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March 7, 2011

BY USPS FIRST-CLASS MAIL CERTIFIED RETURN RECEIPT

U.S. Tenth Circuit Court of Appeals
c/o Judge Lucero
Byron White U.S. Courthouse
1823 Stout Street
Denver, CO 80257

BY USPS FIRST-CLASS MAIL CERTIFIED RETURN RECEIPT AND FIRST-CLASS MAIL

U.S. Supreme Court
c/o Justice Ginsburg
1 First Street, NE
Washington, DC 20543
Phone: 202-479-3011

Re: Emmanuel D. Kepas v. eBay, Inc. (U.S. Supreme Court Case No. 10-1085)

Judge Lucero:

There were facts not presented in your court.

I sued eBay. I searched the net for anything that may help my case. I found Manny's case. I skimmed it, so I became a little familiar with Manny's problem with eBay. After the 12/2/10, 2 - 1, decision by the Tenth Circuit Court of Appeals with you as the dissenter, I contacted Manny for the first time to know the reason why he was losing. Even though Manny is intelligent, and I learned credible, I asked him to send me every court document he has. There are about 1,000 pages. I read every one of them except some of the testimony. For the testimonies I did not read, I read their summaries.

After Manny sued in District Court, his lawyer, Scott Crook, stated to Manny that the then Chief Judge, Dee Benson, selected Manny's case to preside over. I have no idea how Mr. Crook would know that information. Due to the oddity of the statement and all of the circumstances in the case, I believe the statement is true.

In the hearing, Judge Benson ruled that Manny did not have to pay the costs of the arbitration, and Manny could have the arbitration near home. I count two other defects in the agreement for a total of four. The transcript of the hearing and ruling leads one to

believe that Judge Benson was siding for Manny. I have always thought that arbitration agreements are illegal given that I have never seen a fair one. I have thought for a long time that they are unnecessary given their costs are not much different than a court's costs. If courts have to count defects in an arbitration agreement to know if they are illegal, the courts have completely lost perspective.

The lone arbitrator proceeded normally including getting angry when eBay withheld evidence. eBay filed their usual Motion for Summary Judgment, even though literally all of the evidence was against them. After Mr. Crook filed his reply, eBay submitted documents that they had been compelled to produce. The documents contained proof of withheld evidence and destroyed evidence. The documents included bribery to lie under oath, harassment, and retaliation. eBay took more than a year to produce some of the documents, and eBay has never produced some documents. eBay's lawyer, Matt Durham, virtually worked at eBay for about two months reviewing the documents and the testimonies. Then, he took time off, which coincided with his associate signing for the validity of things. When eBay employees' were being deposed, and when the testimony was going in Manny's favor, Mr. Durham would ask for a break, and he and the testifier would go into another room. The outcome was that the testimony of everybody from eBay is essentially the same.

Mr. Crook planned to tell the arbitrator about the new evidence at the hearing on the Motion for Summary Judgment. In the hearing, there was no court reporter, which is odd. At the beginning of the hearing, the arbitrator told Mr. Crook that she was not going to hear Mr. Crook's presentation. She said that she was only going to ask him a few questions. eBay presented their case, which took about 90 minutes. Mr. Crook started talking presumably to discuss the new evidence. The arbitrator stopped him. Mr. Crook should have walked out when he noticed that there was no court reporter. And, he should have walked out when the arbitrator was acting like it was a trial in 1940 in Germany.

In my lawsuit, eBay lied about the evidence, and they lied to get jurisdiction.

In Manny's case, eBay was awarded Summary Judgment for reasons that defy common sense and the law. The arbitrator was paid about \$32,000. Lawyers that have knowledge of the case have said that amount is about four times what it should be.

A few months after the arbitration, in Mr. Crook's office, he stated to Manny that Judge Benson had been "compromised." Manny asked what that meant, but Mr. Crook did not answer. The exchange was very intense and very awkward. At the time, Manny trusted Mr. Crook, especially because Manny paid Mr. Crook a lot of money.

There is about one minute missing from the audio file of the hearing in the U.S. Tenth Circuit Court of Appeals. It's when Chief Judge Mary Beck Briscoe admonished eBay's lawyer, Matt Durham, for not having citations. Manny, his wife, and his two lawyers will testify to the facts. The only reason for the tampering Manny could think of is that Judge Briscoe and Utah's Chief Justice Christine Durham, the cousin of Matt Durham, may be friends.

EBay is building a \$240 million building in Utah. EBay has thousands of employees in Utah. EBay was awarded a total of \$31.1 million of the then total \$67 million allocated tax incentives from the Utah Governor's Office for Economic Development (<http://www.cityweekly.net/utah/article-10162-utahs-state-incentives-for-corporations.html>).

Two Chief Judges handled Manny's case. The odds of that happening follow:

- U.S. Tenth Circuit Court of Appeals: 12 judges -> 3/12
- U.S. District Court for the District of Utah: 8 judges -> 1/8

$$3/12 \times 1/8 = 3.125\%$$

For the pertinent information, please go to emmanuelkepas.com.

Please submit to the U.S. Supreme Court and copy me the reason why you think your colleagues ruled opposite of you and the reason for the missing minute. Please include this letter. Please enter this letter into Manny's docket in your court (Case No. 09-4200).

The Justices of the U.S. Supreme Court, I know that only a party to the case and a lawyer can submit a document to the court. I believe that is unconstitutional. Regardless, accept this letter due to its relevance. Given what eBay did, sanctions should be given. Further, given that you now know the way eBay, a public company, conducts itself inside the company and outside of the company, consider ordering eBay to enforce a civil rights policy, since they may affect hundreds of millions of people*. All of eBay's lawsuits both open and closed need to be reexamined.

Thank You,



Domenic Tricome

cc: BY USPS FIRST-CLASS MAIL

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Council for Defendant

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* <http://en.wikipedia.org/wiki/EBay>: ..."counted hundreds of millions of registered users"....

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