 2018. As the result of receiving DACA, Plaintiff
15 Abanto has federal work authorization, and has an employment authorization document.

16 21. Defendant HP intentionally discriminated against Plaintiff Abanto on the basis of
17 alienage and immigration status by denying him an opportunity to contract to work and for
18 deterring him from opportunities to contract because he is a noncitizen, despite his legal
19 authorization to work in the United States.

20 22. Defendant HP's intentional discrimination against Plaintiff Abanto has interfered
21 with his right to make and enforce an employment contract.

22 23. Defendant HP's discriminatory policy and/or practice of denying work
23 opportunities to Plaintiff Abanto based on his alienage and immigration status, despite his legal
24 authorization to work in the United States, has harmed Plaintiff Abanto and constitutes unlawful
25 discrimination in violation of 42 U.S.C. § 1981.

26 24. Defendant HP's conduct has caused, and continues to cause, Plaintiff Abanto
27 substantial losses in earnings and other work benefits.
28

SECOND CLAIM

National Origin Discrimination

42 U.S.C. § 1981

1
2
3
4 25. Plaintiff Abanto re-alleges and incorporates by reference the allegations set forth
5 in all prior paragraphs of this Complaint.

6 26. Defendant HP intentionally discriminated against Plaintiff Abanto on the basis of
7 his national origin by denying him an opportunity to contract to work and for deterring him from
8 opportunities to contract because of his national origin, despite his legal authorization to work in
9 the United States.

10 27. Defendant HP's intentional discrimination against Plaintiff Abanto has interfered
11 with his right to make and enforce a work contract.

12 28. Defendant HP's discriminatory policy and/or practice of denying work
13 opportunities to Plaintiff Abanto based on his national origin, despite his legal authorization to
14 work in the United States, has harmed Plaintiff Abanto and constitutes unlawful discrimination in
15 violation of 42 U.S.C. § 1981.

16 29. Defendant HP's conduct has caused, and continues to cause, Plaintiff Abanto
17 substantial losses in earnings and other work benefits.

JURY DEMAND

18
19 30. Plaintiff Abanto demands a trial by jury.

PRAYER FOR RELIEF

20
21 WHEREFORE, Plaintiff Abanto respectfully prays that this Court enter Judgment
22 granting Plaintiff Abanto:

- 23 1. General damages, including compensatory damages according to proof;
24 2. Punitive damages according to proof;
25 3. A declaratory judgment that the practices complained of are unlawful and violate
26 42 U.S.C. § 1981;
27 4. Reasonable attorneys' fees and expenses of this litigation, including under 42
28 U.S.C § 1988;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- 5. Interest at the maximum legal rate for all sums awarded; and
- 6. Such other and further relief as the Court may deem just and proper.

Dated: October 30, 2019

Respectfully submitted,

MEXICAN AMERICAN LEGAL DEFENSE AND
EDUCATIONAL FUND

/s/ Andrés R. Holguin-Flores

Thomas A. Saenz

Belinda Escobosa Helzer

Andrés R. Holguin-Flores

Attorneys for Plaintiff Carlos Abanto Shinno