

COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT

MIDDLESEX, ss.

Middlesex Superior Court
Civil Action Number: 21-1904

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BABAK BABAKINEJAD

Plaintiff

v.

RECEIVED

1/28/2022

MASSACHUSETTS INSTITUTE OF TECHNOLOGY

Defendant

SECOND AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff files this Second Amended Complaint by permission of the Court allowing this filing, pursuant to Rule 15 of the Massachusetts Rules of Civil Procedure.

1. Plaintiff Babak Babakinejad brings this action against Defendant the Massachusetts Institute of Technology (“MIT”) for termination of his employment in violation of public policy, fraud and deceit, intentional misrepresentation, and negligent misrepresentation.

I. Introduction

2. This action is brought by a scientist, Plaintiff Babak Babakinejad who was employed by the Massachusetts Institute of Technology (“MIT”) until September 30, 2018 when his employment was wrongfully terminated and was not renewed or extended by Defendant due to his whistleblowing regarding the improper discharge of chemicals by an MIT field facility in violation of relevant environmental regulations (constituting a dangerous condition), and for complaining about and reporting research fraud and criminally fraudulent fundraising activities which had been engaged in to obtain funding from the U.S. government as well as from private companies and charitable foundations, for ambitious but ultimately fanciful technological projects that simply did not work as represented by his employer. Plaintiff was an employee at will. On Plaintiff’s application for employment with Defendant, the following is stated: “I understand that if employed, I will be an employee “at will” and may be terminated at any time, with or without cause, and with or without notice.” Plaintiff had been told by agents of MIT that he would work for MIT for several years, and that his employment would be extended beyond September 30, 2018, however his employment was terminated on September 30, 2018. Additionally, certain of the statements made to Plaintiff during the hiring process to induce him to accept employment with MIT were false, but Plaintiff did not know that the statements made to him during the hiring process were false or a misrepresentation of material facts, until on or after mid-September 2018.

II. Jurisdiction and Venue

3. Jurisdiction over this matter lies in Superior Court.

4. Venue in Middlesex County, Massachusetts is proper because the illegal employment practices complained of herein occurred in Cambridge, Middlesex County, Massachusetts. The employment records related to Plaintiff's employment with Defendant are also located within Middlesex County, Massachusetts. Plaintiff is a resident of Middlesex County, Massachusetts, and Defendant has a principal place of business in Middlesex County, Massachusetts.

III. Parties

5. Plaintiff is Babak Babakinejad, a scientist in the fields of molecular genetics, neuroscience and nanotechnology. He obtained a Ph.D. in Neuroscience and Nanotechnology from Imperial College London, and a Masters of Science in Neuroscience and a Bachelors of Science in Molecular Genetics from King's College London. Plaintiff has worked in numerous scientific capacities, including pharmaceutical clinical trials, molecular biology, microscopy, medical device design, advanced control systems for human monitoring and research ethics, both in the U.K and in the United States. He has published and spoken widely on these and related topics. He is a resident of Cambridge, Middlesex County, Massachusetts. At all times relevant to this Complaint he was employed by the Massachusetts Institute of Technology ("MIT") as a Research Lead on the Open Agriculture Initiative which was part of MIT's Media Lab.

6. Defendant is The Massachusetts Institute of Technology ("MIT"), a Massachusetts corporation with a principal place of business in Middlesex County, at 77 Massachusetts Avenue, Cambridge MA. The Media Lab is a research arm of MIT focusing on interdisciplinary approaches to digital technologies, of which the Open Agriculture Initiative was a part.

IV. Factual Allegations

A. The Media Lab

7. According to its website, *"The MIT Media Lab was founded by MIT Professor Nicholas Negroponte and the late Jerome Wiesner (former science advisor to president John F. Kennedy and former president of MIT), who foresaw the coming convergence of computing, publishing, and broadcast, fueled by changes in the communications industry. As this convergence accelerated, it spurred interconnected developments in the unusual range of disciplines that the Lab brought together, including cognition, electronic music, graphic design, video, and holography, as well as work in computation and human-machine interfaces. True to the vision of its founders, today's Media Lab continues to focus on the study, invention, and creative use of digital technologies to enhance the ways that people think, express, and communicate ideas, and explore new scientific frontiers. For information on current research activities at the Lab, please see the Research section."* (Available at <https://www.media.mit.edu/about/lab-faqs/#faq-what-is-the-media-lab> - Retrieved on Aug. 28, 2021)

8. The Media Lab pursues certain technological goals through the establishment of formal “Initiatives.” These initiatives receive initial funding from MIT but after two years must be financially self-sufficient, meaning the combination of outside funding and commercial revenues must alone finance the Initiative’s effort. (“Hype vs. Reality at the MIT Media Lab”, The Chronicle of Higher Education (Sept. 11, 2019), available at <https://www.chronicle.com/article/hype-vs-reality-at-the-mit-media-lab/>).

B. The Media Lab’s Open Agriculture Initiative and “Food Computer”

9. The Open Agriculture Initiative (“OpenAg”) was one of the most publicized projects of the Media Lab since its establishment. OpenAg was supposed to be developing a Personal Food Computer, which had the goal of, among other things, assisting poverty stricken areas around the globe in meeting food needs.

10. The fundamental concept of the Food Computer (the term “Food Computer” refers broadly to the Media Lab’s “personal food computer” and all related versions and sizes of food computers) and the reason why it was touted as a revolutionary technology in the field of agriculture, was that it could maintain a controlled environment that could be modified to generate the optimal growing conditions for the production of food, particularly in parts of the world where traditional means of production are increasingly challenged. This ability to control the growing environment was the key feature of what MIT, the Media Lab, and Caleb Harper, the former Director of the now shut-down Open Agriculture Initiative, publicly represented as the Food Computer’s dramatic leap forward into a new age of agricultural production.

11. The Media Lab sought every possible opportunity to publicize its OpenAg project and in particular the Food Computer Technology. The Media Lab’s publicity efforts portrayed the Food Computer not as an aspirational concept but instead as a fully-operational device that was already deployed and in use at various locations worldwide.

12. Indeed the former director of the Media Lab, Joi Ito, emphasized its focus on creating new technologies that would be of practical use. He coined a motto to reinforce this priority: “Deploy or die” (“MIT Media Lab, Already Rattled by the Epstein Scandal, has a New Worry,” The New York Times (Sept. 22, 2019), available at <https://www.nytimes.com/2019/09/22/business/media/mit-media-lab-food-computer.html>)

13. In a TED Talk, which as one of the first and most impactful marketing efforts for the Food Computer was viewed on YouTube over 1.8 million times, Harper stated that “Inside of these sixty square feet, we produce enough food to feed about 300 people once a month”. He also claimed that “We create an actual climate. There’s a designed climate here, things like CO₂, O₂, temperature, humidity, all of it being controlled by your smartphone, by a web app, whatever you want. When you plant a plant, data starts tracking to that place so it creates a recipe” (“Caleb Harper: This computer will grow your food in the future” Ted.com (Mar. 8, 2016), available at https://archive.org/details/CalebHarper_2015G)

14. The Media Lab, and Harper personally, were singularly focused on marketing the Food Computer. Harper travelled the world to speak of its importance and impact:

- “We released the second version of a Personal Food Computer at the White House a few weeks ago. I’m proud to announce on this stage that right now we’re deploying them with the World Food Program in the UN in Amman and a Syrian refugee camp to start innovation around growing food there this week.” (World Government Summit, The Future of Food, available at <https://www.youtube.com/watch?v=sZpPEuL0OFo>)
- “We also do a lot on irrigation, so this system we derived from NASA Mir Space Station a long time ago where they invented this process where they misted water onto roots instead of using soil or using media, that the important part about this is potential for water savings. Those broccoli grew five times faster than you can in the field, and so we’ve done trials and broccoli trials.” (EAT Stockholm Food Forum 2017, available at <https://www.youtube.com/watch?v=LO5Box9phW8>)
- “We released this about a month ago at the White House ... this is the next generation of it which is a bit more like a Ferrari than the previous one and then our first deployment came in Jordan, and I was surprised by this as well with the UN and the World Food Program, we just put these last week in a Syrian refugee camp in Amman, Jordan....” (Caleb Harper Keynote Presentation, available at https://www.youtube.com/watch?v=6HE_1gVohUA)
- “... We try to create kind of a perfect world for that plant and some of the metrics, you know, we grow anywhere from three to five times faster than you can in the ground. We use between 70 and 90 percent less water. We have been showing consistently about three times the nutrient density compared to what you get at the store, so there are a lot of advantages to this way of growing.” (The Food Business School presentation (YouTube video removed))
- “I created a bunch of devices called food computers...they create data about plants, that data goes into the cloud and gets stored for later.” (Welcome Remarks, EAT Forum, available at <https://www.youtube.com/watch?v=5-NlcEkocso>)

15. On April 22, 2018, Harper and the Media Lab were the subject of an episode of the television show *60 Minutes*. On this program, Harper claimed that:

- “We’re growing, on average three to four times faster than they can grow in the field.”
- “So in this environment, since it is perfect for cotton, we’ve had plants go 12 months.”
- “These basil plants grow, not in soil but in air. The plant is super happy.”

- “They’re all capable of controlling climate. So they make a recipe – this much CO2, this much O2, this much temperature. So we create a world in a box.”

C. The Media Lab Knew All Along That Its Food Computer Did Not Work

16. Despite its many public pronouncements to the contrary, the Media Lab knew at all times that its Food Computers simply did not operate as it claimed. The Media Lab has never been able to develop the technology needed for the Food Computer even to the point where it could be reliably tested, much less deployed in real-world environments.

17. Without the ability to control the growing environment, placing a plant inside a Personal Food Computer is scarcely different than placing it inside a cardboard box or on top of a desk with some lights. It is possible that certain plants may grow organically in this environment, just as they might inside a cardboard box or sitting on a desk. But that growth is by no means caused by the Food Computer, and does not represent any technological advancement at all, much less a new model of global agricultural production.

18. The solicitation of funding and contributions from the government, private corporations, charitable foundations and wealthy individuals such as the financier Jeffrey Epstein was a long standing goal at MIT. In 2015, the MIT Vice President for Resource Development reported to MIT President Rafael Reif, that the Forbes 400 (a list of the top U.S. billionaires) had been carefully reviewed for potential donors. At the same time, the Open Agriculture Initiative and the Digital Currency Initiative at the Media Lab, were specifically identified as fundraising opportunities for MIT (available at <http://web.mit.edu/annualreports/pres16/2016.26.00.pdf>)

19. Indeed, Mr. Harper, was invited by MIT President Reif in 2016 to participate in his Campaign for a Better World in New York and London, which sought billions of dollars of *unrestricted* funding for MIT (available at <https://betterworld.mit.edu/events/>) and on January 12, 2017 President Reif personally invited Mr. Harper to the residence of Saudi Billionaire Sir Abdul Jameel Latif, a major MIT donor in Mayfair, London for dinner and conversation.

20. According to the former Media Lab’s Director of Strategy and Development Peter Cohen:

“... despite this uneven degree of academic rigor (or maybe because of it), my colleagues in MIT’s central fundraising office would always want to bring over donors for a quick, drive-by tour. They wanted donors to see something shiny. They wanted to see the indoor farm (now shut down after its own scandal) and its pink and blue lights. They wanted to see our cool building and take a selfie. They wanted to say they’d been there.” (“Jeffrey Epstein’s Money Tainted My Workplace. Then Ronan Farrow’s Botched Reporting Trashed My Reputation”, Quillette (Jul. 6, 2020), available at <https://quillette.com/2020/07/06/jeffrey-epsteins-money-tainted-my-workplace-then-ronan-farrows-botched-reporting-trashed-my-reputation/>).

21. Harper and the Media Lab were raising millions of dollars in order to deploy and commercialize Food Computers, while the technology supporting their development was practically non-existent.

22. In order to mislead current and prospective funders of the Media Lab into thinking that the Food Computers worked when they did not, Food Computer installations were staged during the Media Lab's member-weeks and plants that were not grown in them but were instead obtained from elsewhere were placed inside them, to give the appearance that they had grown under the Food Computers' supposedly carefully calibrated conditions. During office/lab visits, employees were directed by OpenAg's Assistant Director, Ms. Hildreth England, to obtain plants from campus grounds and nearby markets, and to place them inside the Food Computers prior to visits by prospective sponsors and journalists in an attempt to deceive them into believing that the plants had been grown in the Food Computers.

23. In January 2017, MIT Media Lab, prepared an application (through OpenAg Inc./ Fenome Inc.) to the United States Department of State's Office of Global Food Security, to obtain funding for the Open Agriculture: Food Insecurity Pilot. On January 13, 2017, only 4 days after MIT President Reif met with and discussed the two "MIT initiatives on climate matters" with the United States Secretary of State, Secretary Kerry made an announcement regarding a US partnership with Vietnam to help Vietnam develop expertise in cutting-edge agricultural technology relating to the Food Computers. (MIT News (Jan 9, 2017), available at: <https://news.mit.edu/2017/john-kerry-climate-drive-urgent-race-against-time-0110/>. Twitter (Jan 13, 2017), available at: <https://twitter.com/calebgrowsfood/status/820090311078793217/>. USspending.gov, available at: https://www.usaspending.gov/award/CONT_AWD_SAQMMA17M1216_1900_-NONE_-NONE-). On this basis, Secretary Kerry made the following statement:

"Now, I am also pleased to announce today that the State Department intends to fund a new partnership between Massachusetts Institute of Technology, MIT, and Can Tho University. And this partnership is going to help Vietnam to develop expertise in cutting-edge agricultural technology for growing food more efficiently and with greater resilience to the impacts of climate change. And together with Vietnam we hope to showcase this experimental technology to the rest of the region, to the rest of the world, and eventually we'd like to make it available for the economies of developing countries all around the world" ("U.S.-Vietnam: A Partnership That Will Endure", U.S. Department of State, Archived Content (Jan. 13, 2017) available at <https://2009-2017.state.gov/secretary/remarks/2017/01/266936.htm>).

24. Plaintiff started working for the Media Lab in May 2017. He officially became an MIT employee on October 1, 2017, as a Research Scientist and a Research Lead on the Open Agriculture Initiative ("OpenAg").

25. On information and belief several years of funding had been allocated for Plaintiff's employment. Also, during the hiring process Plaintiff had been told by agents of MIT that he

would work for MIT for several years, and that his employment would be extended beyond September 30, 2018. Shortly after being hired as research lead for OpenAg, Plaintiff reviewed and discovered false claims made in a research manuscript and reported to Mr. Harper that the claims made in the manuscript did not correspond to the realities of the systems in which the experiments were conducted.

26. In January 2018, Plaintiff reported to Mr. Harper that it would not be possible for him to provide updates on the progression of the Food Computer project because the proper technology and systems were not in place. He also raised concerns over the lack of health and safety provisions and training. Almost immediately, Mr. Harper began documenting alleged (but false) problems with Plaintiff's job performance. In early 2018, Plaintiff complained to Mr. Harper about undisclosed (and thus illegal) audio and video recording being conducted in the lab and in the shipping container sized Food Computers.

27. A core functionality of a working Food Computer is the ability to maintain a stable temperature and humidity as part of a controlled growing environment. While at Media Lab, Plaintiff performed an experiment on the larger size Food Computer (the Food Server) to determine whether it could meet this fundamental requirement. Plaintiff's experiment determined that the Food Server failed to maintain a stable temperature or humidity over even short periods of time.

28. During February 2018, Plaintiff again reported to Mr. Harper that the Food Computers were not operational, and specifically that they were not properly calibrated.

29. Harper's response to Plaintiff's clear and truthful statements about the status of the Food Computer technology was to retaliate against him and require him to meet with the MIT Media Lab's Director of Human Resources, Martha Collins. In the course of these meetings, Ms. Collins mentioned that Mr. Harper did not want to hear that the data was bad and that if Plaintiff thought the data was bad, that meant he would have to leave. Ms. Collins stated to Plaintiff on several occasions that she felt she was too close to this matter to be able to help Plaintiff.

D. MIT willfully misled the regulators of Massachusetts Department of Environmental Protection (MassDEP)

30. During April 2018, Plaintiff was involved in bringing to Mr. Harper's attention on multiple occasions, in person and in writing, an issue regarding the improper discharge of contaminated water from the OpenAg's Food Computers (food servers) at MIT's Bates Lab, in violation of the MassDEP permit which had been issued for the facility in question (MIT's Bates Lab in Middleton, Massachusetts), limiting the amount of nitrogen discharges.

31. On April 16, 2018, Plaintiff sent an email to various individuals involved in the OpenAg initiative and with MIT Environmental Health and Safety, regarding the issue of noncompliance with the MassDEP permit. In the email, Plaintiff recommended withholding future discharges until this noncompliance issue was dealt with.

32. Within only 33 minutes after Plaintiff sent this email regarding the noncompliance with the MassDEP permit, Director Harper wrote an email to Plaintiff attempting to limit his ability to send emails to MIT Environmental Health and Safety (“EHS”) without prior approval. Mr. Harper also removed Plaintiff from his environmental health and safety duties and responsibilities.

33. In a meeting with Human Resources representative Martha Collins on April 21, 2018, Ms. Collins told Plaintiff that Mr. Harper was upset with him because of the email he had sent about the violation of the MassDEP permit.

34. In an April 18, 2018 email from Phyllis Carter of the MIT EHS Office, Ms. Carter informed Plaintiff, Mr. Harper and others that the samples which had been taken from the Bates facility resulted in Nitrogen levels **“far exceeding the UIC registration limit of 10 MG/L. You are correct in that discharge at these levels is not allowed.”** This email from Ms. Carter confirms that the discharges occurring at the Bates facility were illegal, and that the MassDEP permit was being violated.

35. In Environmental Health and Safety meetings later in April, Mr. Harper stated that discharges would continue. On information and belief, some of the subsequent discharges were made “on the lawn,” into the ground. This decision was contrary to the requirements of the permit and was unlawful.

36. Indeed, ever since the group started its operations in 2017 at the MIT facility in Middleton, Massachusetts, thousands of gallons of base fertilizer regime of over 100 ppm nitrogen, stock fertilizer solutions of over 10000 ppm nitrogen (over 1000 times the legal limit) as well as other waste liquids were dumped into a well in the vicinity of properties that use private wells as their primary source of drinking water, which could cause significant harm to humans, animals and the environment.

37. Plaintiff had acted completely appropriately, in the public interest, and in accordance with public policy and in the interest of public health and safety, by informing the EHS office and others of the fact that the MassDEP permit was being violated, and in stating that the discharges should not occur.

38. On April 20, 2018, as retaliation for Plaintiff’s criticisms of the Food Computers, and as retaliation for having raised the water discharge permit issue, and finally as an attempt to set the stage for terminating his employment, Mr. Harper presented Plaintiff with an entirely unreasonable, impossible and punitive “performance improvement plan.”

39. Due to the increasing pressure being placed upon him and the hostile actions being taken against him by Mr. Harper, on May 3, 2018, Plaintiff met with Mr. Joi Ito, Director of the Media Lab.

40. In response, Mr. Ito welcomed Plaintiff for having come forward and stated that the timing was good as Mr. Harper was due for consideration for his MIT promotion. Mr. Ito also acknowledged that some MIT faculty had previously raised concerns about the scholarship within the group, including a previous member of the OpenAg team, Rikuo Hasegawa. He said Mr. Hasegawa had raised some of these issues, had brought these issues to his attention, had

complained about the fact that the Food Computers were being deployed when they were not working, and was fired by Mr. Harper in October 2017 as a result of raising these concerns.

41. Mr. Ito stated that the risk for the Media Lab was that OpenAg was one of the larger initiatives, and if an outside person looked at OpenAg closely and discovered that the science was bad, they would look into other Media Lab initiatives and it might be hard for a non faculty member to run one of the Media Lab initiatives in the future.

43. Plaintiff sent Mr. Ito a confirmatory email on May 5th, and stated that OpenAg had not been able to achieve a “controlled environment” as Mr. Harper led people to believe in his talks.

44. Shortly after Mr. Ito obtained the information, he subsequently refused to remain in contact with Plaintiff, apparently to mitigate the risk of fraudulent fundraising activities at the Media Lab being revealed, and in part due to the solicitations for funds being made by Mr. Ito and Mr. Harper to disgraced financier Jeffrey Epstein.

45. Mr. Ito's refusal to act on the important issues brought to him by Plaintiff was due solely to Mr. Ito's fears that if the problems with Mr. Harper's projects as well as MIT's improper practices were revealed to the Media Lab's sponsors and donors, the Media Lab and the OpenAg Initiative would not receive millions of dollars in donations from those donors and sponsors, and possibly that Mr. Ito himself would not receive millions of dollars in investment funds from Mr. Epstein for other projects.

46. On information and belief, only three days after Plaintiff complained to Mr. Ito about Mr. Harper and the problems with OpenAg, Mr. Ito and Mr. Harper met with Mr. Epstein at an office maintained by Mr. Epstein at Harvard University. This meeting as well as other meetings with Mr. Epstein about MIT business were intentionally held outside of the MIT premises, and were purposely held covertly. These meetings were not covered by the investigators preparing a report about Mr. Epstein's interactions with MIT. See paragraph 59 below. The report indicates that Mr. Ito continued to “cultivate” Mr. Epstein in 2019.

47. In light of the clear failure of Mr. Ito and Ms. Collins to address this situation, Plaintiff spoke with Mr. Rivanen (Ben) Moorghen, a Human Resource Officer in the central MIT Human Resources Office. Although Mr. Moorghen was more empathic, he stated that if Plaintiff filed a complaint, that would only lead to Mr. Harper making life more difficult and miserable for him, by adding notices and warnings to his file.

48. Shortly after the interaction with Mr. Ito, the emotional distress the situation at OpenAg caused Plaintiff to suffer, resulted in him taking an approved leave of absence. Plaintiff had no choice but to remain on leave through the middle of September, 2018. In mid September, 2018, Plaintiff was placed on paid administrative leave through September 30, 2018, when his employment was terminated.

49. The term of Plaintiff's employment was not extended by Defendant, as Plaintiff had reasonably anticipated it would be. Prior to mid-September 2018, Plaintiff had a reasonable expectation that the term of his employment would be extended, and he also had a reasonable expectation that his employment with Defendant would continue for many years. Indeed,

Plaintiff was informed by HR personnel, Ms. Helene Kelsey upon reviewing his appointment in 2017, that the term of his employment was a formality at MIT, and was expected to be extended beyond September 30, 2018. But for Plaintiff's whistleblowing regarding the Food Computers and the illegal discharges occurring at the Bates facility, Plaintiff's at will employment would have been extended beyond September 30, 2018. Before and after September 30, 2018, Defendant interfered with Plaintiff's ability to secure employment.

50. Based on the public record, information and belief, MIT EHS never fulfilled their assumed responsibility to submit monthly sample results as-required by their MassDEP Drinking Water Program (DWP) permit. Instead of immediately notifying MassDEP, MIT EHS and Harper wilfully persisted in misleading the regulators of Massachusetts Department of Environmental Protection and concealed information about OpenAg's illegal discharges of chemicals well beyond the acceptable limits. According to the Environmental Protection Agency (EPA): "Too much nitrogen and phosphorus in the water can have diverse and far-reaching impacts on public health, the environment and the economy...Nutrient pollution in groundwater - which millions of people in the United States use as their drinking water source - can be harmful, even at low levels. Infants are vulnerable to a nitrogen-based compound called nitrates in drinking water." (United States Environmental Protection Agency, available at: <https://www.epa.gov/nutrientpollution/issue>)

51. Mr. Harper misled the research community by submitting a fraudulent research manuscript in September 2018 and in support of his promotion case to a peer-reviewed open access scientific journal - PlosOne - published by the Public Library of Science (PLOS). In the research manuscript the researchers claimed to have performed an experiment on basil plants in a Food Computer; focusing on the light conditions and by "keeping the other variables constant." The publication was widely promoted by MIT ("Flavor-cyber-agriculture: Optimization of plant metabolites in an open-source control environment through surrogate modelling", PLOS ONE (Apr 3, 2019) available at: <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0213918/>. "Machine learning is making pesto even more delicious", MIT Tech Review (Apr 3, 2019), available at: <https://www.technologyreview.com/2019/04/03/136204/machine-learning-is-making-pesto-even-more-delicious>).

52. Despite the allegations of fraudulent research and fundraising activities and the illegal discharges, in the fall 2018 MIT promoted Mr. Harper to a Principal Research Scientist position.

53. In the Fall of 2019, many media outlets published the various allegations of academic fraud and environmental damage engaged in by OpenAg and Mr. Harper.

54. It was only after the news outbreak (which confirmed Plaintiff's observations and reports to MIT) that OpenAg operations at the Bates Lab were shut down over concerns of noncompliance.

55. The TED organization released a statement that it removed Mr. Harper's presentation from its website because "we have determined that it does not meet our science standards." (The Chronicle of Higher Education (Nov. 11, 2019), available at: <https://www.chronicle.com/article/mit-media-lab-researchers-ted-talk-is-removed/>)

56. On September 6, 2019, the New Yorker magazine published an article detailing the relationship between Mr. Epstein, Mr. Ito and MIT. The next day, Mr. Ito resigned from his position as Director of the Media Lab, as well as his positions on the boards of several charitable corporations and the New York Times. Mr. Ito's proposed appointment to head an agency of the Government of Japan was recently cancelled.

57. On December 23, 2019, the MIT Technology Review, described the Food Computer as "nothing more than a glorified grow box and acknowledged it as "fake". ("The biggest technology failures of 2019," MIT Technology Review (Dec. 23, 2019), available at: <https://www.technologyreview.com/2019/12/23/131426/worst-technologies-biggest-technology-failures-2019/>)

58. By the end of April 2020, the OpenAg Initiative was closed. Mr. Harper left MIT. At around this same time, MIT received a \$15,000 fine from MassDEP for the improper discharges of which Plaintiff had complained. ("MIT Media Lab's Food Computer Project Permanently Shut Down" (IEEE Spectrum May 17, 2020), available at: <https://spectrum.ieee.org/mit-media-lab-food-computer-project-shut-down>)

59. According to MIT's "Report Concerning Jeffrey Epstein's Interactions with the Massachusetts Institute of Technology," Mr. Ito and Mr. Harper met with Jeffrey Epstein on April 15, 2017. **The topic of discussion was to raise a \$1.5 million fund "to support research by Caleb Harper into whether plants think and communicate."** The Report details Mr. Ito cultivating Jeffrey Epstein as a donor, the hundreds of thousands of dollars Mr. Epstein donated to the Media Lab, Mr. Ito's receipt of \$1.25 million from Mr. Epstein for Mr. Ito's personal ventures, Mr. Ito asking Mr. Epstein in January 2018 if he would invest \$5 million to \$15 million in another non-MIT fund that Mr. Ito was trying to establish, and the fact that Mr. Epstein's donations to MIT as well as to the Media Lab were being kept secret, as were meetings with Mr. Epstein (Available at: <http://factfindingjan2020.mit.edu/files/MIT-report.pdf?200117>).

60. MIT Vice President for Research Dr. Maria Zuber has oversight of MIT's Council on Environmental Health and Safety as well as research integrity and compliance responsibilities at MIT, and plays a central role in managing research relationships with the federal government and oversight of MIT's climate action plan. Dr Zuber was also an advisory Board member of the EAT forum and was present at the Eat Forum event in 2017 where Mr. Harper, in his speech, made several misrepresentations about the OpenAg's project. Harper stated as part of his presentation that "these slides actually got me a lab at MIT; which is shocking". (Eat Forum, available at: <https://www.youtube.com/watch?v=LO5Box9phW8>).

61. On October 25, 2021, the fraudulent research article referenced in paragraph 25 and 51 above was retracted by the publisher, citing a series of concerns about accuracy and replicability. "we regret that the issues with this article were not identified during the pre

publication peer review process.” Available at: <https://doi.org/10.1371/journal.pone.0259294/>. (“Plos One retracts article tied to MIT and Epstein.” Times Higher Education (Oct. 29, 2021). Available at: <https://www.timeshighereducation.com/news/plos-one-retracts-article-tied-mit-and-epstein/>. “MIT food computer paper pulled.” Science (Nov. 4, 2021). Available at: <https://www.science.org/content/article/news-glance-green-steel-consortium-gene-therapy-and-disabled-sabertooth-s-allies>).

62. Plaintiff objected to and reported the criminally fraudulent claims being made during fundraising appeals and elsewhere about the “Food Computers,” and he objected to and reported the illegal discharge of chemicals by an MIT field facility. Plaintiff insisted upon bringing those improper and illegal practices to the attention of his managers and supervisors. For these reasons, Defendant retaliated against him and Plaintiff’s employment was terminated. But for these actions, Plaintiff’s employment would have continued. Plaintiff’s employment was terminated for these actions. It is the public policy of the Commonwealth of Massachusetts that employees should complain about and report fraudulent and criminal activities by their employers, and should complain about and report violations of environmental laws and regulations, and activities by their employer which are dangerous to public health and safety, and to the environment (as were the chemical discharges at issue).

63. In April and May 2017, in order to induce Plaintiff to accept employment with MIT, Mr. Harper and Ms. Hildreth England represented to Plaintiff in several conversations and communications and presentations the following false facts: that the food computers represented an advance technological platform for growing plants; and that the food computers were functional and were successfully deployed in real world environments. Before the hiring process was completed Mr. Harper and Ms. England stated to Plaintiff that Plaintiff would be employed at MIT for several years, and Mr. Harper also stated that Plaintiff was being hired with the expectation and understanding that Plaintiff would be able to obtain research grants which would take several years to complete. These were all material statements of fact.

64. At the time Mr. Harper and Ms. England made the statements and representations referred to in paragraph 63 above, they were acting as agents of MIT, and acting within the scope of their authority as a Director and Assistant Director at MIT, and as agents and employees of MIT. Defendant is fully responsible and liable for these statements and representations made by Mr. Harper and Ms. England.

65. During the process of Plaintiff being hired as a full time employee of MIT, a representative of MIT Media Lab Human Resources, Ms. Helene Kelsey, informed Plaintiff that although after starting work he had been given a document stating that his employment was from October 1, 2017 through September 30, 2018, that his employment would be renewed beyond that date. This was a statement of material fact. This statement was made by Ms. Kelsey, acting as an agent of MIT, and acting within the scope of her authority as an agent and employee of MIT. MIT is fully responsible and liable for this statement.

66. The statements and representations made by Mr. Harper and Ms. England referred to in paragraph 63 above regarding the food computers, were known by Mr. Harper and Ms. England to be false, at the time that they made them, or Mr. Harper and Ms. England made these statements negligently, without a reasonable basis to believe them to be true. Mr.

Harper and Ms. England made these false statements and representations of material fact to Plaintiff in order to induce Plaintiff to apply for and accept employment with MIT.

67. The statements and representations referred to in paragraph 63 above by Mr. Harper and Ms. England in relation to Plaintiff being employed at MIT for several years and obtaining work under grants which would take several years to complete, were either known by Mr. Harper and Ms. England to be false at the time they made them, or Mr. Harper and Ms. England made these statements negligently, without a reasonable basis to believe them to be true. These were representations of material facts. Plaintiff reasonably relied upon these false statements and representations to his detriment, as he accepted the position at MIT under the belief that he would be working there for several years, but Defendant terminated Plaintiff's employment and has subsequently claimed that Plaintiff's employment was not to last beyond September 30, 2018.

68. The statement referred to in paragraph 65 above by Ms. Helene Kelsey, was either known by her to be false at the time she made the statement, or she made this statement negligently, without a reasonable basis to believe it to be true. This was a representation of a material fact. Plaintiff reasonably relied upon this false statement to his detriment, as he accepted the position at MIT under the belief that he would be working there for several years, but Defendant terminated Plaintiff's employment and has subsequently claimed that Plaintiff's employment was not to last beyond September 30, 2018.

COUNT I
AGAINST MIT FOR WRONGFUL TERMINATION
OF EMPLOYMENT IN VIOLATION OF PUBLIC POLICY

69. Plaintiff realleges and incorporates by reference as if fully set forth herein, paragraphs 1-68 above.

70. By its actions set forth above in retaliating against Plaintiff for his whistleblowing regarding the research and fundraising having to do with the OpenAg projects and its food computers, Defendant has wrongfully terminated Plaintiff's employment in violation of public policy. As a direct result of Defendant's wrongful termination of his employment in violation of public policy, Plaintiff has suffered financial damages and emotional distress.

WHEREFORE, Plaintiff demands that this Court enter Judgment in his favor and against Defendant MIT, in an amount to be determined by this Court, including monies to compensate him for lost back pay, lost front pay, lost benefits, injury to his career, emotional pain and suffering, interest, costs, attorney's fees, reinstatement to his former position with MIT, and such other and further relief that this Court deems just and proper.

COUNT II
AGAINST MIT FOR WRONGFUL TERMINATION
OF EMPLOYMENT IN VIOLATION OF PUBLIC POLICY (DISCHARGES)

71. Plaintiff realleges and incorporates by reference as if fully set forth herein, paragraphs 1-70 above.

72. By its actions set forth above in retaliating against Plaintiff for his whistleblowing regarding the illegal chemical discharges at the Bates facility, Defendant has wrongfully terminated Plaintiff's employment in violation of public policy. As a direct result of Defendant's wrongful termination of his employment in violation of public policy, Plaintiff has suffered financial damages and emotional distress.

WHEREFORE, Plaintiff demands that this Court enter Judgment in his favor and against Defendant MIT, in an amount to be determined by this Court, including monies to compensate him for lost back pay, lost front pay, lost benefits, injury to his career, emotional pain and suffering, interest, costs, attorney's fees, reinstatement to his former position with MIT, and such other and further relief that this Court deems just and proper.

COUNT III
AGAINST MIT FOR FRAUD AND DECEIT

73. Plaintiff realleges and incorporates by reference as if fully set forth herein, paragraphs 1-72 above.

74. By the actions of Mr. Harper, Ms. England and Ms. Kelsey set forth above in making false statements and representations of material fact to Plaintiff regarding the term of his employment, which Plaintiff realized were fraudulent after mid-September 2018, and by which Plaintiff has been damaged, for which statements and representations Defendant is responsible, Defendant has engaged in fraud and deceit against Plaintiff for which it is liable.

WHEREFORE, Plaintiff demands that this Court enter Judgment in his favor and against Defendant MIT, in an amount to be determined by this Court, including monies to compensate him for lost back pay, lost front pay, lost benefits, injury to his career, emotional pain and suffering, interest, costs, attorney's fees, reinstatement to his former position with MIT, and such other and further relief that this Court deems just and proper.

COUNT IV
AGAINST MIT FOR INTENTIONAL MISREPRESENTATION

75. Plaintiff realleges and incorporates by reference as if fully set forth herein, paragraphs 1-74 above.

76. By the actions of Mr. Harper, Ms. England and Ms. Kelsey set forth above in making false statements and representations of material fact to Plaintiff regarding the term of his employment, which Plaintiff realized were misrepresentative after mid-September 2018, and by which Plaintiff has been damaged, for which statements and representations Defendant is responsible, Defendant has engaged in intentional misrepresentation against Plaintiff for which it is liable.

WHEREFORE, Plaintiff demands that this Court enter Judgment in his favor and against Defendant MIT, in an amount to be determined by this Court, including monies to compensate him for lost back pay, lost front pay, lost benefits, injury to his career, emotional pain and suffering, interest, costs, attorney's fees, reinstatement to his former position with MIT, and such other and further relief that this Court deems just and proper.

COUNT V
AGAINST MIT FOR NEGLIGENT MISREPRESENTATION

77. Plaintiff realleges and incorporates by reference as if fully set forth herein, paragraphs 1-76 above.

78. By the actions of Mr. Harper, Ms. England and Ms. Kelsey set forth above in making false statements and representations of material fact to Plaintiff regarding the term of his employment, which Mr. Harper, Ms. England and Ms. Kelsey made negligently, without a reasonable basis to believe them to be true, which Plaintiff realized were misrepresentative after mid-September 2018, and which caused Plaintiff to be damaged, for which statements and representations Defendant is responsible, Defendant has engaged in negligent misrepresentation against Plaintiff for which it is liable.

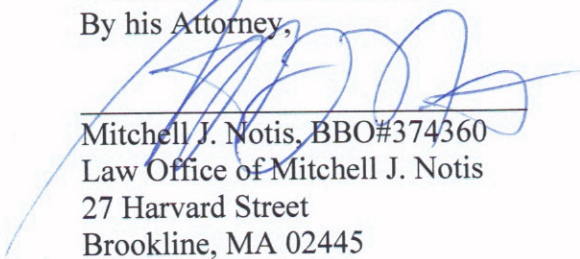
WHEREFORE, Plaintiff demands that this Court enter Judgment in his favor and against Defendant MIT, in an amount to be determined by this Court, including monies to compensate him for lost back pay, lost front pay, lost benefits, injury to his career, emotional

pain and suffering, interest, costs, attorney's fees, reinstatement to his former position with MIT, and such other and further relief that this Court deems just and proper.

PLAINTIFF DEMANDS A TRIAL BY JURY AS TO ALL COUNTS AND ISSUES SO TRIABLE

BABAK BABAKINEJAD

By his Attorney,



Mitchell J. Notis, BBO#374360
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Brookline, MA 02445
Tel.: 617-487-8677

CERTIFICATE OF SERVICE

I, Mitchell J. Notis, hereby certify that on this 28 day of January 2022, I served a copy of the foregoing document on counsel for all other parties to this action by electronic mail.



Mitchell J. Notis