

U.S. Department of Labor

Office of Administrative Law Judges
90 Seventh Street, Suite 4-800
San Francisco, CA 94103-1516

(415) 625-2200
(415) 625-2201 (FAX)



Issue Date: 28 February 2017

CASE NO. 2017-OFC-00004

In the Matter of

**OFFICE OF FEDERAL CONTRACT
COMPLIANCE PROGRAMS,
U.S. DEPARTMENT OF LABOR,**
Plaintiff,

v.

GOOGLE INC.,
Defendant.

**ORDER RESETTING HEARING AND
RE ADDITIONAL SUPPLEMENTAL BRIEFING**

This expedited matter is set for hearing in San Francisco on March 10, 2017. The parties move jointly for a continuance. I conducted a scheduling conference by telephone on February 28, 2017. Both parties were represented by counsel of record. During the conference, in addition to the motion to continue, questions about additional briefing arose and were addressed.

Continuance. The applicable regulations for expedited case handling required that the hearing be set no later than March 10, 2017. *See* 41 C.F.R. § 60-30.32(d). But, as the parties each (1) have shown good cause for a continuance, (2) have joined in the motion, (3) have not previously requested a continuance, and (4) have agreed that the continuance may be short,

The joint motion is GRANTED. The hearing set for March 10, 2017, is VACATED.

PLEASE TAKE NOTICE that the hearing in this matter will begin on Tuesday, March 21, 2017, at 9:00 a.m. at the Office of Administrative Law Judges Courtroom, Suite 4-815, San Francisco Federal Building, 90 Seventh Street, San Francisco, California.¹ The hearing will continue day-

¹ The hearing is conducted in a federal building. All persons entering (other than federal government employees with proper identification) must pass through security and must present currently valid, government-issued picture identification (such as a driver's license). Persons should use the entrance on Seventh Street (not the Social Security entrance). The courtroom is on the fourth floor of the annex building. Persons unfamiliar with the precise location of the courtroom are encouraged to request guidance from Tom Fazioli of this Office.

after-day until concluded, Saturdays, Sundays, and holidays excepted. All deadlines pegged to the hearing date are modified consistent with the new hearing date.²

Briefing on summary decision. OFCCP requests leave to file a reply on summary decision. The motion is GRANTED. The reply must be on file in this Office (and served) no later than close of business on Monday, March 6, 2017. Google's motion for a surreply is DENIED without prejudice to Google's renewing the motion if OFCCP introduces new material not discussed in its opening brief.

Briefing on remedies. During the conference, the administrative law judge inquired of the parties about the options for potential remedies. In particular, does the administrative law judge have an option to narrow OFCCP's demand on Google and order Google to comply with the demand as narrowed?³ Or instead, is the judge's only option either to order Google to comply with OFCCP's demand as written or to deny OFCCP's complaint in its entirety? The parties will file briefs on this question on or before close of business on Friday, March 3, 2017.

Service. This Order will be served on the Solicitor and on counsel for Google by facsimile or email. All other service is by U.S. mail.

SO ORDERED.

STEVEN B. BERLIN
Administrative Law Judge

² Unless there is a further order from the administrative law judge, the deposition scheduled by the parties' agreement for March 3, 2017, must go forward as scheduled.

³ The administrative law judge is not contemplating – and the parties need not address – the possibility of the administrative law judge's enlarging OFCCP's demand.