

Todd



In the Matter of:

**UNITED STATES DEPARTMENT OF
LABOR, OFFICE OF FEDERAL
CONTRACT COMPLIANCE
PROGRAMS,**

ARB CASE NO. 17-059

ALJ CASE NO. 2017-OFC-004

DATE:

JUL 20 2017

PLAINTIFF,

v.

GOOGLE, INC.,

DEFENDANT.

2017 JUL 21 PM 2:49

US DEPT OF LABOR
ADMIN LAW JUDGES
WASHINGTON DC

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

**ORDER GRANTING MOTIONS TO WITHDRAW MOTION FOR EXPEDITED
REVIEW AND FOR ENLARGEMENT OF TIME TO FILE EXCEPTIONS**

On July 14, 2017, a Department of Labor Administrative Law Judge (ALJ) issued a Recommended Decision and Order (R. D. & O.) in this case arising under Executive Order 11246, as amended, and the implementing regulations at Title 41 Chapter 60 of the Code of Federal Regulations. On July 20, 2017, the Plaintiff, Office of Federal Contract Compliance Programs (OFCCP) filed Plaintiff's Motion for Clarification as to Whether this Case Remains Under Expedited Proceedings (Plaintiff's Motion).

OFCCP avers in its motion that the ALJ granted its motion to litigate this case under the expedited hearing procedures set out in the Executive Order regulations at 41 C.F.R. §§ 60-30.31-30.37. Nevertheless, with the consent of the parties, the ALJ did not proceed under the time frames mandated by the regulations. Ultimately, the ALJ concluded that "the case was no longer on an expedited schedule. I therefore allowed the parties the time they requested, and both submitted closing briefs."¹

Confusion has arisen however, because attached to the ALJ's Order was a Notice of Appeal Rights that stated that the parties must file exceptions with the Administrative Review Board within 10 days, the rule applicable to cases proceeding under the expedited

¹ R. D. & O. at 3.

hearing regulations. Consequently, on July 20, 2017, OFFCP filed Plaintiff's Motion requesting the Board to confirm its assumption "that inclusion of the Notice of Appeal Rights that contains the expedited 10-day, rather than the regular 14-day, filing period was an oversight given the ALJ's clear statement in footnote 16 that the case was no longer on an expedited schedule, and the fact that the ALJ issued the decision well beyond the period of time prescribed by the regulations for matters in expedited proceedings." OFFCP notes that Defendant Google does not agree that the case is no longer proceeding under the expedited procedures. In the event that the Board agrees that the expedited proceedings are no longer in force, OFCCP requests a 14-day enlargement of time to file any exceptions, to August 11, 2017.

Given the ALJ's statement of his conclusion that, given the parties' requests for additional time to prosecute this case, the case was no longer proceeding under the expedited procedures, his failure to adhere to such procedures in this case, and OFCCP's motion for additional time in which to file any exceptions, we will treat OFCCP's motion as a motion to withdraw its request to proceed under the expedited hearing proceedings. We **GRANT** that Motion and the case will not proceed under the expedited procedures, but will proceed under the procedures at 41 C.F.R. §§ 30.28-30.30 (2016). Further, we **GRANT** OFCCP's request to file any exceptions on or before **August 11, 2017**.

FOR THE ADMINISTRATIVE REVIEW BOARD:



Janet R. Dunlop
General Counsel

Note: Questions regarding any case pending before the Board should be directed to the Board's legal assistant, Juanetta Walker. Telephone: (202) 693-6200
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