

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

ERIC M. ALBRITTON,

Plaintiff

v.

CISCO SYSTEMS, INC. RICHARD
FRENKEL, MAULLUN YEN and
JOHN NOH,

Defendants

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No. 6:08cv00089

**PLAINTIFF’S RESPONSE TO DEFENDANTS’ MOTION
TO IMPANEL A TWELVE PERSON JURY**

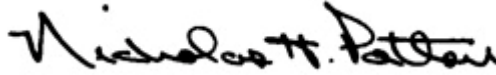
Plaintiff Eric Albritton, by and through his counsel of record, files his response to Defendants’ Motion to Impanel a Twelve Person Jury (DE #185), and states as follows:

Defendants have filed a request that the Court impanel a jury consisting of 12 members. As a basis for its relief, Defendants state that this case invokes “substantial constitutional protections” and further argue that the Founders who drafted the Constitution would require 12 members for this case. (Motion, page 3) While Plaintiff agrees that any civil case tried before a jury invokes important constitutional protections, Defendants’ arguments that a garden-variety defamation case is somehow more important from a constitutional standpoint than other cases (*ie.* § 1983 case or discrimination case) is not rational.

Plaintiff suggests that the Court is best suited to determine the number of jurors impaneled to hear this case. Whether the Court decides to impanel a 6-member jury or a 12-member jury or somewhere in-between, Plaintiff has no objection to the Court’s exercise of its own discretion under Federal Rule of Civil Procedure 48.

WHEREFORE, PREMISES CONSIDERED, Plaintiff requests that the Court select the number of members to impanel on the jury based on its own discretion.

Respectfully submitted,



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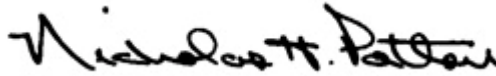
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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this 5th day of March, 2009.



Nicholas H. Patton