

MIKE EMMONS IS MAD AS HELL



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(photo: Brook Pifer)

By [Leigh de Armas](#)

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For Michael Emmons, the road from well-paid I.T. worker to anti-outsourcing activist began on a sweltering June afternoon in 2002 when his Lake Mary employer, Siemens ICN, summoned the entire I.T. department to a meeting. In less than 30 minutes, nearly 20 highly skilled, white-collar employees and contractors were asked to pack their belongings and get out. Many of the workers had been with Siemens for decades. Emmons was a contractor. He'd been working with the company developing software applications for six years.

What had the employees done to deserve their pink slips? Absolutely nothing. It was the company that had an epiphany: Flying technically savvy workers into the United States from India would save a lot of money. The foreign replacements were willing to work for a fraction of the salary their American counterparts earned, and since they were contractors, they didn't qualify for benefits.

Before they left, the Siemens exiles were given a choice: train their Indian replacements and get severance pay, or walk away and get nothing. Two of the 20 fired chose the latter.

Emmons was lucky; he managed to land a job in his field. But he took a hefty pay cut to do it. As a contractor for Siemens, Emmons was netting around \$150,000 a year. At his current job as an applications developer for the State District Attorney's office, he makes about \$54,000. The pay cut put a strain on his family of four. And because one of his children was born with spina bifida (a debilitating spinal disorder), hospital bills are piling up due to frequent surgeries, each of which requires a \$3,000 deductible.

According to a study conducted by the University of California, Berkeley titled "The New Wave of Outsourcing," there were between 25,000 and 30,000 new outsourcing-related jobs created in India in July 2003 alone. In the same month, American employers carried out 2,087 mass layoffs, resulting in the loss of 226,435 jobs. Also, the American Electronics Association found

layoffs, resulting in the loss of 226,435 jobs. Also, the American Electronics Association found that nine out of 10 new information technology job openings were awarded to outsourced foreign workers in 2001.

All this during a time when the American job market has been struggling to stand on wobbly legs. But in Emmons' case, it wasn't outsourcing that cost him his job; it was outsourcing's evil twin: insourcing.

TAKE THIS JOB

Outsourcing involves an American office shutting down and the jobs moving overseas – in the case of high-tech workers, often to India or the Philippines.

But there are also hundreds of thousands of foreign workers imported into the country each year under the controversial L-1 visa, known as the guest-worker visa. The L-1 allows multinational corporations to import workers into the U.S. on an "intracompany transfer" basis with little monitoring, regulation or restrictions from the Department of Labor.

Siemens didn't transfer the workers into the United States themselves. Instead, they contracted with Tata Consultancy Services, a third-party consulting firm based in India, to hire and fly the Indian replacements into the United States. Since Tata was working as a consultant under the Siemens umbrella, few outsiders realized that the Indian replacements were actually employees of Tata, not Siemens.

It's a business strategy Siemens embraces. "Companies that want to maintain their position or make it to the top have to adapt to [the globalization of the business world]," the company writes on its website, www.siemens.com. "More and more companies rely on external service providers to run their business processes which do not form part of their core competencies. ... Systematic outsourcing increases a company's performance, and therefore also its success."

According to Tata spokesman Victor Chayet, every one of the company's 7,000 employees operating in the United States and Canada are paid the prevailing local wage; but they also work significantly fewer hours. Chayet says replacement workers are more efficient than Americans.

Not to mention that the jobs lost are ones that companies didn't have the manpower or skills to do anyway, Tata president and CEO Subramanian Ramadorai said in a July 15 article published in *Computer Business Review Online*. "If you actually look at the number of jobs being 'offshored,' it's a very small proportion. In most cases, what we are helping companies with is jobs that they did not have the staff to do without us. They have no choice but to offshore it because they do not have all of the skills at home."

Emmons disagrees. "There is absolutely no shortage of skill in America. My job still exists, but someone else is sitting at my desk doing it for less money. And I had to train him to do it. How can they tell me that they have a superior skill set when we're the ones training them?" Emmons adds, "These are corporate lies regarding worker shortages designed to manipulate the supply of labor. If you can increase the supply, wages are going to get pushed down."

George McClure, a member of the Career and Workforce Policy Committee for the Institute for Electrical and Electronics Engineers (IEEE) says, "Outsourcing and insourcing has been a major concern of IEEE-USA, the U.S. Department of Commerce, the Council on Competitiveness and others. The issue is competitiveness. We are training them with our technology and they are taking it back to their countries."

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If we don't keep our competitive edge, we cannot be on the forefront of the future like we have in the past."



LOOPHOLES

There are two types of visas that allow foreign workers into the United States: the L-1 and the H-1B. The L-1 visa originated in the '70s to enable multinational companies to move employees. If the Ford Motor Company wanted to transfer a technician to Detroit from England, for example, they would utilize the L-1 to make it happen.

The H-1B originated in the '90s to help American employers who could not find American workers to fill certain jobs. Under the H-1B, employers are not allowed to displace American workers with foreign workers, and they must offer foreigners the prevailing wage. But it's the employers who decide what constitutes the prevailing wage.

In 2003, Congress decreased the yearly H-1B visa quota from 195,000 a year to 65,000 a year. The action was not a result of a congressional vote. The Immigration Act of 1990 stated that if Congress did not vote by October of 2003 to keep the number of H-1B visas at 195,000 per year, the quota would automatically fall to 65,000 per year.

It's the L-1 visas, however, that are dangerous to American jobs. The L-1 says nothing about whether or not American workers can be displaced, and there is no requirement that companies pay foreign workers the prevailing local wage. Companies like Tata can file blanket petitions to bring as many workers into the United States as they want, as often as they want.

"Is my government telling me that if an H-1B visa holder replaces me, it's illegal, but if an L-1 replaces me, it's OK?" asked Patricia Fluno, a former employee of Siemens who brought her argument to the Senate floor in July of 2003. "If this is a loophole, it needs to be stopped."

EMMONS' CRUSADE

After being "insourced," Emmons went on a worldwide media crusade to expose how

After being "insourced," Emmons went on a worldwide media crusade to expose how corporations exploit visa laws to get cheap labor. He's been on CNN, CBS and ABC, and has been featured in nearly 50 news articles worldwide. He has made himself the poster child for the evils of insourcing

He's also been sparring with his congressman, Rep. John Mica, a fight which led to Emmons' own aborted run for Mica's seat in the House.

After Emmons contacted Mica with his concerns about the visas in 2002, Mica wrote back stating, "Please know that this issue is of grave and urgent concern to me and I will continue to press for the most expedient solution."

Later, when Emmons learned that Mica received campaign donations from Siemens, he felt betrayed. "I've called this man 'Honorable' for far too long. He obviously doesn't give a damn about his constituents, he only cares about transportation and his corporate supporters," Emmons says.

Rusty Roberts, Mica's chief of staff, has a different story. "[Emmons' impatience] stems from the fact that the law wasn't passed quickly enough for him," he says. "I suppose in a dictatorship you can get immediate action. In a democracy, the process is much slower."

Adds Roberts, "Mica happened to be running for re-election at the time, and one of his big platforms is transportation. Siemens build trains. Furthermore, they are the largest manufacturer in Mica's district."

After some heated correspondence, Mica eventually cut communication with Emmons. He assured Emmons that he would continue to press for visa reform legislation.

In 2003, Mica kept his promise and created visa reform legislation that was "Aimed at closing a loophole in current immigration law and protecting American jobs," as described on his website. The bill has not gained much momentum since its introduction.

Mica's website also states, "In 2003 and again in 2004, I have requested that the House Judiciary Committee conduct a full hearing addressing the abuse of the L-1 visa program. Chairman James Sensenbrenner has not responded to my request."

Emmons, still upset with Mica, thinks the bill is full of loopholes to protect Siemens.

If passed, Mica's bill would make it illegal for corporations to employ third-party firms (such as Tata) to utilize the L-1 visa in order to bring workers into the states. However, American corporations would still be allowed to use the L-1 if they were transferring workers themselves, or through a subsidiary of their company.

"Mica's bill is worthless," says Emmons. "The big corporations can still set up shop overseas. That way, they can train and bring over these cheap workers themselves, and remain untouched by the law. There is still zero protection for the American worker. American jobs are no safer than before."

Roberts says Emmons is pointing his anger in the wrong direction. "Congressman Mica was not only the first member of Congress to introduce legislation aimed at closing the specific loophole in the L-1, but on June 22, he became the very first co-sponsor to Congressman Henry Hyde's bill [H.R. 4415] that would make it illegal for companies to displace American workers with the L-1."

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It wasn't good enough for Emmons, who declared his candidacy as a Democrat running against Mica in the 2004 November election. His campaign ended when he was unable to gather neither the \$9,000 nor the 4,000 signatures necessary to get his name on the ballot. Mica is running for re-election unopposed.

ON THE RADAR

Rep. Rosa DeLauro, D-Conn., has taken an interest in the L-1 visa issue, and has introduced a bill that may have the power to turn things around. H.R. 2702, The L-1 Nonimmigrant Reform Act, would not only require corporations to offer the prevailing wage to its foreign workers, but also cap the number of allowable L-1 visas at 35,000 per year. The bill still seems to be bottled up in committee.

Additionally, California producer Greg Spotts is releasing a documentary on Labor Day addressing the controversy. Simply titled *American Jobs*, the film follows Spotts as he travels the country for five months interviewing victims of outsourcing and insourcing. Spotts says he devoted a full six minutes of commentary to Emmons' and Fluno's unique situation.

Spotts plans to release the film in conjunction with a speaking tour, and wants to premiere the movie in cities that were featured in his film, Orlando included. Emmons plans to join Spotts on his tour to spread the word.

"My anger is not directed toward the foreign workers themselves, it's directed toward our flawed system," says Emmons. "Every knowledge-based job is in danger, and all the young college graduates need to wake up because corporatism is influencing our government. They took my job and they took my livelihood. You don't do something like this to someone and expect them to turn a blind eye."