



1 defendants for wrongful termination by discrimination, violation of civil  
2 rights, violations of Denver Rev. Municipal Code, Art. IV 28-93 to 28-95, 28-  
3 97, assault and battery, libel and slander, breach of contract, negligence  
4 and fraud.

5 In the City and County of Denver on Broadway Avenue between 1<sup>st</sup> and 2<sup>nd</sup> Avenues  
6 there are several stores and drinking establishments whose patrons are  
7 primarily homosexual. One such drinking establishment is "The Compound". In  
8 the alley between "The Compound" and a Denver Fire station is a  
9 telecommunications vault (hereafter "vault") containing copper wiring and  
10 fiber optics to carry voice and data communications.

11  
12 DOES 1-3 park in a vehicle owned or leased by QWEST. These individuals record  
13 license plate numbers, and other identifying information of the patrons of  
14 this city block. DOES 1-3 are members and/or parishioners of "SCIENTOLOGY."

15  
16 This information is then passed to various members, non-members, parishioners  
17 and non-parishioners of SCIENTOLOGY for the purposes of discrimination in  
18 housing, employment, banking, and other gross violations of defendant's civil  
19 rights.

#### 20 JURISDICTION AND VENUE

21 Jurisdiction of this Court arises under 42 USC 1981, 28 USC 1343(a) (3) and  
22 (4), 28 USC 2201(a), 28 USC 2202 and 28 USC 1367(a). Venue lies properly in  
23 this district pursuant to 28 USC 1391(a) and (b).

#### 24 PARTIES

25 Plaintiff KEITH VOGT is a person residing in the State of Colorado, Denver  
County.

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Upon information and belief, defendant FREE REPUBLIC LLC (hereafter "FREE REPUBLIC") is a California limited liability company which maintains headquarters in Fresno, California, and operates the internet discussion board FreeRepublic.com.

Upon information and belief, defendant JAMES C. ROBINSON (hereafter "ROBINSON") is the manager and registered agent of FREE REPUBLIC.

Upon information and belief, defendant MEDICAL SIMULATION CORPORATION (hereafter "MSC") is a Delaware corporation whose principal place of business is located in Denver City and County at 4600 S. Ulster St. #450, Denver, Colorado 80237.

Upon information and belief, defendant TRINET EMPLOYER GROUP, INC. (hereafter "TRINET") is a Nevada corporation who sells employee leasing or co-employment services and related services to MSC.

Upon information and belief, defendant DAVE WILSON (hereafter "WILSON") is employed by MSC as Vice-President of Software Development.

Upon information and belief, defendant DICK SANDER (hereafter "SANDER") is employed by MSC as Director of Human Resources.

Upon information and belief, defendant BILL YOUNKES (hereafter "YOUNKES") is the CEO of MSC.

1 Upon information and belief, defendant GERALD MCDERMOTT (hereafter  
2 "MCDERMOTT") is employed by MSC as manager of engineering.

3  
4 Upon information and belief, defendant DOES 1-3 are employees of QWEST.

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6 Upon information and belief, defendant DOES 4-20 are administrators,  
7 moderators and readers of the Internet discussion board at FreeRepublic.com.

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9 **FACTUAL ALLEGATIONS**

10 TRINET is an employee leasing or co-employment company which sells its  
11 services to MSC.

12  
13 WILSON and SANDER are both members of one or more of the same churches.

14 WILSON made his views publicly known.

15  
16 Around January 2003, MSC moved its headquarters from Englewood to Denver city  
17 and county.

18  
19 On or around August 4, 2003, WILSON came out of his cubicle and stood outside  
20 the human resources office (SANDER) and said in a loud voice: "Gray Davis has  
21 done again.. Now you can't fire a transsexual in California!"

22  
23 Employees Art Blevins, Jim Schmidt, Mary Globel-Thomas, and Denise Spence  
24 were also is hearing distance.

1 On or around December 2, 2003, Art Blevins had just finished speaking with  
2 his ex-wife. WILSON was standing by his cubicle. Art said "Keith, don't ever  
3 get married" to which Plaintiff replied "I can't."

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5 On January 7, 2004, plaintiff posted several messages on the internet  
6 discussion board at FreeRepublic.com. The user agreement at that time stated  
7 that they are a discussion board that is not censored and is an open debate  
8 supporting free speech and protects personal information.

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10 Various members of the message board became threatening and vindictive.

11  
12 On or around January 7, 2004, DOES 4-20, administrators and moderators of  
13 FreeRepublic.com obtained plaintiff's IP Address and advised WILSON directly  
14 or indirectly what Plaintiff had posted.

15  
16 On January 9, 2004, WILSON and SANDER terminated plaintiff for "not being a  
17 team player." And tried to induce plaintiff into signing another agreement.

18  
19 On January 9, 2004, around 3:00 pm, plaintiff attempted to leave at which  
20 point WILSON grabbed and pulled the right arm of Plaintiff. Plaintiff said  
21 "don't touch me" and WILSON later complied. WILSON then followed Plaintiff  
22 through the door and approached plaintiff again. Plaintiff asked WILSON "Why  
23 did you touch me?", to which WILSON replied "I need your key card" in a  
24 menacing manner. Plaintiff then gave WILSON two key cards and left.

1 On or around January 9, 2004, and then again later that year changed their  
2 user agreement.

3  
4 WILSON, SANDER, MCDERMOTT, and TOUNKES monitored computer use, Internet  
5 traffic, telephone calls and plaintiff's work hours while not monitoring  
6 other employees to the same extent.

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8 LEGAL CLAIMS

9 FIRST CAUSE OF ACTION

10 Assault and Battery

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12 A plaintiff pleading assault must allege facts that support a finding that  
13 the defendant intentionally placed the plaintiff in reasonable fear of  
14 imminent harmful or offensive bodily contact. United Nat. Ins. Co. v.  
15 Waterfront New York Realty Corp., 994 F.2d 105, 108 (2d Cir. 1993).

16  
17 To sustain a battery claim, a plaintiff must introduce evidence tending to  
18 show the defendant intentionally and wrongfully engaged in physical contact  
19 with the plaintiff without the plaintiff's consent. Id.

20 All of this the plaintiff has done.

21 SECOND CAUSE OF ACTION

22 Discrimination

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24 Plaintiff's claim of discrimination is based on Denver Rev. Municipal Code,  
25 Art IV 28-93 to 28-95, and 28-97.

1 Defendants created a hostile work environment to plaintiff by WILSON talking  
2 loudly to SANDER about discrimination laws. Defendants monitored plaintiff's  
3 computer and Internet usage differently than other employees.

4  
5 THIRD CAUSE OF ACTION

6 Breach of Contract

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8 FREE REPUBLIC changed their user agreement on or around January 9, 2004. At  
9 that time, the user agreement stated:

10 FreeRepublic is a supporter of free speech on the Internet but along  
11 with the privilege of free speech comes the responsibility to respect  
12 the rights of others.

13 Confidentiality: Free Republic agrees to use its best efforts to  
14 maintain security over personal information submitted by user in  
15 confidence on this form and agrees not to disclose email address,  
16 password, or any personal information about user to any third party.

17 User Account Confidentiality: User agrees to protect user's account and  
18 password and not to disclose account information to any third party.

19 Plaintiff's personal information was disclosed by defendants and plaintiff's  
20 comments were censored and used in personal attacks on the plaintiff by  
21 defendants. Plaintiff's employment was terminated as a result of the breach.

22  
23 FOURTH CAUSE OF ACTION

24 Negligence

1 Defendants FREE REPUBLIC and ROBINSON exercised a lack of ordinary, due care  
2 in the enforcement of the user agreement. FREE REPUBLIC and ROBINSON  
3 permitted personal information on plaintiff to be shared by DOES 1-20,  
4 ultimately resulting in plaintiff's termination of employment.

5  
6 FIFTH CAUSE OF ACTION

7 Fraud in the Inducement

8 Plaintiff realleges and incorporates by reference the foregoing paragraphs of  
9 this complaint.

10 Defendants FREE REPUBLIC and ROBINSON made a false representation in the user  
11 agreement that personal information would be protected and the contents of  
12 the message board would not be censored. Defendants FREE REPUBLIC and  
13 ROBINSON knew content is censored by moderators. Plaintiff read the user  
14 agreement and agreed to it thinking personal information would be protected  
15 and content was not censored.

16  
17 SIXTH CAUSE OF ACTION

18 Libel and Slander

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20 FREE REPUBLIC, ROBINSON, and DOES 4-20 made false and derogatory statements  
21 about Plaintiff after sharing personal information in violation of the user  
22 agreement.

23  
24 SEVENTH CAUSE OF ACTION

25 Civil Rights



1 Plaintiff realleges and incorporates by reference the foregoing paragraphs of  
2 this complaint.

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4 Defendants FREE REPUBLIC, ROBINSON, and DOES 1-20 suppressed plaintiff's  
5 right to free speech under the first amendment of the U.S. Constitution. All  
6 of the above named defendants suppressed defendants right to contract. All of  
7 the above named defendants violated plaintiff's fourth amendment right to  
8 privacy, and to plaintiff's tenth amendment right to non-discrimination in  
9 employment. Defendants represented message board as uncensored free speech,  
10 when in fact, it is not.

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12 All of the above named defendants are members of SCIENTOLOGY.

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14 STATE OF COLORADO, ATTORNEY GENERAL OF COLORADO, CITY AND COUNTY OF DENVER,  
15 DENVER CITY ATTORNEY, COLORADO BAR ASSOCIATION, MICHAEL G MCKINNON all  
16 suppressed Plaintiff's right to file liens against a merchant who provided  
17 poor quality products and services.

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19 STATE OF COLORADO, ATTORNEY GENERAL OF COLORADO, CITY AND COUNTY OF DENVER,  
20 DENVER CITY ATTORNEY, COLORADO BAR ASSOCIATION, MICHAEL G MCKINNON all  
21 suppressed Plaintiff's right to assistance of counsel that is not a member of  
22 the trade union COLORADO BAR ASSOCIATION.

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24 **JURY TRIAL DEMAND**

25 Plaintiff demands trial by jury on all issues so triable.

1 PRAYER FOR RELIEF

2 Plaintiff seeks judgment in plaintiff's favor and damages of more than twenty  
3 dollars against the defendants, based on the following requested relief:

- 4 1. Actual damages;  
5 2. Statutory damages;  
6 3. Punitive damages;  
7 4. Back pay with interest;  
8 5. Costs and reasonable fees for legal representation.

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10 Dated this September 22, 2004

11  
12 SIGNATURE PROTECTED

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14 Keith Vogt  
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