Visa Loophole

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Millions of business travelers from across the globe come to the United States every year to attend conferences or negotiate deals. Most of them come and go legally, using business visitor visas issued by the State Department. But a recent investigation by Dan Rather Reports revealed allegations of visa fraud by corporations that are using these visitor visas not to conduct business, but to import foreign laborers to do work -- work that could and should be done by Americans.

In the world of high-tech, misuse of the visas has been an open secret for years, veterans of the information technology industry told us. But last month, the grumblings that had long been relegated to employee lounges and Internet message boards were suddenly laid out in open court. The complaint reads like a John Grisham novel, detailing schemes, cover-ups and fraud allegedly surrounding a systematic effort to import workers from India.

The lawsuit was filed in Lowndes County, Alabama, by a computer executive named Jack Palmer. The target of the suit is Palmer's employer, an I.T. giant called Infosys Technologies based in Bangalore, India. The crown jewel of India's hi-tech outsourcing industry, Infosys started out in 1981 with seven people. Now it has more than 120,000 employees who provide back office labor and computer consulting for U.S. companies like Wal-Mart, Goldman Sachs, American Express -- and curiously enough, even the software paragon Microsoft.

The vast majority of the work is done offshore, but Infosys also has more than 10,000 people based in the U.S., most of whom are sent from India to provide on-site staffing at client offices on a temporary basis. Palmer's lawsuit alleges that Infosys is using visitor visas -- known as B-1 business visas -- to send Indian workers to staff projects at U.S. clients in "direct violation" of U.S. immigration, laws.

Palmer declined to speak to us directly because according to his attorney, Kenny Mendelsohn, Palmer continues to be a loyal Infosys employee despite suffering retaliation since he filed an internal whistleblower complaint last fall.

"There are a serious number of people over here basically doing work on illegal visas," Mendelsohn said in an interview with Dan Rather Reports. "This is not just an individual who accidentally applies for and gets the wrong visa. This was a decision made by the company, higher-ranking company officials discussed it."

In order to get a B-1 visa, foreigners must file an application with a U.S. consulate and provide supporting documentation. That typically involves a letter of invitation detailing the length and purpose of the trip, which cannot include full-time work.

But Mendelsohn provided internal documents that he says help prove the company was flouting visa rules. For example, he gave us a list of "Do's and and Don'ts" for using B-1 visas that he says was posted on Infosys' internal website, which includes tips such as :

- "Do not mention activities like implementation, design, testing, consulting, et cetera, which sounds like work."

- "Please do not mention anything about the contract rates as your on a B-1 visa."

Most troubling, he said, is this advice:

- "[D]o not use words like, work, activity, etc., in the invitation letter. DO NOT TELL THEM YOUR [sic] WORKING. Speak little English."

Mendelsohn says Infosys was also requesting its clients and employees in the U.S. help obtain B-1 visas, by asking them to sign false letters of invitation for the U.S. consulate.

For example, he says Palmer was asked to sign a letter inviting an Infosys employee from India to attend "business meeting and workshops" where he would be "making a presentation on quality assurance." His trip, according to the letter, was expected to last two weeks.

But that Infosys employee was actually coming to staff Palmer's project at a client office in Chicago and "planned to stay for 6 weeks as per the project plan," Mendelsohn said, pointing to what he says is an email exchange among Infosys managers.

We wanted to verify and discuss the allegations and documents with Infosys, but the company declined our request for an interview or to comment on the material we obtained. They did provide this statement:

"We are aware of the law suit filed in Alabama by an employee. We believe in conducting our business with integrity. As a result, we take these allegations seriously and are investigating them thoroughly."

But the B-1 visa is just one part of a much bigger problem, according to I.T. worker activists like Donna Conroy, the founder of grassroots advocacy group in Chicago called Bright Future Jobs.

Conroy says corporations are using an alphabet soup of visas that, in essence, enable them to discriminate against American workers. The most longstanding problems, she says, stem from the so-called guest worker visas, such as the H1-B visa and the L-1 visa, which allow companies to import skilled foreign workers in specialty occupations to fill jobs in the United States.

Conroy showed us several job posting websites in India with dozens of ads -- [some from U.S.-based companies](#) -- recruiting people with one of these visas to come to the United States to work. Much of what she showed us was perfectly legal.

"It's legal to displace Americans," Conroy said. "It's legal to recruit abroad, to fill a job opening that is already being done by a highly-skilled, talented American and then have them train their foreign replacement, and then fire them."

Conroy's group is fighting back against what they believe is corporate America's misuse of visas to undermine American workers. They recently launched a website that they hope will spur a digital civil rights struggle based on the lunch counter sit-ins of the 1960s. The goal: flood the companies recruiting foreign workers with qualified American applicants.

Time will tell whether the high-tech world is suffering from a true shortage of domestic talent or a new strain of discrimination.