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UNITED STATES DEPARTMENT OF LABOR  
OFFICE OF ADMINISTRATIVE LAW JUDGES

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

Plaintiff,

v.

ORACLE AMERICA, INC.,

Defendant.

OALJ Case No. 2017-OFC-00006

OFCCP No. R00192699

**DECLARATION OF ERIN  
CONNELL IN SUPPORT OF  
DEFENDANT ORACLE  
AMERICA, INC.'S MOTION FOR  
PROTECTIVE ORDER RE:  
CONFIDENTIAL  
INFORMATION**

RECEIVED

APR 21 2017

Office of Administrative Law Judges  
San Francisco, Ca

I, Erin Connell, declare as follows:

1. I am a partner with Orrick, Herrington & Sutcliffe LLP, attorneys of record for defendant Oracle America, Inc., ("Oracle"). I make this declaration in support of Oracle's Motion for Protective Order re: Confidential Information. I have personal knowledge of the facts set forth herein, except where stated on information and belief, and if called as a witness could competently testify thereto.

2. Attached as **Exhibit A** is a true and copy of Defendant Oracle America, Inc.'s Responses and Objections to OFCCP's First Set of Requests for the Production of Documents.

3. Attached as **Exhibit B** is a true and copy of Defendant Oracle America, Inc.'s Responses and Objections to OFCCP's Second Set of Requests for the Production of Documents.

4. Attached as **Exhibit C** is a true and copy of OFCCP's Notice of Deposition Pursuant to 41 C.F.R. § 60-31.11 and Federal Rule of Civil Procedure 30(b)(6) Regarding Human Resources Databases and Other Records.

5. Attached as **Exhibit D** is a true and copy of Defendant's Objections to Notice of Deposition Pursuant to 41 C.F.R. § 60-31.11 and Fed. R. Civ. P. 30(b)(6) Regarding Human Resources Databases and Other Records.

6. Counsel for the OFCCP and counsel for Oracle, including myself, scheduled a telephone call for March 15, 2017, to meet and confer on discovery issues, including the OFCCP's 30(b)(6) deposition notice served on Oracle. In advance of that telephone call, on March 15, 2017, I emailed counsel for the OFCCP, Laura Bremer and Marc Pilotin, a draft protective order regarding confidential information. Attached as **Exhibit E** is a true and correct copy of my March 15, 2017 email. Attached as **Exhibit F** is the draft protective order regarding confidential information that was attached to my March 15, 2017 email.

7. During the parties' meet-and-confer telephone call on March 15, 2017, I asked counsel for OFCCP about the draft protective order that I had emailed. In response, counsel for OFCCP stated that they did not need to review the protective order because they do not enter into protective orders. Nevertheless, after additional discussion on the issue, counsel for OFCCP eventually agreed to get back to me to confirm OFCCP's position on the issue.

8. Attached as **Exhibit G** are true and correct copies of meet-and-confer correspondence between opposing counsel and myself regarding the protective order after our March 15, 2017 telephone call. On March 22, 2017, and March 27, 2017, I received letters authored by Ms. Bremer and Norman Garcia, respectively, reaffirming that the OFCCP would not agree to a protective order. Both letters asserted that a protective order was not necessary in this case because FOIA and the Privacy Act provide protections from public disclosure. On April 17 2017, I received a letter from Ms. Bremer reaffirming that OFCCP would not agree to a protective order. During our meet-and-confer discussions, OFCCP has never suggested any alternative language in response to Oracle's proposed draft protective order. Instead the agency has taken the position it will agree to no protective order at all.

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9. Attached as **Exhibit H** are true and correct copies of protective orders that are publicly available and that were obtained through the Public Access to Court Electronic Records (PACER):

- *Hugler v. Bhatia*, No. 8:18-cv-01548-JVS-JCG (C.D. Cal. Feb. 14, 2017), ECF No. 29;
- *Perez v. Vesuvio's Pizza & Subs 2, Inc.*, No. 1:15-cv-00519-LCB-LPA (M.D.N.C. Apr. 6, 2016), ECF No. 30-1;
- *EEOC v. Albertson's LLC*, No. 1:06-cv-01273-CMA-BNB (D. Colo. June 25, 2007), ECF No. 125; and
- *Perez v. Guardian Roofing LLC*, No. 3:15-cv-05623-RJB (W.D. Wash. May 24, 2016), ECF No. 56.

10. Attached as **Exhibit I** is a true and correct copy of a news article regarding *OFCCP v. Google, Inc.*, Dep't of Labor A.L.J., No. 2017-OFC-0004, publicly available online.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 20, 2017, in San Francisco, California.



Erin Connell



UNITED STATES DEPARTMENT OF LABOR  
OFFICE OF ADMINISTRATIVE LAW JUDGES

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

Plaintiff,

v.

ORACLE AMERICA, INC.,

Defendant.

OALJ Case No. 2017-OFC-00006

OFCCP No. R00192699

**DEFENDANT ORACLE  
AMERICA, INC.'S RESPONSES  
AND OBJECTIONS TO FIRST  
SET OF REQUESTS FOR THE  
PRODUCTION OF DOCUMENTS**

PROPOUNDING PARTY: Plaintiff OFFICE OF FEDERAL CONTRACT  
COMPLIANCE PROGRAMS, UNITED STATES  
DEPARTMENT OF LABOR

RESPONDING PARTY: Defendant ORACLE AMERICA, INC.

SET NO.: One

Pursuant to 41 C.F.R. § 60-30.10 and, as applicable, Federal Civil Procedure Rule 34, Defendant Oracle America, Inc. ("Oracle") responds to Plaintiff Office of Federal Contract Compliance Programs, United States Department of Labor's ("OFCCP") First Set of Requests for Production of Documents ("Requests") as follows:

**PRELIMINARY STATEMENT**

Oracle has not completed its investigation of the facts related to this case and therefore its responses are of a preliminary nature. Further discovery, investigation, and research may bring to light additional relevant facts that may lead to changes in the responses set forth below. Although these responses are complete to the best of Oracle's knowledge at this time, these responses are given without prejudice to Oracle's right to amend its objections and responses or to produce additional relevant evidence that may come to light regarding the issues raised in this lawsuit. Nothing contained in these responses shall in any way limit Oracle's ability to make all uses at trial or otherwise of the information or documents referenced herein or of any subsequently discovered information or documents or of information or documents omitted from

DEF. ORACLE AMERICA, INC.'S RESPONSES TO REQUEST FOR PRODUCTION OF DOCUMENTS  
CASE NO. 2017-OFC-00006

these responses as a result of good faith oversight, error, or mistake.

For the reasons set forth in Oracle's Answer, Oracle's responses and productions responsive to the document requests related to OFCCP's recruiting and hiring claims are limited to the period January 1, 2013 through June 30, 2014 and to positions in the Professional Technical 1, Individual Contributor ("PTI") job group at Oracle's Redwood Shores, CA, location, and responses and productions responsive to the document requests related to OFCCP's compensation claims are limited to the period January 1, 2014 through December 31, 2014 and to positions in the Product Development, Support, and Information Technology job functions at Oracle's Redwood Shores, CA, location.

Oracle's production of documents is contingent upon and subject to the entry of a protective order. Oracle will provide OFCCP a proposed protective order.

These responses are made solely for purposes of this action, and are subject to all objections as to competence, authenticity, relevance, materiality, propriety, admissibility, and any and all other objections and grounds that would or could require or permit the exclusion of any document or statement therein from evidence, all of which objections and grounds are reserved and may be interposed at the time of trial.

No incidental or implied admissions are intended by these responses. The fact that Oracle has responded or objected to any request or part thereof shall not be deemed an admission that Oracle accepts or admits the existence of any facts set forth or assumed by such request. Nor shall Oracle's responses or objections be deemed an admission that any statement or characterization in any request is accurate or complete, or that any particular document exists, is relevant, or is admissible in evidence.

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## OBJECTIONS TO SPECIFIC DEFINITIONS

**DEFINITION NO. 1.** "YOU" and "YOUR" mean Oracle America, Inc. and all of its agents, representatives, attorneys, consultants, successors, subsidiaries, or divisions.

### **OBJECTION TO DEFINITION NO. 1:**

Oracle objects to the OFCCP's definitions of "YOU" and "YOUR" as vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case, to the extent that these terms include Oracle's agents, representatives, attorneys, consultants, successors, subsidiaries, or divisions. Oracle further objects to this definition to the extent it includes information protected by attorney-client privilege, the attorney work product doctrine, or calls for a legal conclusion as to the relationship between Oracle and other entities, including agents. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle's Redwood Shores, CA, location. Accordingly, and in light of OFCCP's Instruction No. 1, which provides "Unless otherwise stated, these requests relate to Oracle's POLICIES, PRACTICES, or PROCEDURES that apply at its headquarters located at Redwood Shores, California", Oracle's responses, objections, and productions are limited to documents "relate[d] to Oracle's POLICIES, PRACTICES, or PROCEDURES that apply at its headquarters located at Redwood Shores, California."

**DEFINITION NO. 2.** "RELEVANT TIME PERIOD" means January 1, 2013 to the present unless otherwise stated.

### **OBJECTION TO DEFINITION NO. 2:**

Oracle objects to this definition as including the term "present," which renders the phrase vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. As to Requests related to OFCCP's recruiting and hiring claim, Oracle's responses, objections and productions are limited to the relevant time period of January 1, 2013 through June 30, 2014. As to Requests related to OFCCP's compensation claims, Oracle's responses, objections and

production are limited to the relevant time period of January 1, 2014 through December 31, 2014.

**DEFINITION NO. 3.** "AFFINITY GROUP" means any group of people linked by a common interest or purpose and includes, but is not limited to, gender or race.

**OBJECTION TO DEFINITION NO. 3:**

Oracle objects to this definition as including the phrases "any group," "linked," and "common interest or purpose," which render the definition vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the OFCCP's allegations pertaining to Oracle's Redwood Shores, CA, location.

**DEFINITION NO. 4.** "And" and "or" shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive.

**DEFINITION NO. 5.** "ANSWER" means the Answer to the Amended Complaint filed by YOU in this action on February 8, 2017.

**DEFINITION NO. 6.** "COLLEGE RECRUIT" means any PERSON who expresses interest or applies to YOU through YOUR college recruiting program (including undergraduate students, graduate students, and recent graduates) for technical positions (as opposed to sales positions), including positions in the Professional Technical I, Individual Contributor job group or Product Development, Support, or Information Technology lines of business.

**OBJECTION TO DEFINITION NO. 6:**

Oracle objects to this definition as including the term "PERSON" and the phrases "expresses interest," "college recruiting program," and "technical positions," which render the definition vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle's Redwood Shores, CA. Oracle's

responses, objections and production are limited to responsive documents related to the Professional Technical 1, Individual Contributor ("PT1") job group at its Redwood Shores, CA, location between January 1, 2013 and June 30, 2014.

**DEFINITION NO. 7.** "COMMUNICATIONS" means all transactions or transfers of information of any kind, whether orally, in writing, or in any other manner, at any time or place, under any circumstances whatsoever.

**OBJECTION TO DEFINITION NO. 7:**

Oracle objects to this definition as including the phrase "all transactions or transfers" and the term "orally," which render the definition vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle's Redwood Shores, CA, location. Oracle's responses, objections and production are limited to existing written or electronically stored information in the custody, control, and possession of Oracle America, Inc. and related to its Redwood Shores, CA, location.

**DEFINITION NO. 8.** "COMPENSATION" means any payments made to, or on behalf of, an employee as remuneration for employment, including but not limited to salary, wages, overtime pay, shift differentials, commissions, bonuses, vacation and holiday pay, retirement and other benefits, stock options and awards, and profit sharing.

**OBJECTION TO DEFINITION NO. 8:**

Oracle objects to this definition as including the phrase "remuneration for employment," which renders the definition vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle's Redwood Shores, CA, location. Oracle's responses, objections and production are limited to documents in the custody, control, and possession of Oracle America, Inc. and related to its Redwood Shores, CA,

location.

**DEFINITION NO. 9.** "COMPLIANCE REVIEW" means OFCCP's compliance evaluation of YOUR headquarters located at Redwood Shores, California in connection with the scheduling letter OFCCP sent to YOU on or about September 24, 2014 pursuant to 41 C.F.R. Chapter 60: Executive Order 11246, as amended; Section 503 of the Rehabilitation Act of 1973, as amended; and the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, unless otherwise stated.

**OBJECTION TO DEFINITION NO. 9:**

Oracle objects to this definition as including the phrase "compliance evaluation," which renders the definition vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle's Redwood Shores, CA, location. Oracle's responses, objections and production are limited to documents in the custody, control, and possession of Oracle America, Inc. and related to its Redwood Shores, CA.

**DEFINITION NO. 10.** "DOCUMENT" means all writings of any kind, including any written, printed, typed, electronically stored, or other graphic matter of any kind or nature and all mechanical or electronic sound recordings or transcripts thereof, in YOUR possession and/or control or known by YOU to exist, and also means all copies of documents by whatever means made, including, but not limited to: papers, letters, correspondence, emails, text messages, presentations, manuals, computerized files, computerized spreadsheets, telegrams, interoffice communications, memoranda, notes, notations, notebooks, reports, records, accounting books or records, schedules, tables, charts, transcripts, publications, scrapbooks, diaries, and any drafts, revisions, or amendments of the above, and all other materials enumerated in the definition provided in Rule 34 of the Federal Rules of Civil Procedure.

**OBJECTION TO DEFINITION NO. 10:**

Oracle objects to this definition as including the phrase "or known by YOU to exist,"

which, to the extent such documents are not in Oracle's possession, custody, or control, encompasses documents beyond those that Oracle has any obligation to produce.

**DEFINITION NO. 11.** "HIRING" or "HIRE" mean receiving expressions of interest, soliciting, recruiting, communicating with, screening, interviewing, evaluating, determining starting salary and other COMPENSATION for, and/or extending offers to, PERSONS who express interest in a position with YOU or requisition posted by YOU.

**OBJECTION TO DEFINITION NO. 11:**

Oracle objects to this definition as unintelligible in its entirety. Oracle further objects to this definition as including the term "PERSON" and the phrases "expressions of interest," "communicating with," and "express interest," which render the definition vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle's Redwood Shores, CA. Oracle interprets this definition using the commonly understood use of the word "hiring" or "hire" and its responses, objections and production are limited to responsive documents related to the PT1 job group at its Redwood Shores, CA, location between January 1, 2013 and June 30, 2014.

**DEFINITION NO. 12.** "OFCCP" means the Office of Federal Contract Compliance Programs, United States Department of Labor.

**DEFINITION NO. 13.** "OFCCP'S REQUESTS FOR DATA" means all DOCUMENTS and COMMUNICATIONS requested from YOU by OFCCP during the COMPLIANCE REVIEW, whether orally, in writing, or in any other manner.

**OBJECTION TO DEFINITION NO. 13:**

Oracle objects to this definition as including the term COMMUNICATIONS, which includes the term "orally," and the phrase "any other manner," which render the definition vague, ambiguous, overbroad, unduly burdensome and oppressive. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct

allegedly engaged in at Oracle's Redwood Shores, CA, location. Oracle's responses, objections and production are limited to existing written or electronically stored information in the custody, control, and possession of Oracle America, Inc. and relating to its Redwood Shores, CA, location.

**DEFINITION NO. 14.** "ORGANIZATIONAL CHART" means a graphic or written representation of the structure of YOUR business or any portion of YOUR business, which shows the relationships of the positions or jobs (including but not limited to reporting relationships) within each line of business, job function, or any other division or group as YOU have defined them in the normal course of YOUR business operations.

**OBJECTION TO DEFINITION NO. 14:**

Oracle objects to this definition as including the terms "structure," "relationship," and "each," which render the definition vague, ambiguous, overbroad, unduly burdensome and oppressive. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle's Redwood Shores, CA, location. Oracle's responses, objections and production are limited to responsive documents related to the Product Development, Support, and Information Technology job functions at its Redwood Shores, CA, location between January 1, 2013 and June 30, 2014.

**DEFINITION NO. 15.** "PERSON" means without limitation individuals, firms, associations, partnerships, corporations, governmental agencies or offices and employees, and any other entity.

**OBJECTION TO DEFINITION NO. 15:**

Oracle objects to this definition as vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case, to the extent this definition includes firms, associations, partnerships, corporations, governmental agencies or offices and employees, and any other entity. Oracle further objects to this definition to the extent it includes information protected by attorney-client privilege or the attorney work product doctrine. Oracle further objects to this

definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle's Redwood Shores, CA, location. Oracle's responses, objections and production are limited to information in the custody, control, and possession of Oracle America, Inc. and related to its Redwood Shores, CA, location.

**DEFINITION NO. 16.** "PERSONNEL" means information relating to YOUR current, former, or prospective employees.

**OBJECTION TO DEFINITION NO. 16:**

Oracle objects to this definition as vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case, to the extent this definition includes employees not employed by Oracle during the relevant time period. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle's Redwood Shores, CA, location. Oracle's responses, objections and production are limited to responsive documents related to the Product Development, Support, and Information Technology job functions at its Redwood Shores, CA, location between January 1, 2013 and June 30, 2014.

**DEFINITION NO. 17.** "PERSONNEL FILE" means any data, file (including electronic files), collection of DOCUMENTS and COMMUNICATIONS, or other form in which information is stored or maintained by YOU or any of YOUR officers, executives, all levels of management, human resources department(s) or division(s), and/or any other employee or PERSON acting or purporting to act on YOUR behalf or at YOUR direction, concerning the employment of a particular employee, whether current, former, or prospective.

**OBJECTION TO DEFINITION NO. 17:**

Because the term "PERSONNEL FILE" does not appear in any of the document requests below, Oracle does not respond regarding this definition at this time.

**DEFINITION NO. 18.** "POLICIES," "PRACTICES," or "PROCEDURES" means each rule, action, or directive, whether formal or informal, and each common understanding or course of

conduct that was recognized as such by YOUR present or former officers, agents, employees, or other PERSONS acting or purporting to act on YOUR behalf or at YOUR direction, that was in effect at any time during the RELEVANT TIME PERIOD. These terms include any changes that occurred during the RELEVANT TIME PERIOD.

**OBJECTION TO DEFINITION NO. 18:**

Oracle objects to this definition as including the phrases “common understanding” and “course of conduct,” which render the definition vague, ambiguous. Oracle further objects to this definition as overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party’s claim or defense nor proportional to the needs of the case. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle’s Redwood Shores, CA, location within the Product Development, Support and Information Technology job functions. Accordingly, and in light of OFCCP’s Instruction No. 1, which provides “Unless otherwise stated, these requests relate to Oracle’s POLICIES, PRACTICES, or PROCEDURES that apply at its headquarters located at Redwood Shores, California” Oracle’s responses, objections, and production are limited to documents “relate[d] to Oracle’s POLICIES, PRACTICES, or PROCEDURES that apply at its headquarters located at Redwood Shores, California” and which pertain to the Product Development, Support and Information Technology job functions.

**DEFINITION NO. 19.** “RELATING TO” means constituting, memorializing, evidencing, containing, showing, supporting, contradicting, summarizing, pertaining to, or referring to, whether directly or indirectly, the subject of the particular request.

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**RESPONSES TO REQUESTS FOR PRODUCTION OF DOCUMENTS**

**REQUEST FOR PRODUCTION NO. 1:**

DOCUMENTS, including but not limited to ORGANIZATIONAL CHARTS or lists, sufficient to identify YOUR organizational structure for the Support, Product Development, and Information Technology lines of business or job functions during the RELEVANT TIME PERIOD, including identifying by name and job title, any and all PERSON(S) that are officers, executives, and all levels of management within each job function or line of business, including reporting relationships between PERSONS.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 1:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrases “organizational structure,” “all levels of management,” and “reporting relationships.” Oracle further objects to this request as overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party’s claim or defense nor proportional to the needs of the case. Oracle further objects to this request on the grounds that it seeks confidential information, and invades the privacy rights of individuals who are not a party to this action.

Subject to and without waiving these objections, Oracle responds:

Following entry of a protective order, Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters, produce responsive, non-privileged documents in its possession, custody or control with sufficient information to identify management within the Support, Product Development and Information Technology job functions at its Redwood Shores, CA location for the period January 1, 2013 through December 31, 2014, to the extent any such documents exist.

**REQUEST FOR PRODUCTION NO. 2:**

DOCUMENTS, including but not limited to ORGANIZATIONAL CHARTS or lists, sufficient to identify any and all PERSON(S), by name and job title, with authority to affect a

COLLEGE RECRUIT's disposition or HIRING, including PERSONS participating in job fairs, evaluating or screening expressions of interest, resumes and other application DOCUMENTS, interviewing applicants, making recommendations whether to hire applicants, and approving hires for positions in the Professional Technical I, Individual Contributor ("PT1") job group or Product Development line of business during the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 2:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrases "authority to affect" and "expressions of interest." Oracle further objects to this request as overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request on the grounds that it seeks confidential information, and invades the privacy rights of individuals who are not a party to this action.

Subject to and without waiving these objections, Oracle responds:

Following entry of a protective order, Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters, produce responsive, non-privileged documents in its possession, custody or control with sufficient information to identify individuals within the Human Resources Department responsible for college recruiting for PT1 positions at its Redwood Shores, CA location for the period January 1, 2013 through June 30, 2014, to the extent any such documents exist.

**REQUEST FOR PRODUCTION NO. 3:**

DOCUMENTS, including but not limited to ORGANIZATIONAL CHARTS or lists, sufficient to identify any and all PERSON(S) by name and job title, involved in determining YOUR budget for PERSONNEL costs (i.e., budget for determining number of hires, starting salaries, promotions, any other changes in COMPENSATION, transfers, demotions, layoffs, and all other costs associated with PERSONNEL) during the RELEVANT TIME PERIOD, including

but not limited to identifying any and all PERSON(S), by name and job title, with knowledge of how YOU define and determine the "Headcount" term YOU used in YOUR responses to OFCCP during the COMPLIANCE REVIEW.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 3:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrases "sufficient to identify" and "involved in determining," as well as the terms "budget" and "headcount." Oracle further objects to this request as overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request on the grounds that it seeks confidential information, and invades the privacy rights of individuals who are not a party to this action.

Subject to and without waiving these objections, Oracle responds:

After conducting a reasonably diligent search, Oracle does not have responsive documents in its possession, custody or control.

**REQUEST FOR PRODUCTION NO. 4:**

DOCUMENTS, including but not limited to ORGANIZATIONAL CHARTS or lists, sufficient to identify any and all PERSON(S), by name and job title, involved in determining how, once established, funds allocated in YOUR PERSONNEL budget are distributed within the Product Development, Information Technology, and Support lines of business or job functions, including the distributions to executives, managers or anyone else for further distribution, and distribution of the budget to any team, division, or group within these lines of business.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 4:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrases "funds allocated," as well as the terms "budget" and "distribution[s]." Oracle further objects to this request as overbroad in scope, uncertain as to

time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request on the grounds that it seeks confidential information, and invades the privacy rights of individuals who are not a party to this action.

Subject to and without waiving these objections, Oracle responds:

After conducting a reasonably diligent search, Oracle does not have responsive documents in its possession, custody or control.

**REQUEST FOR PRODUCTION NO. 5:**

All COMMUNICATIONS relating to OFCCP'S REQUESTS FOR DATA.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 5:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request as overbroad in scope, uncertain as to time, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine. Oracle further objects to this request on the grounds that it seeks confidential information, and invades the privacy rights of individuals who are not a party to this action.

Subject to and without waiving these objections, Oracle responds:

Following entry of a protective order, Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters, produce responsive, non-privileged documents in its possession, custody or control.

**REQUEST FOR PRODUCTION NO. 6:**

All COMMUNICATIONS relating to the preparation of YOUR responses (regardless of whether YOU furnished information or objected) to OFCCP'S REQUESTS FOR DATA.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 6:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request as overbroad in scope, uncertain as to time, unduly

burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine. Oracle further objects to this request on the grounds that it seeks confidential information, and invades the privacy rights of individuals who are not a party to this action.

Subject to and without waiving these objections, Oracle responds:

Following entry of a protective order, Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters, produce responsive, non-privileged documents in its possession, custody or control.

**REQUEST FOR PRODUCTION NO. 7:**

All COMMUNICATIONS relating to feasibility (i.e., YOUR ability and efforts to collect information, including but not limited to data or fields of data) in response to OFCCP'S REQUESTS FOR DATA.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 7:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the term "feasibility." Oracle further objects to this request as overbroad in scope, uncertain as to time, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine. Oracle further objects to this request on the grounds that it seeks confidential information, and invades the privacy rights of individuals who are not a party to this action.

Subject to and without waiving these objections, Oracle responds:

Following entry of a protective order, Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters, produce responsive, non-privileged documents in its possession, custody or control.

**REQUEST FOR PRODUCTION NO. 8:**

All DOCUMENTS and COMMUNICATIONS relating to POLICIES, PRACTICES, or PROCEDURES, for YOUR preparation of Affirmative Action Programs (“AAP”), as described in 41 C.F.R. § 60-2.10, for the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 8:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request as overbroad in scope, uncertain as to time, unduly burdensome, oppressive, and encompassing documents not relevant to any party’s claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine. Oracle further objects to this request on the ground that it seeks confidential information. Oracle further objects to this request on the ground that it calls for a legal conclusion. Oracle further objects to this request on the ground that it requires Oracle to refer to materials outside the request itself.

**REQUEST FOR PRODUCTION NO. 9:**

All DOCUMENTS and COMMUNICATIONS relating to YOUR POLICIES, PRACTICES, or PROCEDURES, for responding to OFCCP’S REQUESTS FOR DATA during compliance reviews, including but not limited to the particular COMPLIANCE REVIEW period cited herein.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 9:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrases “responses,” “compliance reviews,” and “including but not limited to the particular COMPLIANCE REVIEW period cited herein.” Oracle further objects to this request as overbroad in scope, uncertain as to time, unduly burdensome, oppressive, and encompassing documents not relevant to any party’s claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information

protected by the attorney-client privilege or the attorney work product doctrine. Oracle further objects to this request on the grounds that it seeks confidential information, and invades the privacy rights of individuals who are not a party to this action.

Subject to and without waiving these objections, Oracle responds:

Following entry of a protective order, Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters, produce responsive, non-privileged documents in its possession, custody or control for its Redwood Shores, CA, location for the COMPLIANCE REVIEW.

**REQUEST FOR PRODUCTION NO. 10:**

All DOCUMENTS and COMMUNICATIONS relating to YOUR POLICIES, PRACTICES, or PROCEDURES, for determining how YOU define an “applicant” as that term is used in YOUR responses to OFCCP’S REQUESTS FOR DATA during compliance reviews, including but not limited to the particular COMPLIANCE REVIEW period cited herein. This includes, but is not limited to, all DOCUMENTS and COMMUNICATIONS relating to how YOU determine which PERSONS to include and exclude as an “applicant,” what factors go into this determination, and identifying any and all PERSON(S) involved in making this determination.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 10:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrase “compliance reviews” and “including but not limited to the particular COMPLIANCE REVIEW period cited herein.” Oracle further objects to this request as overbroad in scope, uncertain as to time, compound, unintelligible, unduly burdensome, oppressive, and encompassing documents not relevant to any party’s claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine. Oracle further objects to this request on the grounds that it seeks confidential information, and

invades the privacy rights of individuals who are not a party to this action.

Subject to and without waiving these objections, Oracle responds:

Following entry of a protective order, Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters, produce responsive, non-privileged documents in its possession, custody or control for the PT1 job group at its Redwood Shores, CA, location for the period of January 1, 2013 through June 30, 2014.

**REQUEST FOR PRODUCTION NO. 11:**

All DOCUMENTS and COMMUNICATIONS that define or describe YOUR DOCUMENT and data retention POLICIES, PRACTICES, or PROCEDURES, relating to any and all PERSONS expressing an interest in an Oracle job (whether or not such PERSONS eventually applied for said job) during the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 11:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrases "data retention" and "expressing an interest." Oracle further objects to this request as overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request on the ground that it seeks confidential information. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine.

Subject to and without waiving these objections, Oracle responds:

Following entry of a protective order, Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters, produce responsive, non-privileged documents in its possession, custody or control relating to the PT1 job group at its Redwood Shores, CA, location for the period of January 1, 2013 through June 30, 2014.

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**REQUEST FOR PRODUCTION NO. 12:**

All user manuals and training materials for YOUR Compensation Workbench system.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 12:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrases "user manuals" and "training materials." Oracle further objects to this request as overbroad in scope, uncertain as to time, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request on the ground that it seeks confidential information.

Subject to and without waiving these objections, Oracle responds:

Following entry of a protective order, Oracle will, after conducting a reasonably diligent search, produce responsive, non-privileged manuals and training materials in its possession, custody or control for its Compensation Workbench system to the extent that such documents relate to the Product Development, Support, and Information Technology job functions at its Redwood Shores, CA, location for the period of January 1, 2013 through December 31, 2014, to the extent any such documents exist.

**REQUEST FOR PRODUCTION NO. 13:**

All user manuals and training materials for YOUR I-Recruitment system.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 13:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrases "user manuals" and "training materials." Oracle further objects to this request as overbroad in scope, uncertain as to time, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request on the ground that it seeks confidential information.

Subject to and without waiving these objections, Oracle responds:

Following entry of a protective order, Oracle will, after conducting a reasonably diligent search, produce responsive, non-privileged manuals and training materials in its possession, custody or control for its I-Recruit system to the extent it relates to the PT1 job group at its Redwood Shores, CA, location for the period of January 1, 2013 through June 30, 2014, to the extent any such documents exist.

**REQUEST FOR PRODUCTION NO. 14:**

All user manuals and training materials for YOUR system for tracking HIRING for COLLEGE RECRUITS.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 14:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrases "user manuals" and "training materials," as well as the term "system." Oracle further objects to this request as overbroad in scope, uncertain as to time, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request on the ground that it seeks confidential information.

Subject to and without waiving these objections, Oracle responds:

Following entry of a protective order, Oracle will, after conducting a reasonably diligent search, produce responsive, non-privileged manuals and training materials in its possession, custody or control to the extent they relate to the PT1 job group at its Redwood Shores, CA, location for the period of January 1, 2013 through June 30, 2014, to the extent any such documents exist.

**REQUEST FOR PRODUCTION NO. 15:**

All user manuals and training materials for YOUR Taleo system.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 15:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above.

DEF. ORACLE AMERICA, INC.'S RESPONSES TO REQUEST FOR PRODUCTION OF DOCUMENTS  
CASE NO. 2017-OFC-00006

Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrases "user manuals" and "training materials." Oracle further objects to this request as overbroad in scope, uncertain as to time, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request on the ground that it seeks confidential information.

Subject to and without waiving these objections, Oracle responds:

Following entry of a protective order, Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters, produce responsive, non-privileged manuals and training materials in its possession, custody or control for its Taleo system to the extent it relates to the PT1 job group at its Redwood Shores, CA, location for the period of January 1, 2013 through June 30, 2014, to the extent any such documents exist.

**REQUEST FOR PRODUCTION NO. 16:**

All DOCUMENTS and COMMUNICATIONS relating to YOUR POLICIES, PRACTICES, or PROCEDURES for HIRING COLLEGE RECRUITS during the RELEVANT TIME PERIOD, including but not limited to all DOCUMENTS and COMMUNICATIONS relating to any criteria that YOU used to evaluate applicants at any stage (i.e., screening, interview, post-interview) of the application process.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 16:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the terms "criteria" and "evaluate." Oracle further objects to this request as overbroad in scope, uncertain as to time, unduly burdensome, compound, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request on the grounds that it seeks confidential information, and invades the privacy rights of individuals who are not a party to this action.

Subject to and without waiving these objections, Oracle responds:

DEF. ORACLE AMERICA, INC.'S RESPONSES TO REQUEST FOR PRODUCTION OF DOCUMENTS  
CASE NO. 2017-OFC-00006

Following entry of a protective order, Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters, produce responsive, non-privileged documents in its possession, custody or control for the PTI job group at its Redwood Shores, CA, location for the period of January 1, 2013 through June 30, 2014.

**REQUEST FOR PRODUCTION NO. 17:**

All DOCUMENTS and COMMUNICATIONS exchanged between YOU and all domestic colleges and universities relating to HIRING COLLEGE RECRUITS during the RELEVANT TIME PERIOD. This includes all DOCUMENTS and COMMUNICATIONS exchanged between YOU and college and university career services, AFFINITY GROUPS, and any other organizations whose members include college and university students and alumni.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 17:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrases "all domestic colleges and universities," "career services," and "any other organizations." Oracle further objects to this request as overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request on the grounds that it seeks confidential information, and invades the privacy rights of individuals who are not a party to this action.

Subject to and without waiving these objections, Oracle responds:

Following entry of a protective order, Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters, produce responsive, non-privileged documents in its possession, custody or control for the PTI job group at its Redwood Shores, CA, location for the period of January 1, 2013 through June 30, 2014.

**REQUEST FOR PRODUCTION NO. 18:**

All DOCUMENTS and COMMUNICATIONS exchanged between YOU and any internal or external recruiter for YOU relating to HIRING COLLEGE RECRUITS during the

RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 18:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrase "internal or external recruiter." Oracle further objects to this request as overbroad in scope, compound, uncertain as to time, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request on the grounds that it seeks confidential information, and invades the privacy rights of individuals who are not a party to this action.

Subject to and without waiving these objections, Oracle responds:

Following entry of a protective order, Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters, produce responsive, non-privileged documents in its possession, custody or control for the PT1 job group at its Redwood Shores, CA, location for the period of January 1, 2013 through June 30, 2014.

**REQUEST FOR PRODUCTION NO. 19:**

All DOCUMENTS and COMMUNICATIONS exchanged between YOU and all international colleges and universities relating to HIRING COLLEGE RECRUITS during the RELEVANT TIME PERIOD. This includes all DOCUMENTS and COMMUNICATIONS exchanged between YOU and college and university career services, AFFINITY GROUPS, and any other organizations whose members include college and university students and alumni.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 19:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrases "all international colleges and universities," "career services," and "any other organizations." Oracle further objects to this request as overbroad in scope, compound, uncertain as to time, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle

further objects to this request on the grounds that it seeks confidential information, and invades the privacy rights of individuals who are not a party to this action.

Subject to and without waiving these objections, Oracle responds:

Following entry of a protective order, Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters, produce responsive, non-privileged documents in its possession, custody or control for the PT1 job group at its Redwood Shores, CA, location for the period of January 1, 2013 through June 30, 2014.

**REQUEST FOR PRODUCTION NO. 20:**

All DOCUMENTS and COMMUNICATIONS relating to “Good Faith Efforts (GFEs) in the U.S. to reach out to interested women and minorities” for any PT1 job group positions and all positions within the Product Development line of business during the RELEVANT TIME PERIOD, as stated in YOUR letter to OFCCP dated October 31, 2016.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 20:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this as a mischaracterization of the October 31, 2016 letter, for which the quoted language is taken out of context and which referred only to PT1 job group positions and not Product Development. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrases “Good Faith Efforts (GFEs) in the U.S. to reach out to interested women and minorities.” Oracle further objects to this request as overbroad in scope, uncertain as to time, unduly burdensome, and oppressive, and encompassing documents not relevant to any party’s claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine. Oracle further objects to this request on the grounds that it seeks confidential information, and invades the privacy rights of individuals who are not a party to this action.

Subject to and without waiving these objections, Oracle responds:

Following entry of a protective order, Oracle will, after conducting a reasonably diligent

search and utilizing reasonable search parameters, produce responsive, non-privileged documents in its possession, custody or control for the PTI job group at its Redwood Shores, CA, location for the period of January 1, 2013 through June 30, 2014.

**REQUEST FOR PRODUCTION NO. 21:**

All DOCUMENTS and COMMUNICATIONS relating to efforts to recruit PERSONS internationally for any PTI job group positions and all positions within the Product Development line of business during the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 21:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the terms "recruit" and "internationally." Oracle further objects to this request as overbroad in scope, uncertain as to time, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request on the grounds that it seeks confidential information, and invades the privacy rights of individuals who are not a party to this action.

Subject to and without waiving these objections, Oracle responds:

Following entry of a protective order, Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters, produce responsive, non-privileged documents in its possession, custody or control for the PTI job group at its Redwood Shores, CA, location for the period of January 1, 2013 through June 30, 2014.

**REQUEST FOR PRODUCTION NO. 22:**

All notes or records of interviews, whether by phone or in-person (including but not limited to memos, emails, and text messages), of COLLEGE RECRUITS who were interviewed during the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 22:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including

but not limited to the terms “notes,” “records,” and “interviews.” Oracle further objects to this request as overbroad in scope, uncertain as to time, unduly burdensome, oppressive, and encompassing documents not relevant to any party’s claim or defense nor proportional to the needs of the case. Oracle further objects to this request on the grounds that it seeks confidential information, and invades the privacy rights of individuals who are not a party to this action.

Subject to and without waiving these objections, Oracle responds:

Following entry of a protective order, Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters, produce responsive, non-privileged documents in its possession, custody or control for the PT1 job group at its Redwood Shores, CA, location for the period of January 1, 2013 through June 30, 2014.

**REQUEST FOR PRODUCTION NO. 23:**

All DOCUMENTS and COMMUNICATIONS (including but not limited to memos, emails, text messages) stating, summarizing, supporting, or explaining YOUR decision on a disposition of an expression of interest or application at any point of the HIRING process from a COLLEGE RECRUIT during the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 23:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the terms “disposition” and “application” as well as the phrase “expression of interest.” Oracle further objects to this request as overbroad in scope, uncertain as to time, unduly burdensome, oppressive, and encompassing documents not relevant to any party’s claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine. Oracle further objects to this request on the grounds that it seeks confidential information, and invades the privacy rights of individuals who are not a party to this action.

Subject to and without waiving these objections, Oracle responds:

Following entry of a protective order, Oracle will, after conducting a reasonably diligent

DEF. ORACLE AMERICA, INC.'S RESPONSES TO REQUEST FOR PRODUCTION OF DOCUMENTS  
CASE NO. 2017-OFC-00006

search and utilizing reasonable search parameters, produce responsive, non-privileged documents in its possession, custody or control for the PT1 job group at its Redwood Shores, CA, location for the period of January 1, 2013 through June 30, 2014.

**REQUEST FOR PRODUCTION NO. 24:**

All COMMUNICATIONS (including but not limited to memos, emails and text messages) to and from Larry Lynn, Vice President, College Recruiting, relating to HIRING COLLEGE RECRUITS during the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 24:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request as overbroad in scope, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine. Oracle further objects to this request on the grounds that it seeks confidential information, and invades the privacy rights of individuals who are not a party to this action.

Subject to and without waiving these objections, Oracle responds:

Following entry of a protective order, Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters, produce responsive, non-privileged documents in its possession, custody or control for the PT1 job group at its Redwood Shores, CA, location for the period of January 1, 2013 through June 30, 2014.

**REQUEST FOR PRODUCTION NO. 25:**

All COMMUNICATIONS (including but not limited to memos, emails and text messages) to and from Chantal Dumont, Senior Director, College Recruiting, relating to HIRING COLLEGE RECRUITS during the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 25:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request as overbroad in scope, uncertain as to time, unduly

burdensome, compound, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine. Oracle further objects to this request on the grounds that it seeks confidential information, and invades the privacy rights of individuals who are not a party to this action.

Subject to and without waiving these objections, Oracle responds:

Following entry of a protective order, Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters, produce responsive, non-privileged documents in its possession, custody or control for the PT1 job group at its Redwood Shores, CA, location for the period of January 1, 2013 through June 30, 2014.

**REQUEST FOR PRODUCTION NO. 26:**

All DOCUMENTS and COMMUNICATIONS relating to POLICIES, PRACTICES, or PROCEDURES for YOUR Employee Referral Program.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 26:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrase "Employee Referral Program." Oracle further objects to this request as overbroad in scope, uncertain as to time, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine. Oracle further objects to this request on the grounds that it seeks confidential information, and invades the privacy rights of individuals who are not a party to this action.

Subject to and without waiving these objections, Oracle responds:

Following entry of a protective order, Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters, produce responsive, non-privileged documents in its possession, custody or control for the PT1 job group at its Redwood Shores,

CA, location for the period of January 1, 2013 through June 30, 2014.

**REQUEST FOR PRODUCTION NO. 27:**

All DOCUMENTS and COMMUNICATIONS relating to PERSONS who were referred under YOUR Employee Referral Program.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 27:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrase "Employee Referral Program." Oracle further objects to this request as overbroad in scope, uncertain as to time, unduly burdensome, oppressive, and seeks information that is not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine. Oracle further objects to this request on the grounds that it seeks confidential information, and invades the privacy rights of individuals who are not a party to this action.

**REQUEST FOR PRODUCTION NO. 28:**

All DOCUMENTS and COMMUNICATIONS relating to PERSONS receiving a bonus or other form of COMPENSATION through YOUR Employee Referral Program.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 28:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrase "Employee Referral Program." Oracle further objects to this request as overbroad in scope, uncertain as to time, unduly burdensome, oppressive, and seeks information that is not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine. Oracle further objects to this request on the grounds that it seeks confidential information, and invades the privacy rights of individuals who are not a party to this action.

**REQUEST FOR PRODUCTION NO. 29:**

All DOCUMENTS YOU rely upon or reviewed in making each and every affirmative defense set forth in YOUR ANSWER.

**RESPONSE TO REQUEST NO. FOR PRODUCTION 29:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrase "rely upon or reviewed." Oracle further objects to this request as overbroad in scope, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case e. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine. Oracle further objects to this request on the grounds that it seeks confidential information, and invades the privacy rights of individuals who are not a party to this action.

March 7, 2017

GARY R. SINISCALCO  
ERIN M. CONNELL



ORRICK, HERRINGTON & SUTCLIFFE LLP  
The Orrick Building  
405 Howard Street  
San Francisco, Ca 94105-2669  
Telephone: (415) 773-5700  
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Email: grsiniscalco@orrick.com  
econnell@orrick.com  
Attorneys For Defendant  
ORACLE AMERICA, INC.

**PROOF OF SERVICE BY ELECTRONIC MAIL**

I am more than eighteen years old and not a party to this action. My business address is Orrick, Herrington & Sutcliffe LLP, The Orrick Building, 405 Howard Street, San Francisco, California 94105-2669. My electronic service address is [jkaddah@orrick.com](mailto:jkaddah@orrick.com).

On March 7, 2017, I served the interested parties in this action with the following document(s):

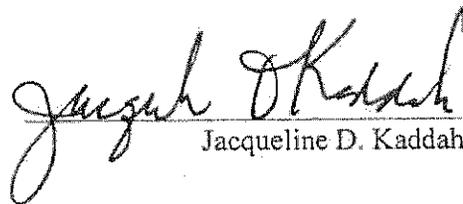
**ORACLE'S RESPONSES AND OBJECTIONS TO FIRST SET OF REQUESTS FOR THE PRODUCTION OF DOCUMENTS**

by serving true copies of these documents via electronic mail in Adobe PDF format the documents listed above to the electronic addresses set forth below:

Marc A. Pilotin ([pilotin.marc.a@dol.gov](mailto:pilotin.marc.a@dol.gov))  
Laura Bremer ([Bremer.Laura@dol.gov](mailto:Bremer.Laura@dol.gov))  
Ian Eliasoph ([eliasoph.ian@dol.gov](mailto:eliasoph.ian@dol.gov))  
Jeremiah Miller ([miller.jeremiah@dol.gov](mailto:miller.jeremiah@dol.gov))  
U.S. Department of Labor, Office of the Solicitor, Region IX – San Francisco  
90 Seventh Street, Suite 3-700  
San Francisco, CA 94103  
Telephone: (415) 625-7769  
Fax: (415) 625-7772

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on March 7, 2017, at San Francisco, California.

  
\_\_\_\_\_  
Jacqueline D. Kaddah

**Kaddah, Jacqueline D.**

---

**From:** Kaddah, Jacqueline D.  
**Sent:** Tuesday, March 07, 2017 4:37 PM  
**To:** pilotin.marc.a@dol.gov; Bremer.Laura@dol.gov; eliasoph.ian@dol.gov;  
miller.jeremiah@dol.gov  
**Cc:** Siniscalco, Gary R.; Connell, Erin M.  
**Subject:** OFCCP v. Oracle America, Inc.  
**Attachments:** Oracle responses and objections.pdf

Dear Counsel:

Attached please find Oracle's Responses and Objections to First Set of Requests for the Production of Documents.

Jacqueline D. Kaddah  
Senior Paralegal

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San Francisco, CA 94105-2689 ☎  
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UNITED STATES DEPARTMENT OF LABOR  
OFFICE OF ADMINISTRATIVE LAW JUDGES

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

Plaintiff,

v.

ORACLE AMERICA, INC.,

Defendant.

OALJ Case No. 2017-OFC-00006

OFCCP No. R00192699

**DEFENDANT ORACLE  
AMERICA, INC.'S RESPONSES  
AND OBJECTIONS TO SECOND  
SET OF REQUESTS FOR THE  
PRODUCTION OF DOCUMENTS**

PROPOUNDING PARTY: Plaintiff OFFICE OF FEDERAL CONTRACT  
COMPLIANCE PROGRAMS, UNITED STATES  
DEPARTMENT OF LABOR

RESPONDING PARTY: Defendant ORACLE AMERICA, INC.

SET NO.: Two

Pursuant to 41 C.F.R. § 60-30.10 and, as applicable, Federal Civil Procedure Rule 34, Defendant Oracle America, Inc. ("Oracle") responds to Plaintiff Office of Federal Contract Compliance Programs, United States Department of Labor's ("OFCCP") Second Set of Requests for Production of Documents ("Requests") as follows:

**PRELIMINARY STATEMENT**

Oracle has not completed its investigation of the facts related to this case and therefore its responses are of a preliminary nature. Further discovery, investigation, and research may bring to light additional relevant facts that may lead to changes in the responses set forth below. Although these responses are complete to the best of Oracle's knowledge at this time, these responses are given without prejudice to Oracle's right to amend its objections and responses or to produce additional relevant evidence that may come to light regarding the issues raised in this lawsuit. Nothing contained in these responses shall in any way limit Oracle's ability to make all uses at trial or otherwise of the information or documents referenced herein or of any

DEF. ORACLE AMERICA, INC.'S RESPONSES TO REQUEST FOR PRODUCTION OF DOCUMENTS (SET 2)  
CASE NO. 2017-OFC-00006

subsequently discovered information or documents or of information or documents omitted from these responses as a result of good faith oversight, error, or mistake.

Additionally, Oracle objects to each and every request that purports to request the production of emails, to the extent such requests impose the undue burden of collecting and reviewing emails of hundreds, if not thousands, of employees. Any agreement to engage in a reasonably diligent search utilizing reasonable search parameters, and to produce responsive, nonprivileged documents, should not be construed as an agreement or obligation to harvest and review emails that would impose such an undue burden.

For the reasons set forth in Oracle's Answer, Oracle's responses and productions responsive to the document requests related to OFCCP's recruiting and hiring claims are limited to the period January 1, 2013 through June 30, 2014 and to positions in the Professional Technical I, Individual Contributor ("PTI") job group at Oracle's Redwood Shores, CA, location, and responses and productions responsive to the document requests related to OFCCP's compensation claims are limited to the period January 1, 2014 through December 31, 2014 and to positions in the Product Development, Support, and Information Technology job functions at Oracle's Redwood Shores, CA, location.

Oracle's production of documents is contingent upon and subject to the entry of a protective order. Oracle will provide OFCCP a proposed protective order.

These responses are made solely for purposes of this action, and are subject to all objections as to competence, authenticity, relevance, materiality, propriety, admissibility, and any and all other objections and grounds that would or could require or permit the exclusion of any document or statement therein from evidence, all of which objections and grounds are reserved and may be interposed at the time of trial.

No incidental or implied admissions are intended by these responses. The fact that Oracle has responded or objected to any request or part thereof shall not be deemed an admission that Oracle accepts or admits the existence of any facts set forth or assumed by such request. Nor shall Oracle's responses or objections be deemed an admission that any statement or

characterization in any request is accurate or complete, or that any particular document exists, is relevant, or is admissible in evidence.

**OBJECTIONS TO SPECIFIC DEFINITIONS**

**DEFINITION NO. 1.** "YOU" and "YOUR" mean Oracle America, Inc. and all of its agents, representatives, attorneys, consultants, successors, subsidiaries, or divisions.

**OBJECTION TO DEFINITION NO. 1:**

Oracle objects to the OFCCP's definitions of "YOU" and "YOUR" as vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case, to the extent that these terms include Oracle's agents, representatives, attorneys, consultants, successors, subsidiaries, or divisions. Oracle further objects to this definition to the extent it includes information protected by attorney-client privilege, the attorney work product doctrine, or calls for a legal conclusion as to the relationship between Oracle and other entities, including agents. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle's Redwood Shores, CA, location. Accordingly, and in light of OFCCP's Instruction No. 1, which provides "Unless otherwise stated, these requests relate to Oracle's POLICIES, PRACTICES, or PROCEDURES that apply at its headquarters located at Redwood Shores, California," Oracle's responses, objections, and productions are limited to documents "relate[d] to Oracle's POLICIES, PRACTICES, or PROCEDURES that apply at its headquarters located at Redwood Shores, California."

**DEFINITION NO. 2.** "RELEVANT TIME PERIOD" means January 1, 2013 to the present unless otherwise stated.

**OBJECTION TO DEFINITION NO. 2:**

Oracle objects to this definition as including the term "present," which renders the phrase vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. As to Requests related to OFCCP's recruiting and hiring claim, Oracle's responses, objections, and

productions are limited to the relevant time period of January 1, 2013 through June 30, 2014. As to Requests related to OFCCP's compensation claims, Oracle's responses, objections, and production are limited to the relevant time period of January 1, 2014 through December 31, 2014.

**DEFINITION NO. 3.** "AFFINITY GROUP" means any group of people linked by a common interest or purpose and includes, but is not limited to, gender or race.

**OBJECTION TO DEFINITION NO. 3:**

Oracle objects to this definition as including the phrases "any group," "linked," and "common interest or purpose," which render the definition vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the OFCCP's allegations pertaining to Oracle's Redwood Shores, CA, location.

**DEFINITION NO. 4.** "AMENDED COMPLAINT" means the pleading filed by OFCCP in this action on January 25, 2017.

**DEFINITION NO. 5.** "And" and "or" shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive.

**DEFINITION NO. 6.** "ANSWER" means the Answer to the AMENDED COMPLAINT filed by YOU in this action on February 8, 2017.

**DEFINITION NO. 7.** "COLLEGE RECRUIT" means any PERSON who expresses interest or applies to YOU through YOUR college recruiting program (including undergraduate students, graduate students, and recent graduates) for technical positions (as opposed to sales positions), including positions in the Professional Technical I, Individual Contributor job group or Product Development, Support, or Information Technology lines of business.

**OBJECTION TO DEFINITION NO. 7:**

Oracle objects to this definition as including the term "PERSON" and the phrases "expresses interest," "college recruiting program," and "technical positions," which render the

definition vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle's Redwood Shores, CA, location. Oracle's responses, objections, and production are limited to responsive documents related to the Professional Technical 1, Individual Contributor ("PT1") job group at its Redwood Shores, CA, location between January 1, 2013 and June 30, 2014.

**DEFINITION NO. 8.** "COMMUNICATIONS" means all transactions or transfers of information of any kind, whether orally, in writing, or in any other manner, at any time or place, under any circumstances whatsoever.

**OBJECTION TO DEFINITION NO. 8:**

Oracle objects to this definition as including the phrase "all transactions or transfers" and the term "orally," which render the definition vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle's Redwood Shores, CA, location. Oracle's responses, objections, and production are limited to existing written or electronically stored information in the custody, control, and possession of Oracle America, Inc. and related to its Redwood Shores, CA, location.

**DEFINITION NO. 9.** "COMPENSATION" means any payments made to, or on behalf of, an employee as remuneration for employment, including but not limited to salary, wages, overtime pay, shift differentials, commissions, bonuses, vacation and holiday pay, retirement and other benefits, stock options and awards, and profit sharing.

**OBJECTION TO DEFINITION NO. 9:**

Oracle objects to this definition as including the phrase "remuneration for employment," which renders the definition vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the

needs of the case. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle's Redwood Shores, CA, location. Oracle's responses, objections, and production are limited to documents in the custody, control, and possession of Oracle America, Inc. and related to its Redwood Shores, CA, location.

**DEFINITION NO. 10.** "DATABASE" means any file or collection of information in fielded format that exists in computer-readable form.

**OBJECTION TO DEFINITION NO. 10:**

Oracle objects to this definition as including the phrases "file or collection of information," "fielded format," and "exists in computer-readable form" which render the definition unintelligible, vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing information that is neither relevant to any party's claim or defense nor proportional to the needs of the case. Furthermore, the definition is inconsistent with any commonly understood meaning of the term "database." Oracle further objects to this definition to the extent it calls for the production of information that is not relevant to the discriminatory conduct allegedly engaged in at Oracle's Redwood Shores, CA, location during any relevant time frame. Oracle's responses, objections, and production are limited to information related the relevant time periods outlined in the Preliminary Statement above.

**DEFINITION NO. 11.** "DOCUMENT" means all writings of any kind, including any written, printed, typed, electronically stored, or other graphic matter of any kind or nature and all mechanical or electronic sound recordings or transcripts thereof, in YOUR possession and/or control or known by YOU to exist, and also means all copies of documents by whatever means made, including, but not limited to: papers, letters, correspondence, emails, text messages, presentations, manuals, computerized files, computerized spreadsheets, telegrams, interoffice communications, memoranda, notes, notations, notebooks, reports, records, accounting books or records, schedules, tables, charts, transcripts, publications, scrapbooks, diaries, and any drafts, revisions, or amendments of the above, and all other materials enumerated in the definition

provided in Rule 34 of the Federal Rules of Civil Procedure.

**OBJECTION TO DEFINITION NO. 11:**

Oracle objects to this definition as including the phrase “or known by YOU to exist,” which, to the extent such documents are not in Oracle’s possession, custody, or control, encompasses documents beyond those that Oracle has any obligation to produce.

**DEFINITION NO. 12.** “EXPERIENCED RECRUIT” means a PERSON who expresses interest or applies to YOU through the requisition process for technical (as opposed to sales) positions, including positions in the Professional Technical I, Individual Contributor job group or Product Development, Support, or Information Technology lines of business, and who is not already employed by YOU.

**OBJECTION TO DEFINITION NO. 12:**

Oracle objects to this definition as including the term “PERSON” and the phrases “expresses interest,” “requisition process,” “technical,” and “lines of business,” which render the definition vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party’s claim or defense nor proportional to the needs of the case. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle’s Redwood Shores, CA, location. Oracle’s responses, objections, and production are limited to responsive documents related to the PT1 job group at its Redwood Shores, CA, location between January 1, 2013 and June 30, 2014.

**DEFINITION NO. 13.** “GOVERNMENT CONTRACT” means a contract as defined in 41 C.F.R. § 60-1.3.

**DEFINITION NO. 14.** “HIRING” or “HIRE” mean receiving expressions of interest, soliciting, recruiting, communicating with, screening, interviewing, evaluating, determining starting salary and other COMPENSATION for, and/or extending offers to, PERSONS who express interest in a position with YOU or requisition posted by YOU.

**OBJECTION TO DEFINITION NO. 14:**

Oracle objects to this definition as unintelligible in its entirety. Oracle further objects to

this definition as including the term "PERSON" and the phrases "expressions of interest," "communicating with," and "express interest," which render the definition vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Furthermore, the definition is objectionable insofar as it refers to multiple processes, is compound, and is wholly inconsistent with the commonly understood definition of the terms "hiring" or "hire." Oracle further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle's Redwood Shores, CA, location. Oracle interprets this definition using the commonly understood use of the word "hiring" or "hire" and its responses, objections, and production are limited to responsive documents related to the PT1 job group at its Redwood Shores, CA, location between January 1, 2013 and June 30, 2014.

**DEFINITION NO. 15.** "LABOR CONDITION APPLICATIONS" means a Labor Condition Application for H-1B Nonimmigrants provided by the United States Department of Labor, Employment and Training Administration.

**OBJECTION TO DEFINITION NO. 15:**

Oracle objects to this definition as vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this definition to the extent it encompasses documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle's Redwood Shores, CA, location. Oracle further objects to this request as calling for a legal conclusion and on the ground that it requires Oracle to conduct its own investigation into the definition and reference external material(s) to define the term.

**DEFINITION NO. 16.** "OFCCCP" means the Office of Federal Contract Compliance Programs, United States Department of Labor.

**DEFINITION NO. 17.** "ORGANIZATIONAL CHART" means a graphic or written representation of the structure of YOUR business or any portion of YOUR business, which shows the relationships of the positions or jobs (including but not limited to reporting

relationships) within each line of business, job function, or any other division or group as YOU have defined them in the normal course of YOUR business operations.

**OBJECTION TO DEFINITION NO. 17:**

Oracle objects to this definition as including the terms "structure," "relationship," and "each," which render the definition vague, ambiguous, overbroad, unduly burdensome and oppressive. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle's Redwood Shores, CA, location. Oracle's responses, objections, and production are limited to responsive documents related to the Product Development, Support, and Information Technology job functions at its Redwood Shores, CA, location between January 1, 2013 and June 30, 2014.

**DEFINITION NO. 18.** "PERSON" means without limitation individuals, firms, associations, partnerships, corporations, governmental agencies or offices and employees, and any other entity.

**OBJECTION TO DEFINITION NO. 18:**

Oracle objects to this definition as vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case, to the extent this definition includes firms, associations, partnerships, corporations, governmental agencies or offices and employees, and any other entity. Oracle further objects to this definition to the extent it includes information protected by attorney-client privilege or the attorney work product doctrine. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle's Redwood Shores, CA, location. Oracle's responses, objections, and production are limited to information in the custody, control, and possession of Oracle America, Inc. and related to its Redwood Shores, CA, location.

**DEFINITION NO. 19.** "PERSONNEL" means information relating to YOUR current, former, or prospective employees.

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**OBJECTION TO DEFINITION NO. 19:**

Oracle objects to this definition as vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case, to the extent this definition includes employees not employed by Oracle during the relevant time period. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle's Redwood Shores, CA, location. Oracle's responses, objections, and production are limited to responsive documents related to the Product Development, Support, and Information Technology job functions at its Redwood Shores, CA, location between January 1, 2013 and June 30, 2014.

**DEFINITION NO. 20.** "PERSONNEL FILE" means any data, file (including electronic files), collection of DOCUMENTS and COMMUNICATIONS, or other form in which information is stored or maintained by YOU or any of YOUR officers, executives, all levels of management, human resources department(s) or division(s), and/or any other employee or PERSON acting or purporting to act on YOUR behalf or at YOUR direction, concerning the employment of a particular employee, whether current, former, or prospective.

**OBJECTION TO DEFINITION NO. 20:**

Oracle objects to this definition as including the term "PERSON" and the phrases "other form," "information is stored or maintained," "all levels of management," "purporting to act," "concerning the employment," and "current, former, or prospective [employee]," which render the definition vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Furthermore, the definition calls for all information "concerning the employment of a particular employee" irrespective of whether it is part of a personnel file and is therefore objectionable as being wholly inconsistent with any ordinarily understood meaning of the term. The definition is unintelligible, especially to the extent it refers to "a particular employee" even if the person is not employed and so necessarily has no "personnel file." Oracle

further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle's Redwood Shores, CA, location. Oracle further objects to this definition on the grounds that it seeks confidential information and invades the privacy rights of individuals who are not a party to this action. Oracle further objects to this definition to the extent it seeks confidential, trade secret and/or proprietary business information.

**DEFINITION NO. 21.** "POLICIES," "PRACTICES," or "PROCEDURES" means each rule, action, or directive, whether formal or informal, and each common understanding or course of conduct that was recognized as such by YOUR present or former officers, agents, employees, or other PERSONS acting or purporting to act on YOUR behalf or at YOUR direction, that was in effect at any time during the RELEVANT TIME PERIOD. These terms include any changes that occurred during the RELEVANT TIME PERIOD.

**OBJECTION TO DEFINITION NO. 21:**

Oracle objects to this definition as including the phrases "common understanding," "purporting to act," and "course of conduct," which render the definition vague and ambiguous. Oracle further objects to this definition as overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle's Redwood Shores, CA, location within the Product Development, Support and Information Technology job functions. Accordingly, and in light of OFCCP's Instruction No. 1, which provides "Unless otherwise stated, these requests relate to Oracle's POLICIES, PRACTICES, or PROCEDURES that apply at its headquarters located at Redwood Shores, California" Oracle's responses, objections, and production are limited to documents "relate[d] to Oracle's POLICIES, PRACTICES, or PROCEDURES that apply at its headquarters located at Redwood Shores, California" and which pertain to the Product Development, Support and Information Technology job functions.

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**DEFINITION NO. 22.** "PROMOTION" means a change in an employee's job title, salary code, grade, or other ranking which results in an increase in COMPENSATION, responsibility, and/or other benefit.

**OBJECTION TO DEFINITION NO. 22:**

Oracle objects to this definition as including the terms "change," "salary code," "grade," "other ranking," "increase," "responsibility," and "other benefit," which render the definition vague, ambiguous, compound, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle's Redwood Shores, CA, location.

**DEFINITION NO. 23.** "RELATING TO" means constituting, memorializing, evidencing, containing, showing, supporting, contradicting, summarizing, pertaining to, or referring to, whether directly or indirectly, the subject of the particular request.

**DEFINITION NO. 24.** "TRANSFER EMPLOYEE" means an individual previously employed by YOU (i.e., a rehire) or at the time of hire was employed by YOU (at YOUR headquarters or at any of YOUR other locations) or by a corporate affiliate of YOU (such as Oracle India Pvt. Ltd.).

**OBJECTION TO DEFINITION NO. 24:**

Oracle objects to this definition as including the phrases "previously employed," "rehire," "hire," "any of YOUR other locations," and "corporate affiliate," which render the definition vague, ambiguous, overbroad, unduly burdensome, compound, and oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Furthermore, the definition is unintelligible to the extent it purports to include former employees within the definition of "transfer employees." It is also inconsistent with the definition of the word "hire" provided herein and Oracle's understanding of the term "hire". Oracle objects to the extent the definition calls for a legal conclusion. Oracle further objects to

this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle's Redwood Shores, CA, location.

**RESPONSES TO REQUESTS FOR PRODUCTION OF DOCUMENTS**

**REQUEST FOR PRODUCTION NO. 30:**

DOCUMENTS, including but not limited to ORGANIZATIONAL CHARTS or lists, sufficient to identify any and all PERSON(S), by name and job title, with authority to affect an EXPERIENCED RECRUIT's disposition or HIRING, including PERSONS participating in job fairs, evaluating or screening expressions of interest, resumes and other application DOCUMENTS, interviewing applicants, making recommendations whether to hire applicants, and approving hires during the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 30:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrases "authority to affect," "participating in job fairs," "evaluating," "screening," "expressions of interest," "making recommendations," and "approving hires." Oracle further objects to this request as overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request on the grounds that it seeks confidential information and invades the privacy rights of individuals who are not a party to this action.

Subject to and without waiving these objections, Oracle responds:

Following entry of a protective order, Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters, produce responsive, nonprivileged documents in its possession, custody, or control relating to the PT1 job group at its Redwood Shores, CA, location for the period of January 1, 2013, through June 30, 2014, to the extent any such documents exist.

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**REQUEST FOR PRODUCTION NO. 31:**

DOCUMENTS, including but not limited to ORGANIZATIONAL CHARTS or lists, sufficient to identify any and all PERSON(S), by name and job title, with authority to affect a TRANSFER EMPLOYEE's disposition or HIRING, including PERSONS evaluating or screening expressions of interest, resumes and other application DOCUMENTS, interviewing applicants, making recommendations whether to hire applicants, and approving hires for technical positions, including positions in the PT1 job group or Product Development line of business during the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 31:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the terms and phrases "authority to affect," "disposition," "evaluating," "screening," "expressions of interest," "making recommendations," and "approving hires." Oracle further objects to this request as overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case, particularly to the extent it relates to TRANSFER EMPLOYEES. Oracle further objects to this request on the grounds that it seeks confidential information and invades the privacy rights of individuals who are not a party to this action.

**REQUEST FOR PRODUCTION NO. 32:**

DOCUMENTS, including but not limited to ORGANIZATIONAL CHARTS or lists, sufficient to identify the structure of, and any and all PERSON(S) (by name and job title) within, YOUR human resources and/or PERSONNEL department(s) during the RELEVANT TIME PERIOD, including but not limited to: the job positions that existed within the human resources and/or PERSONNEL department(s); the PERSONS who held those positions; and the reporting relationships between each individual and job position.

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**RESPONSE TO REQUEST FOR PRODUCTION NO. 32:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrase "reporting relationship." Oracle further objects to this request as overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request on the grounds that it seeks confidential information and invades the privacy rights of individuals who are not a party to this action.

Subject to and without waiving these objections, Oracle responds:

Following entry of a protective order, Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters, produce responsive, nonprivileged documents in its possession, custody, or control with sufficient information to identify individuals in its Human Resources department with responsibilities related to its Support, Product Development and Information Technology job functions at its Redwood Shores, CA location for the period January 1, 2014, through December 31, 2014, to the extent any such documents exist.

**REQUEST FOR PRODUCTION NO. 33:**

For each job position listed in the ORGANIZATIONAL CHARTS or lists identified in response to Request No. 32, produce all DOCUMENTS RELATING TO, or containing, a description of the specific functions, responsibilities, and tasks assigned and job duties to be performed.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 33:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the terms and phrases "specific functions," "responsibilities," "tasks assigned," and "job duties." Oracle further objects to this request as overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to

this request on the grounds that it seeks confidential information and invades the privacy rights of individuals who are not a party to this action. Oracle further objects to this request to the extent it seeks confidential, trade secret and/or proprietary business information.

**REQUEST FOR PRODUCTION NO. 34:**

ALL DOCUMENTS and COMMUNICATIONS RELATING TO YOUR POLICIES, PRACTICES, or PROCEDURES for HIRING EXPERIENCED RECRUITS during the RELEVANT TIME PERIOD, including but not limited to all DOCUMENTS and COMMUNICATIONS RELATING TO any criteria that YOU used to evaluate EXPERIENCED RECRUITS at any stage (i.e., screening, interview, post-interview, etc.) of the application process.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 34:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the terms and phrases "any criteria," "evaluate," "any stage," and "application process." Oracle further objects to this request as overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request on the grounds that it seeks confidential information and invades the privacy rights of individuals who are not a party to this action. Oracle further objects to this request to the extent it seeks confidential, trade secret and/or proprietary business information.

Subject to and without waiving these objections, Oracle responds:

Following entry of a protective order, Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters, produce responsive, nonprivileged documents in its possession, custody, or control relating to the PT1 job group at its Redwood Shores, CA, location for the period of January 1, 2013, through June 30, 2014.

**REQUEST FOR PRODUCTION NO. 35:**

ALL DOCUMENTS and COMMUNICATIONS RELATING TO YOUR POLICIES,  
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PRACTICES, or PROCEDURES for HIRING TRANSFER EMPLOYEES during the RELEVANT TIME PERIOD, including but not limited to all DOCUMENTS and COMMUNICATIONS RELATING TO any criteria that YOU used to evaluate TRANSFER EMPLOYEES at any stage (i.e., screening, interview, post-interview, etc.) of the application process.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 35:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the terms and phrases “any criteria,” “evaluate,” “any stage,” and “application process.” Oracle further objects to this request as overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party’s claim or defense nor proportional to the needs of the case, particularly to the extent it relates to TRANSFER EMPLOYEE[S]. Oracle further objects to this request on the grounds that it seeks confidential information and invades the privacy rights of individuals who are not a party to this action. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

**REQUEST FOR PRODUCTION NO. 36:**

All DOCUMENTS and COMMUNICATIONS RELATING TO YOUR POLICIES, PRACTICES, or PROCEDURES for HIRING international TRANSFER EMPLOYEES during the RELEVANT TIME PERIOD, including but not limited to all DOCUMENTS and COMMUNICATIONS RELATING TO any criteria that YOU used to evaluate international TRANSFER EMPLOYEES at any stage (i.e., screening, interview, post-interview) of the application process.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 36:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the terms and phrases “international,” “any criteria,” “evaluate,” “any stage,”

and "application process." Oracle further objects to this request as overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case, particularly to the extent it relates to TRANSFER EMPLOYEE[S]. Oracle further objects to this request on the grounds that it seeks confidential information and invades the privacy rights of individuals who are not a party to this action. Oracle further objects to this request to the extent it seeks confidential, trade secret and/or proprietary business information.

**REQUEST FOR PRODUCTION NO. 37:**

ALL DOCUMENTS and COMMUNICATIONS RELATING TO events YOU were involved with (including but not limited to events YOU held, sponsored, attended, or sent materials [whether or not YOU attended], such as recruiting fairs, job fairs, events for AFFINITY GROUPS) RELATING TO HIRING EXPERIENCED RECRUITS during the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 37:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the terms "events" and "involved." Oracle further objects to this request as overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request on the grounds that it seeks confidential information and invades the privacy rights of individuals who are not a party to this action. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

Subject to and without waiving these objections, Oracle responds:

Following entry of a protective order, Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters, produce responsive, nonprivileged documents in its possession, custody, or control relating to the PT1 job group at its Redwood Shores, CA,

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location for the period of January 1, 2013, through June 30, 2014.

**REQUEST FOR PRODUCTION NO. 38:**

All DOCUMENTS and COMMUNICATIONS RELATING TO events YOU were involved with (including but not limited to events YOU held, sponsored or attended, such as internal job fairs, events for AFFINITY GROUPS) RELATING TO HIRING TRANSFER EMPLOYEES for any technical positions, including all PT1 job group positions and all positions within the Product Development line of business during the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 38:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the terms and phrases "events," "involved with," "any technical positions," "job group positions," and "line of business." Oracle further objects to this request as overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case, particularly to the extent it relates to TRANSFER EMPLOYEES. Oracle further objects to this request on the grounds that it seeks confidential information and invades the privacy rights of individuals who are not a party to this action. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

**REQUEST FOR PRODUCTION NO. 39:**

All DOCUMENTS and COMMUNICATIONS exchanged between YOU and any recruiter (internal or external) RELATING TO HIRING EXPERIENCED RECRUITS during the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 39:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the terms "exchanged," "recruiter," "internal," and "external." Oracle further objects to this request as overbroad in scope, uncertain as to time, compound, unduly

burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request on the grounds that it seeks confidential information and invades the privacy rights of individuals who are not a party to this action. Oracle further objects to this request to the extent it seeks confidential, trade secret and/or proprietary business information.

**REQUEST FOR PRODUCTION NO. 40:**

All DOCUMENTS and COMMUNICATIONS exchanged between YOU and any recruiter (internal or external) RELATING TO HIRING TRANSFER EMPLOYEES during the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 40:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the terms "exchanged," "recruiter," "internal," and "external." Oracle further objects to this request as overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case, particularly to the extent it relates to TRANSFER EMPLOYEES. Oracle further objects to this request on the grounds that it seeks confidential information and invades the privacy rights of individuals who are not a party to this action. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

**REQUEST FOR PRODUCTION NO. 41:**

All DOCUMENTS and COMMUNICATIONS RELATING TO POLICIES, PRACTICES, or PROCEDURES (including but not limited to manuals or instructions) for searching external job boards or websites for potential HIRES during the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 41:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above.  
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Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the terms and phrases "instructions," "manuals," "external job boards," "websites," and "potential." Oracle further objects to this request as overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

Subject to and without waiving these objections, Oracle responds:

Following entry of a protective order, Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters, produce responsive, nonprivileged documents in its possession, custody, or control relating to the PT1 job group at its Redwood Shores, CA, location for the period of January 1, 2013, through June 30, 2014.

**REQUEST FOR PRODUCTION NO. 42:**

All notes or records of interviews, whether by phone or in-person (including but not limited to memos, emails, and text messages), of EXPERIENCED RECRUITS who were interviewed during the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 42:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the terms and phrases "notes or records," "interviews," and "interviewed." Oracle further objects to this request as overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request on the grounds that it seeks confidential information and invades the privacy rights of individuals who are not a party to this action. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

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**REQUEST FOR PRODUCTION NO. 43:**

All notes or records of interviews, whether by phone or in-person (including but not limited to memos, emails, and text messages), of TRANSFER EMPLOYEES who were interviewed for any PT1 job group positions or positions within the Product Development line of business during the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 43:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the terms and phrases "notes or records," "interviews," "interviewed," "job group positions," and "line of business." Oracle further objects to this request as overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case, particularly to the extent it relates to TRANSFER EMPLOYEES. Oracle further objects to this request on the grounds that it seeks confidential information and invades the privacy rights of individuals who are not a party to this action. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

**REQUEST FOR PRODUCTION NO. 44:**

All DOCUMENTS and COMMUNICATIONS (including but not limited to memos, emails, and text messages) stating, summarizing, supporting, or explaining YOUR decision or recommendation on a disposition of an expression of interest or application at any point of the HIRING process from an EXPERIENCED RECRUIT during the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 44:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the terms and phrases "stating," "summarizing," "supporting," "explaining," "decision," "recommendation," "disposition," "expression of interest," "application," "any point," and "process." Oracle further objects to this request as overbroad in scope, uncertain as

to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request on the grounds that it seeks confidential information and invades the privacy rights of individuals who are not a party to this action. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

**REQUEST FOR PRODUCTION NO. 45:**

All DOCUMENTS and COMMUNICATIONS (including but not limited to memos, emails, and text messages) stating, summarizing, supporting, or explaining YOUR decision or recommendation on a disposition of an expression of interest or application at any point of the HIRING process from a TRANSFER EMPLOYEE who applied for or expressed an interest for any PT1 job group positions or positions within the Product Development line of business during the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 45:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the terms and phrases "stating," "summarizing," "supporting," "explaining," "decision," "recommendation," "disposition," "expression of interest," "application," "any point," "process," "applied for," "expressed an interest," "job group positions," and "line of business." Oracle further objects to this request as overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case, particularly to the extent it relates to TRANSFER EMPLOYEES. Oracle further objects to this request on the grounds that it seeks confidential information and invades the privacy rights of individuals who are not a party to this action. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

**REQUEST FOR PRODUCTION NO. 46:**

All COMMUNICATIONS (including by not limited to memos, emails, and text

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messages) to and from Joyce Westerdahl RELATING TO: HIRING; COMPENSATION; PROMOTIONS; diversity or affirmative action; race; gender; national origin; or complaints (whether formal or informal) regarding: discrimination (including but not limited to race or gender); retaliation; unfair treatment; unfair COMPENSATION; and/or hostile work environment.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 46:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request on the grounds that it seeks confidential information and invades the privacy rights of individuals who are not a party to this action. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

**REQUEST FOR PRODUCTION NO. 47:**

All DOCUMENTS (e.g., applications, resumés, expressions of interest, transcripts, references) submitted by PERSONS expressing an interest in or applying for positions in the PT1 job group or Product Development line of business during the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 47:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the terms and phrases "expressions of interest," "references," "expressing an interest," and "line of business." Oracle further objects to this request as overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request on the grounds that it seeks confidential information and invades the privacy rights of individuals who are not a party to this action.

Subject to and without waiving these objections, Oracle responds:

Following entry of a protective order, Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters, produce responsive, nonprivileged documents in its possession, custody, or control relating to the PTI job group at its Redwood Shores, CA, location for the period of January 1, 2013, through June 30, 2014.

**REQUEST FOR PRODUCTION NO. 48:**

All DOCUMENTS (e.g., job postings, requisitions, e-mails) submitted from YOU to PERSONS expressing an interest in or applying for positions in the PTI job group or Product Development line of business during the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 48:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the terms and phrases "job postings," "requisitions," "expressing an interest," and "line of business." Oracle further objects to this request as overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case.

**REQUEST FOR PRODUCTION NO. 49:**

All DOCUMENTS that define or describe YOUR DOCUMENT and data retention POLICIES, PRACTICES, or PROCEDURES for YOUR DATABASE(S) and any other repository for storing DOCUMENTS RELATING TO HIRING (including iRecruitment and Taleo) during the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 49:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrases "data retention" and "any other repository." Oracle further objects to this request as duplicative to other requests, overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any

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party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

**REQUEST FOR PRODUCTION NO. 50:**

All DOCUMENTS that define or describe YOUR DOCUMENT and data retention POLICIES, PRACTICES, or PROCEDURES for YOUR human resources, compensation, and/or PERSONNEL DATABASE(S) and any other repository for storing PERSONNEL DOCUMENTS and COMMUNICATIONS (including E-business suites, HRIS, Compensation workbench, and GSIAP) during the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 50:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrases "data retention" and "any other repository." Oracle further objects to this request as duplicative to other requests, overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

**REQUEST FOR PRODUCTION NO. 51:**

DOCUMENTS, including but not limited to ORGANIZATIONAL CHARTS or lists, sufficient to identify any and all PERSON(S) with knowledge of YOUR human resources and/or PERSONNEL DATABASE(S) and any other repository for storing PERSONNEL DOCUMENTS and COMMUNICATIONS, including but not limited to identifying any and all PERSONS(S) with knowledge RELATING TO: inputting, saving, storing, producing, deleting, and manipulating information contained in said DATABASE(S).

**RESPONSE TO REQUEST FOR PRODUCTION NO. 51:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrases "persons with knowledge" and "any other repository." Oracle

further objects to this request as duplicative to other requests, overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request on the grounds that it seeks confidential information and invades the privacy rights of individuals who are not a party to this action.

**REQUEST FOR PRODUCTION NO. 52:**

All performance evaluation forms (including electronic forms or fields for data entry) that YOU used for PERSONS in PT1 job group positions or in the Product Development, Information Technology, and Support lines of business during the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 52:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrases "performance evaluation forms," "job group positions," and "lines of business." Oracle further objects to this request as overbroad in scope, uncertain as to time, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request on the grounds that it seeks confidential information and invades the privacy rights of individuals who are not a party to this action. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

Subject to and without waiving these objections, Oracle responds:

Following entry of a protective order, Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters, produce responsive, nonprivileged documents in its possession, custody, or control related to the PT1 job group at its Redwood Shores, CA, location for the period January 1, 2013, through June 30, 2014, consistent with Oracle's understanding of the undefined terms contained in this request.

**REQUEST FOR PRODUCTION NO. 53:**

DOCUMENTS, including but not limited to ORGANIZATIONAL CHARTS or lists,  
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sufficient to identify any and all PERSON(S), including but not limited to officers, executives, and all levels of management, with the ability to make a decision to affect a PERSON's COMPENSATION (i.e., by evaluating job performance, recommending increases or decreases in COMPENSATION; recommending PROMOTIONS or demotions) during the RELEVANT TIME PERIOD for positions within the Product Development, Information Technology, and Support lines of business.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 53:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrases "all levels of management," "ability to make," "decision to affect," and "lines of business." Oracle further objects to this request as overbroad in scope, uncertain as to time, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request on the grounds that it seeks confidential information and invades the privacy rights of individuals who are not a party to this action.

Subject to and without waiving these objections, Oracle responds:

After conducting a reasonably diligent search, Oracle does not have responsive documents in its possession, custody, or control.

**REQUEST FOR PRODUCTION NO. 54:**

All DOCUMENTS relating to PRACTICES, POLICIES, or PROCEDURES for assigning PERSONS in the Product Development, Information Technology, and Support lines of business during the RELEVANT TIME PERIOD to a "salary code" or "grade" and to a job title.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 54:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the terms and phrases "assigning," "salary code," "grade," and "lines of business." Oracle further objects to this request as overbroad in scope, uncertain as to time,

compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

**REQUEST FOR PRODUCTION NO. 55:**

ALL DOCUMENTS RELATING TO PRACTICES, POLICIES, or PROCEDURES for determining starting COMPENSATION (i.e., upon hire) for COLLEGE RECRUITS during the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 55:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the terms "determining" and "starting." Oracle further objects to this request as overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

Subject to and without waiving these objections, Oracle responds:

Following entry of a protective order, Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters, produce responsive, nonprivileged documents in its possession, custody, or control relating to the PTI job group at its Redwood Shores, CA, location for the period of January 1, 2013, through June 30, 2014.

**REQUEST FOR PRODUCTION NO. 56:**

ALL DOCUMENTS RELATING TO PRACTICES, POLICIES, or PROCEDURES for determining starting COMPENSATION (i.e., upon hire) for EXPERIENCED RECRUITS hired into PTI job group positions or into positions in the Product Development, Information Technology, and Support lines of business during the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 56:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above.

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Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the terms and phrases "determining," "starting," "job group positions," and "lines of business." Oracle further objects to this request as overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request on the grounds that it seeks confidential information and invades the privacy rights of individuals who are not a party to this action. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

Subject to and without waiving these Objections, Oracle responds:

Following entry of a protective order, Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters, produce responsive, nonprivileged documents in its possession, custody, or control relating to the PTI job group at its Redwood Shores, CA, location for the period of January 1, 2013, through June 30, 2014.

**REQUEST FOR PRODUCTION NO. 57:**

ALL DOCUMENTS RELATING TO PRACTICES, POLICIES, or PROCEDURES for determining starting COMPENSATION (i.e., upon hire for that particular position) for TRANSFER EMPLOYEES hired into PTI job group positions or into positions in the Product Development, Information Technology, and Support lines of business during the RELEVANT TIME PERIOD (including COMPENSATION guidelines for international TRANSFER EMPLOYEES).

**RESPONSE TO REQUEST FOR PRODUCTION NO. 57:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the terms and phrases "determining," "starting," "job group positions," and "lines of business." Oracle further objects to this request as overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to

this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

**REQUEST FOR PRODUCTION NO. 58:**

ALL DOCUMENTS RELATING TO PRACTICES, POLICIES, or PROCEDURES for determining job assignments (including but not limited to department/division, group, product team, and/or client assignments) for PERSONS in PT1 job group positions or in the Product Development, Information Technology, and Support lines of business during the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 58:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the terms and phrases “determining,” “job assignments,” “job group positions,” and “lines of business.” Oracle further objects to this request as overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party’s claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

**REQUEST FOR PRODUCTION NO. 59:**

ALL DOCUMENTS RELATING TO PRACTICES, POLICIES, or PROCEDURES RELATING TO the PROMOTION process for PERSONS in the Product Development, Information Technology, and Support lines of business during the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 59:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the term and phrase “process” and “lines of business.” Oracle further objects to this request as overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party’s claim or defense nor

proportional to the needs of the case. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

**REQUEST FOR PRODUCTION NO. 60:**

All DOCUMENTS RELATING TO managers' requests for a PROMOTION of PERSONS in the Product Development, Information Technology, and Support lines of business during the RELEVANT TIME PERIOD, including but not limited to any completed "Promotion Template."

**RESPONSE TO REQUEST FOR PRODUCTION NO. 60:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrases "managers' request," "lines of business," and "Promotion Template." Oracle further objects to this request as overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

**REQUEST FOR PRODUCTION NO. 61:**

For each PERSON in the Product Development, Information Technology, and Support lines of business during the RELEVANT TIME PERIOD, DOCUMENTS evidencing the PERSON's characteristics YOU considered when setting that PERSON's COMPENSATION, either upon hire or in connection with a raise or PROMOTION, including but not limited to performance evaluations or other DOCUMENTS from the PERSON's PERSONNEL FILE evidencing that PERSON's experience or qualifications.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 61:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the terms and phrases "lines of business," "characteristics," "considered," "performance evaluations," "evidencing," "experience," "personnel file," or "qualification."

Oracle further objects to this request as overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request on the grounds that it seeks confidential information and invades the privacy rights of individuals who are not a party to this action. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information. Oracle further objects to this request because as stated, it calls for Oracle to speculate as to the particular characteristics or documents that any individual manager at Oracle may or may not have relied upon in making any individual compensation-related decision.

**REQUEST FOR PRODUCTION NO. 62:**

ALL DOCUMENTS RELATING TO PRACTICES, POLICIES, or PROCEDURES for determining any changes in COMPENSATION for PERSONS in the Product Development, Information Technology, and Support lines of business during the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 62:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrases "determining any changes" and "lines of business." Oracle further objects to this request as overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request on the grounds that it seeks confidential information and invades the privacy rights of individuals who are not a party to this action. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

Subject to and without waiving these objections, Oracle responds:

Following entry of a protective order, Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters, produce responsive, nonprivileged documents in its possession, custody, or control related to the Support, Product Development and

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Information Technology job functions at its Redwood Shores, CA, location for the period January 1, 2014, through December 31, 2014.

**REQUEST FOR PRODUCTION NO. 63:**

ALL DOCUMENTS RELATING TO PRACTICES, POLICIES, or PROCEDURES for setting pay ranges for job titles and/or pay grades in the Product Development, Information Technology, and Support lines of business during the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 63:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrases "setting pay ranges," "pay grades," and "lines of business." Oracle further objects to this request as overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request on the grounds that it seeks confidential information and invades the privacy rights of individuals who are not a party to this action. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

Subject to and without waiving these objections, Oracle responds:

Following entry of a protective order, Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters, produce responsive, nonprivileged documents in its possession, custody, or control related the Support, Product Development and Information Technology job functions at its Redwood Shores, CA, location for the period January 1, 2014, through December 31, 2014.

**REQUEST FOR PRODUCTION NO. 64:**

ALL DOCUMENTS RELATING TO PRACTICES, POLICIES, or PROCEDURES reflecting how PERSONS in the Product Development, Information Technology, and Support lines of business are evaluated, ranked, and/or analyzed, during the RELEVANT TIME PERIOD, including but not limited to: standards used; the process for evaluating, ranking,

and/or analyzing; positions that evaluate, rank and/or analyze; the review and approval process.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 64:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the terms and phrases "reflecting," "lines of business," "evaluate[d]," "ranke[d]," "analyze[d]," "standards used," and "review and approval process." Oracle further objects to this request as overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request on the grounds that it seeks confidential information and invades the privacy rights of individuals who are not a party to this action. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

**REQUEST FOR PRODUCTION NO. 65:**

All DOCUMENTS provided to YOUR employees, including but not limited to employee handbooks, describing PRACTICES, POLICIES, or PROCEDURES RELATING TO: HIRING; job assignments (including but not limited to initial job assignments, lateral movements, and transfers); COMPENSATION; PROMOTIONS; demotions; diversity and/or affirmative action, for PT1 job group positions and positions in the Product Development, Information Technology, and Support lines of business during the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 65:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the terms and phrases "job assignments," "lateral movements," "transfers," "demotions," "diversity," "affirmative action," and "lines of business." Oracle further objects to this request as overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request on the grounds that it

seeks confidential information, and invades the privacy rights of individuals who are not a party to this action. Oracle further objects to this request to the extent it seeks confidential, trade secret and/or proprietary business information.

**REQUEST FOR PRODUCTION NO. 66:**

ALL DOCUMENTS RELATING TO PRACTICES, POLICIES, or PROCEDURES for raising a complaint of: discrimination (including but not limited to race or gender); retaliation; unfair treatment; unfair COMPENSATION; and/or hostile work environment (including all PRACTICES, POLICIES, or PROCEDURES RELATING TO YOU investigating and addressing such complaints, whether internal or external) during the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 66:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the terms and phrases "raising a complaint," "discrimination," "retaliation," "unfair treatment," "unfair COMPENSATION," "hostile work environment," "investigating," and "addressing." Oracle further objects to this request as overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine.

**REQUEST FOR PRODUCTION NO. 67:**

ALL DOCUMENTS RELATING TO complaints made (whether formal or informal, oral or written) against YOU (including against any and all PERSON(S) involved in HIRING for PTI job group and/or Product Development job group positions or involved in determining COMPENSATION for employees in the Product Development, Information Technology, and Support lines of business) that allege, in whole or in part, discrimination (including but not

limited to race or gender); retaliation; unfair treatment; unfair COMPENSATION; and/or hostile work environment during the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 67:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the terms and phrases "complaints made," "oral," "job group positions," "involved in determining," "in whole or in part," "discrimination," "retaliation," "unfair treatment," "unfair COMPENSATION," "hostile work environment," and "lines of business." Oracle further objects to this request as overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle objects to the extent the request calls for a legal conclusion(s). Oracle further objects to this request on the grounds that it seeks confidential information, and invades the privacy rights of individuals who are not a party to this action. Oracle further objects to this request to the extent it seeks confidential, trade secret and/or proprietary business information. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine.

**REQUEST FOR PRODUCTION NO. 68:**

All DOCUMENTS initiating legal proceedings against YOU concerning PERSONNEL issues by PERSONS in the PTI job group or in the Product Development, Information Technology, or Support lines of business during the RELEVANT TIME PERIOD, including but not limited to: civil lawsuits; arbitrations; and/or administrative charges of: discrimination (including but not limited to race or gender); retaliation; unfair treatment; unfair COMPENSATION; and/or hostile work environment, including but not limited to charges filed with the Equal Employment Opportunity Commission, any state equal employment agencies, human rights agencies, or unemployment agencies.

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**RESPONSE TO REQUEST FOR PRODUCTION NO. 68:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the terms and phrases "initiating legal proceedings," "concerning," "lines of business," "discrimination," "retaliation," "unfair treatment," "unfair COMPENSATION," "hostile work environment," "any state equal employment agencies," "human rights agencies," and "unemployment agencies." Oracle objects to the extent the request calls for a legal conclusion. Oracle further objects to this request as overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request on the grounds that it seeks confidential information and invades the privacy rights of individuals who are not a party to this action. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine.

**REQUEST FOR PRODUCTION NO. 69:**

All DOCUMENTS, including but not limited to employee surveys, summaries, reports, or presentations, addressing or referencing: discrimination (including but not limited to race or gender); retaliation; unfair treatment; unfair COMPENSATION; hostile work environment; morale; and/or improper management conduct during the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 69:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the terms and phrases "employee surveys," "summaries," "reports," "presentations," "addressing or referencing," "discrimination," "retaliation," "unfair treatment," "unfair COMPENSATION," "hostile work environment," "morale," and "improper management conduct." Oracle further objects to this request as overbroad in scope, uncertain as to time,

compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request on the grounds that it seeks confidential information and invades the privacy rights of individuals who are not a party to this action. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine.

**REQUEST FOR PRODUCTION NO. 70:**

All GOVERNMENT CONTRACTS to which YOU have been a party during the RELEVANT TIME PERIOD, including any addenda, modifications, affirmations, and/or novations.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 70:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the terms "addenda," "modifications," "affirmations," and "novations." Oracle further objects to this request as overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine. Oracle further objects to this request as encompassing information already available to the OFCCP.

**REQUEST FOR PRODUCTION NO. 71:**

YOUR internal pay equity analyses conducted pursuant to 41 C.F.R. § 60-2.17 for the RELEVANT TIME PERIOD, including the date of analysis and dataset(s) used for the analysis.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 71:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above.

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CASE NO. 2017-OFC-00006

Oracle further objects to this request as overbroad in scope, uncertain as to time, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine. Oracle further objects to this request on the ground that it calls for a legal conclusion. Oracle further objects to this request on the ground that it requires Oracle to refer to materials outside the request itself. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

**REQUEST FOR PRODUCTION NO. 72:**

ALL DOCUMENTS RELATING TO actions taken during the RELEVANT TIME PERIOD in response to YOUR internal pay equity analyses conducted pursuant to 41 C.F.R. § 60-2.17.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 72:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request as overbroad in scope, uncertain as to time, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine. Oracle further objects to this request on the ground that it calls for a legal conclusion. Oracle further objects to this request on the ground that it requires Oracle to refer to materials outside the request itself. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

**REQUEST FOR PRODUCTION NO. 73:**

DATABASE(S) exported in a non-proprietary format, such as an Excel-readable file (e.g., XLS or CSV files), with data dictionaries and/or internal documentation describing the fields/outputs containing the following, regardless of time period: PERSONNEL, PROMOTION, payroll, gender, and race data for employees in the PTI job group or in the

Product Development, Information Technology, and Support lines of business. Data should include all data contained in Oracle's GSIAP system, including data from (1) the "People" window and all tabs shown on that window (i.e., "Personal," "Employment," "Office Details," "Applicant," "Further Name," "Other," and "Benefits"); (2) the "Previous Employment Information" window; (3) the "Schools and Colleges Attended" window; (4) the "Assignment" screen and all tabs shown on that window (i.e., "Salary Information," "Supervisor," "Standard Conditions," and "Statutory Information"); (5) the "Salary Administration" window; (6) the "Performance" window; (7) the "Salary History" window; and (8) the "DateTrack History of Assignments" window.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 73:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle also objects to the request as being vague and ambiguous, including but not limited to, as to the data being requested, as well as to the terms: "data dictionaries" and "internal documentation." Similarly the use of commas, qualifiers, "data," and "window[s]" renders the request unintelligible. Oracle further objects to this request as overbroad in scope and time, unduly burdensome, compound, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine. Oracle further objects to this request on the grounds that it seeks confidential information and invades the privacy rights of individuals who are not a party to this action. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

**REQUEST FOR PRODUCTION NO. 74:**

DATABASE(S) exported in a non-proprietary format, such as an Excel-readable file (e.g., .XLS or .CSV files), with data dictionaries and/or or internal documentation describing the fields/outputs containing the following: applicant, offer, gender, and race data for EXPERIENCED RECRUITS during the RELEVANT TIME PERIOD. Data should include all

data contained in Oracle's iRecruitment system and Taleo system, including data from (1) the "Candidate Details" window and all tabs shown on that window (i.e., including "Candidate Profile," "Qualifications," "Resumes and Documents," "Jobs Considered for," "Applications," and "Offers"), (2) the "Vacancies" window and all tabs shown on that window (i.e., "Vacancy Details," "Applicants," and links, such as "Review Resume" and "Application Notes").

**RESPONSE TO REQUEST FOR PRODUCTION NO. 74:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle also objects to the request as being vague and ambiguous, including but not limited to, as to the data being requested, as well as to the terms: "data dictionaries" and "internal documentation." Similarly the use of commas, qualifiers, "data," and "window[s]" renders the request unintelligible. Oracle further objects to this request as overbroad in scope and time, unduly burdensome, compound, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine. Oracle further objects to this request on the grounds that it seeks confidential information and invades the privacy rights of individuals who are not a party to this action. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

**REQUEST FOR PRODUCTION NO. 75:**

DATABASE(S) exported in a non-proprietary format, such as an Excel-readable file (e.g., .XLS or .CSV files), with data dictionaries and/or internal documentation describing the fields/outputs containing the following: applicant, offer, gender, and race data for TRANSFER EMPLOYEES into positions in the PT1 job group or Product Development line of business during the RELEVANT TIME PERIOD. Data should include all data contained in Oracle's iRecruitment system and Taleo system, including data from (1) the "Candidate Details" window and all tabs shown on that window (i.e., including "Candidate Profile," "Qualifications," "Resumes and Documents," "Jobs Considered for," "Applications," and "Offers"), (2) the

"Vacancies" window and all tabs shown on that window (i.e., "Vacancy Details," "Applicants," and links, such as "Review Resume" and "Application Notes").

**RESPONSE TO REQUEST FOR PRODUCTION NO. 75:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle also objects to the request as being vague and ambiguous, including but not limited to, as to the data being requested, as well as to the terms: "data dictionaries" and "internal documentation." Similarly the use of commas, qualifiers, "data," and "window[s]" renders the request unintelligible. Oracle further objects to this request as overbroad in scope and time, unduly burdensome, compound, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine. Oracle further objects to this request on the grounds that it seeks confidential information and invades the privacy rights of individuals who are not a party to this action. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

**REQUEST FOR PRODUCTION NO. 76:**

DATABASE(S) exported in a non-proprietary format, such as an Excel-readable file (e.g., .XLS or .CSV files), with data dictionaries and/or internal documentation describing the fields/outputs containing the following: applicant, offer, gender, and race data for COLLEGE RECRUITS during the RELEVANT TIME PERIOD. Data should include all data contained in Oracle's iRecruitment system, Taleo system, or other system, such as data from (1) the "Candidate Details" window and all tabs shown on that window (i.e., including "Candidate Profile," "Qualifications," "Resumes and Documents," "Jobs Considered for," "Applications," and "Offers"), (2) the "Vacancies" window and all tabs shown on that window (i.e., "Vacancy Details," "Applicants," and links, such as "Review Resume" and "Application Notes").

**RESPONSE TO REQUEST FOR PRODUCTION NO. 76:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above.

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Oracle also objects to the request as being vague and ambiguous, including but not limited to, as to the data being requested, as well as to the terms: "data dictionaries" and "internal documentation." Similarly the use of commas, qualifiers, "data," and "window[s]" renders the request unintelligible. Oracle further objects to this request as overbroad in scope and time, unduly burdensome, compound, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine. Oracle further objects to this request on the grounds that it seeks confidential information and invades the privacy rights of individuals who are not a party to this action. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

**REQUEST FOR PRODUCTION NO. 77:**

ALL LABOR CONDITION APPLICATIONS for the RELEVANT TIME PERIOD, including any LABOR CONDITION APPLICATIONS YOU submitted during the RELEVANT TIME PERIOD or any additional LABOR CONDITION APPLICATIONS YOU used to employ any PERSON during the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 77:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request as overbroad in scope, uncertain as to time, unduly burdensome, compound, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

**REQUEST FOR PRODUCTION NO. 78:**

ADVERSE IMPACT ANALYSES, as required by 41 C.F.R. § 60-3.15A, performed by YOU or any other PERSONS acting or purporting to act on YOUR behalf or at YOUR direction

for the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 78:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request as overbroad in scope, uncertain as to time, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine. Oracle further objects to this request on the ground that it calls for a legal conclusion. Oracle further objects to this request on the ground that it requires Oracle to refer to materials outside the request itself. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

**REQUEST FOR PRODUCTION NO. 79:**

Evaluations of each step or component of the selection (i.e., HIRING) process, as described in 41 C.F.R. § 60-3.4(C), for positions in the PTI job group and/or Product Development line of business for the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 79:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request as overbroad in scope, uncertain as to time, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine. Oracle further objects to this request on the ground that it calls for a legal conclusion. Oracle further objects to this request on the ground that it requires Oracle to refer to materials outside the request itself. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

**REQUEST FOR PRODUCTION NO. 80:**

In-depth analyses of the total employment process, as required in 41 C.F.R. § 60-2.17(b),

for positions in the PT1 job group or Product Development, Information Technology, and/or Support lines of business for the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 80:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request as overbroad in scope, uncertain as to time, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine. Oracle further objects to this request on the ground that it calls for a legal conclusion. Oracle further objects to this request on the ground that it requires Oracle to refer to materials outside the request itself. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

**REQUEST FOR PRODUCTION NO. 81:**

ALL DOCUMENTS RELATING TO training or other instruction YOU provided to any officers, executives, all levels of management, human resources and/or PERSONNEL department(s) or division(s), and/or any other employee or PERSON acting or purporting to act on YOUR behalf or at YOUR direction, involved in HIRING and/or determining COMPENSATION that relates to YOUR Affirmative Action Program (AAP) or laws or policies prohibiting discrimination on the basis of gender or race during the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 81:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrases "training or other instruction," "purporting to act," "involved," "determining," and "discrimination." Oracle further objects to this request as overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case.

Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

**REQUEST FOR PRODUCTION NO. 82:**

DOCUMENTS sufficient to show the eligibility requirements for any employment benefits offered to employees in the PT1 job group or Product Development, Information Technology, and/or Support lines of business during the RELEVANT TIME PERIOD, including but not limited to the following benefits: life insurance; retirement; vacation pay; sick pay; 401(k) profit sharing or retirement plans; stock options; DOCUMENTS governing any health, dental, vision, disability, or other welfare plan; DOCUMENTS governing any sick, vacation, and holiday plans; and summary plan descriptions.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 82:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrase "eligibility requirements," "any employment benefits," and "lines of business." Oracle objects to the list of identified benefits as including the term "Documents," which does not include or encompass benefits and renders the request unintelligible. Oracle further objects to this request as overbroad in scope, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request as premature and not relevant to the liability phase of trial.

**REQUEST FOR PRODUCTION NO. 83:**

Contact information for all current and former employees in the PT1 job group and Product Development, Information Technology, and Support lines of business during the RELEVANT TIME PERIOD, including: full name, home address, home phone number, mobile phone number, and home/personal email address.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 83:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above.

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Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrase "lines of business." Oracle further objects to this request as overbroad in scope, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request on the grounds that it seeks confidential information and invades the privacy rights of individuals who are not a party to this action.

**REQUEST FOR PRODUCTION NO. 84:**

ALL DOCUMENTS RELATING TO any statistical analyses that YOU rely upon to deny any of the allegations in the AMENDED COMPLAINT, including all results, assumptions, variables, and analyses upon which YOU rely, and the computer code and formulas underlying the analyses.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 84:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrases "statistical analyses," "results," "assumptions," "variables," "analyses," "computer code," and "formulas underlying the analyses." Oracle further objects to this request as overbroad in scope, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine. Oracle further objects to this request on the grounds that it seeks confidential information and invades the privacy rights of individuals who are not a party to this action. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

**REQUEST FOR PRODUCTION NO. 85:**

For any and all analyses YOU provide in response to Request No. 84, provide the entire DATABASE YOU relied upon for each analysis.

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**RESPONSE TO REQUEST FOR PRODUCTION NO. 85:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, overbroad in scope, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine. Oracle further objects to this request on the grounds that it seeks confidential information and invades the privacy rights of individuals who are not a party to this action. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

**REQUEST FOR PRODUCTION NO. 86:**

For each DATABASE provided in response to Request No. 84, produce all written and electronic source DOCUMENTS that YOU relied upon to create and refine the DATABASE, including but not limited to DOCUMENTS relied upon to establish each PERSON's name, gender, race, position, education, work experience, and any other factor YOU included in the DATABASE.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 86:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, overbroad in scope, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine. Oracle further objects to this request on the grounds that it seeks confidential information and invades the privacy rights of individuals who are not a party to this action. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

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**REQUEST FOR PRODUCTION NO. 87:**

All DOCUMENTS RELATING TO validity studies or evaluations that YOU or someone on YOUR behalf conducted RELATING TO any step or component of the HIRING process for employees in the PT1 job group and Product Development line of business during the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 87:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrases "validity studies or evaluations," "any step or component," and "line of business." Oracle further objects to this request as overbroad in scope, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

**REQUEST FOR PRODUCTION NO. 88:**

All DOCUMENTS RELATING TO validity studies or evaluations that YOU or someone on YOUR behalf conducted RELATING TO any step or component of the COMPENSATION determination process for employees in the Product Development, Information Technology, and Support lines of business during the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 88:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrases "validity studies or evaluations," "any step or component," and "lines of business." Oracle further objects to this request as overbroad in scope, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the

extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

**REQUEST FOR PRODUCTION NO. 89:**

All DOCUMENTS YOU rely upon or reviewed in preparing YOUR ANSWER.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 89:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrase "rely upon or reviewed." Oracle further objects to this request as duplicative to other requests, overbroad in scope, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

**REQUEST FOR PRODUCTION NO. 90:**

All DOCUMENTS that support YOUR "Preliminary Statement" (pages 1-9) set forth in YOUR ANSWER.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 90:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrase "support." Oracle further objects to this request as duplicative to other requests, overbroad in scope, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

Subject to and without waiving these objections, Oracle responds:

Following entry of a protective order, Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters, produce responsive, nonprivileged documents in its possession, custody, or control.

**REQUEST FOR PRODUCTION NO. 91:**

All DOCUMENTS that support YOUR responses in YOUR ANSWER denying each and every numbered paragraph to the AMENDED COMPLAINT.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 91:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrase "support." Oracle further objects to this request as duplicative to other requests, overbroad in scope, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine. Oracle further objects to this request to the extent it seeks confidential, trade secret, and/or proprietary business information.

Subject to and without waiving these objections, Oracle responds:

Following entry of a protective order, Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters, produce responsive, nonprivileged documents in its possession, custody, or control.

**REQUEST FOR PRODUCTION NO. 92:**

All DOCUMENTS that YOU plan to introduce as exhibits at the trial in this matter.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 92:**

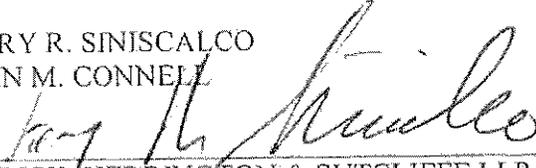
Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is premature. Oracle further objects to this request to the extent it seeks the mental impressions of counsel, including information protected by the attorney-client privilege or the attorney work product doctrine.

Subject to and without waiving these objections, Oracle responds:

Following entry of a protective order, Oracle will timely produce responsive documents in accordance with the schedule set by the Administrative Law Judge.

March 20, 2017

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Attorneys For Defendant  
ORACLE AMERICA, INC.

**PROOF OF SERVICE BY ELECTRONIC MAIL**

I am more than eighteen years old and not a party to this action. My business address is Orrick, Herrington & Sutcliffe LLP, The Orrick Building, 405 Howard Street, San Francisco, California 94105-2669. My electronic service address is [jkaddah@orrick.com](mailto:jkaddah@orrick.com).

On March 20, 2017, I served the interested parties in this action with the following document(s):

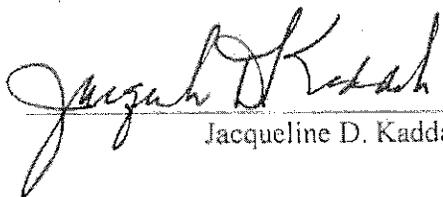
**ORACLE'S RESPONSES AND OBJECTIONS TO SECOND SET FOR  
REQUESTS FOR THE PRODUCTION OF DOCUMENTS**

by serving true copies of these documents via electronic mail in Adobe PDF format the documents listed above to the electronic addresses set forth below:

Marc A. Pilotin ([pilotin.marc.a@dol.gov](mailto:pilotin.marc.a@dol.gov))  
Laura Bremer ([Bremer.Laura@dol.gov](mailto:Bremer.Laura@dol.gov))  
Ian Eliasoph ([eliasoph.ian@dol.gov](mailto:eliasoph.ian@dol.gov))  
Jeremiah Miller ([miller.jeremiah@dol.gov](mailto:miller.jeremiah@dol.gov))  
U.S. Department of Labor, Office of the Solicitor, Region IX – San Francisco  
90 Seventh Street, Suite 3-700  
San Francisco, CA 94103  
Telephone: (415) 625-7769  
Fax: (415) 625-7772

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on March 20, 2017, at San Francisco, California.

  
\_\_\_\_\_  
Jacqueline D. Kaddah

**Kaddah, Jacqueline D.**

---

**From:** Kaddah, Jacqueline D.  
**Sent:** Monday, March 20, 2017 5:21 PM  
**To:** pilotin.marc.a@dol.gov; Bremer.Laura@dol.gov; eliasoph.ian@dol.gov;  
miller.jeremiah@dol.gov  
**Cc:** Siniscalco, Gary R.; Connell, Erin M.; Riddell, J.R.; James, Jessica R. L.  
**Subject:** OFCCP v. Oracle America, Inc.  
**Attachments:** Oracle resp, obj to RFP set 2.pdf

Dear Counsel:

Attached please find Oracle's Responses and Objections to Second Set of Requests for the Production of Documents.

Jacqueline D. Kaddah  
Senior Paralegal

Orrick  
The Orrick Building  
405 Howard Street  
San Francisco, CA 94105-2669 ☎  
T +1-415-773-5558  
jkaddah@orrick.com





UNITED STATES DEPARTMENT OF LABOR  
OFFICE OF ADMINISTRATIVE LAW JUDGES

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

Plaintiff,

v.

ORACLE AMERICA, INC.

Defendant.

OALJ Case No. 2017-OFC-00006

OFCCP No. R00192699

**OFCCP'S NOTICE OF DEPOSITION PURSUANT TO 41 C.F.R. § 60-30.11 AND  
FEDERAL RULE OF CIVIL PROCEDURE 30(B)(6) REGARDING HUMAN  
RESOURCES DATABASES AND OTHER RECORDS**

PLEASE TAKE NOTICE that, pursuant to 41 C.F.R. §60-30.11 and Rule 30(b)(6) of the Federal Rules of Civil Procedure, Plaintiff Office of Federal Contract Compliance Programs, United States Department of Labor ("OFCCP") will take the deposition upon oral examination of Defendant Oracle America, Inc. ("Oracle"), through its designated agent(s).

The deposition will commence on March 28, 2017, at 9:00 a.m., at 90 7th Street, Suite 3-700, San Francisco, California 94103, or at a mutually agreeable location. Pursuant to the provisions of Rule 30(b)(6) of the Federal Rules of Civil Procedure, Oracle is hereby directed to designate one or more officers, directors, managing agents, or other persons who consent to testify and are most knowledgeable and competent to testify regarding the matters designated below.

### DEFINITIONS AND INSTRUCTIONS

1. Except as otherwise defined or broadened in this notice of deposition, Plaintiff incorporates by reference the definitions set forth in Fed. R. Civ. P. 26 and 30.
2. "Affected Employees" refers to any employee identified in paragraphs ¶¶ 7-10 in the Amended Complaint (*i.e.*, employees in the Information Technology, Product Development, and Support lines of business and employees in the Professional Technical I, Individual Contributor job group).
3. "Payroll Records" means all documents kept for the purpose of identifying the wages or any other compensation owed to Oracle employees.
4. "Personnel Record" or "Personnel File" means all documents kept by Oracle that refer to a particular employee, including but not limited to all of the following: personnel records; discipline records; internal or confidential documents referring to such employee; and other documents kept by Oracle that have been used or may have affected a particular employee's qualifications for, eligibility for, subjection to, receipt of, or receipt of an offer of employment, promotion, transfer, additional compensation, termination, or disciplinary action.
5. The terms "including" and "includes" shall mean "including, but not limited to" or the grammatical equivalent, and shall not be construed to exclude items not listed.
6. For purposes of the subjects below, the relevant time period is from January 1, 2013 through the present.

### MATTERS DESIGNATED FOR DEPOSITION TESTIMONY

1. Oracle's databases containing information about Affected Employees, including Affected Employees' Payroll Records and Personnel Files. In addition to being able to testify generally about such databases, any person or set of persons Oracle designates as being the most knowledgeable about such databases must also provide testimony on the specific matters below:

- a. the purpose of the databases;
- b. the identity, by job title or other general description, of individuals who use the databases;
- c. the content of the database, including the fields used in the databases and any changes to the content during the relevant period;
- d. the manner in which data is entered into the databases;
- e. the types of reports that can be generated from the databases;
- f. the process by which data can be exported from the databases;
- g. any relationships (*e.g.*, whether data stored in one database is used by another) among the databases; and,
- h. the extraction of data from the databases and creation of Excel Spreadsheets provided to OFCCP in response to data requests.

2. Oracle's databases containing information about individuals expressing interest in, recruited for, or applying for positions held by Affected Employees (*e.g.*, Recruitment and Taleo). In addition to being able to testify generally about such databases, any person or set of persons Oracle designates as being the most knowledgeable about such databases must also provide testimony on the specific matters below:

- a. the purpose of the databases;
- b. the identity, by job title or other general description, of individuals who use the databases;
- c. the content of the database, including the fields used in the databases and any changes to the content during the relevant period;
- d. the manner in which data is entered into the databases;

- e. the types of reports that can be generated from the databases;
- f. the process by which data can be exported from the databases;
- g. any relationships (e.g., whether data stored in one database is used by another) among the databases; and,
- h. the extraction of data from the databases and creation of Excel

Spreadsheets provided to OFCCP in response to data requests.

3. The e-mail system Oracle uses at its Redwood Shores facility (including back-ups) and how material can be retrieved from that system.

4. Oracle's policies and practices regarding document retention and/or destruction and computer-based record-keeping.

5. For information Oracle claimed or claims is not in any electronic database or cannot be easily extracted into an Excel spreadsheet or other electronic format (including, but not limited to: college(s) employees and applicants attended, educational degree(s) attained, prior salary, years of prior work experience, resumes, etc.):

- a. all locations where these records are stored;
- b. all formats these records are stored in to include native formats;
- c. The process required for Oracle to put these records into a digital format;
- d. The process necessary for Oracle to create spreadsheets or other lists containing such information;
- e. the cost to Oracle to individually or collectively put these records into a digital database and /or excel spreadsheets; the time it would take Oracle to individually or collectively put these records into a digital database and /or excel spreadsheets; and

- f. any analysis of the costs that Oracle conducted regarding data and information that OFCCP requested.

Date: March 2, 2017

NICHOLAS C. GEALE  
Acting Solicitor

JANET M. HEROLD  
Regional Solicitor

IAN H. ELIASOPH  
Counsel for Civil Rights



---

LAURA C. BREMER  
Senior Trial Attorney  
UNITED STATES DEPARTMENT OF LABOR  
Office of the Solicitor  
90 7th Street, Suite 3-700  
San Francisco, CA 94103  
Telephone: (415) 625-7745  
Fax: (415) 625-7772  
E-Mail: Schultz.Andrew@dol.gov

*Attorneys for Plaintiff*

**CERTIFICATE OF SERVICE**

I am a citizen of the United States of America and am over eighteen years of age. I am not a party to the instant action; my business address is 90 7<sup>th</sup> Street, Suite 3-700, San Francisco, California, 94103.

On the date indicated below, I served the foregoing **OFCCP'S NOTICE OF DEPOSITION PURSUANT TO 41 C.F.R. § 60-30.11 AND FEDERAL RULE OF CIVIL PROCEDURE 30(B)(6) REGARDING HUMAN RESOURCES DATABASES AND OTHER RECORDS** by electronic mail, by prior written agreement between counsel, to the following:

Connell, Erin M.: econnell@orrick.com

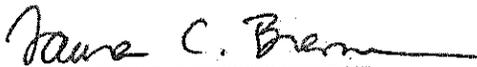
Kaddah, Jacqueline D.: jkaddah@orrick.com

James, Jessica R. L.: jessica.james@orrick.com

Siniscalco, Gary: grsiniscalco@orrick.com

I certify under penalty of perjury that the above is true and correct.

Executed: March 2, 2017



LAURA C. BREMER  
Trial Attorney

Office of the Solicitor  
U.S. Department of Labor



UNITED STATES DEPARTMENT OF LABOR  
OFFICE OF ADMINISTRATIVE LAW JUDGES

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

Plaintiff,

v.

ORACLE AMERICA, INC.,

Defendant.

OALJ Case No. 2017-OFC-00006

OFCCP No. R00192699

**DEFENDANT'S OBJECTIONS  
TO NOTICE OF DEPOSITION  
PURSUANT TO 41 C.F.R. § 60-  
30.11 AND FED. R. CIV. P.  
30(B)(6) REGARDING HUMAN  
RESOURCES DATABASES AND  
OTHER RECORDS**

**TO PLAINTIFF AND ITS ATTORNEYS OF RECORD:**

Defendant Oracle America, Inc. ("Oracle" or "Defendant") hereby objects to Plaintiff the Office of Federal Contract Compliance Programs, United States Department of Labor's ("OFCCP" of "Plaintiff") Notice of Deposition Pursuant to 41 C.F.R. § 60-30.11 and Fed. R. Civ. P. 30(b)(6) Regarding Human Resources Databases and Other Records ("Notice of Deposition"), noticed by Plaintiff on or about March 2, 2017, as follows:

**GENERAL OBJECTIONS**

1. Oracle objects to the Notice to the extent OFCCP purports to unilaterally set the deposition for March 28, 2017. Oracle has informed OFCCP it is unavailable for a deposition on that date and will work with OFCCP to schedule a mutually convenient date.

2. Nothing contained in the following objections constitutes or shall be construed as an admission or acknowledgment that the Matters Designated for Deposition Testimony ("Topics") in the Notice or any testimony elicited thereunder is relevant, material, or admissible at trial.

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## SPECIFIC OBJECTIONS TO DEFINITIONS AND TOPICS

### DEFINITION 1:

Except as otherwise defined or broadened in this notice of deposition, Plaintiff incorporates by reference the definitions set forth in Fed. R. Civ. P. 26 and 30.

### OBJECTION TO DEFINITION 1:

Oracle objects to OFCCP's efforts to expand the obligations and definitions set forth in the Federal Rules of Civil Procedure. Furthermore, Oracle objects to producing a person or persons "most knowledgeable regarding the matters designated" by OFCCP, as Oracle has no obligation to do so under the applicable rules. Witnesses produced in response to the Notice will, subject to Oracle's objections, testify in accordance with Oracle's obligations under Rule 30(b)(6) of the Federal Rules of Civil Procedure.

### DEFINITION 2:

"Affected Employees" refers to any employee identified in paragraphs ¶¶ 7-10 in the Amended Complaint (*i.e.*, employees in the Information Technology, Product Development, and Support lines of business and employees in the Professional Technical 1, Individual Contributor job group).

### OBJECTION TO DEFINITION 2:

Oracle objects to this definition as including the phrases "Affected" and "any employee identified," which render the definition unintelligible, vague, ambiguous, overbroad, compound, unduly burdensome, conclusory and oppressive. Oracle further objects that by incorporating paragraphs ¶¶ 7-10 in the Amended Complaint, the definition is overbroad as to time frame. The definition is also objectionable to the extent "Affected Employees" includes the comparable males, comparable Whites, and Asian Applicants that the Amended Complaint does not allege were "Affected." Furthermore, because OFCCP has failed to specifically identify the "Affected Employees," the employees allegedly discriminated against, and the employees used as comparators, Oracle is not in a position to speculate as to the meaning of the term.

///

**DEFINITION 3:**

“Payroll Records” means all documents kept for the purpose of identifying the wages or any other compensation owed to Oracle employees.

**OBJECTION TO DEFINITION 3:**

Oracle objects to this definition as including the phrases “kept,” “purpose of identifying,” “other compensation,” and “owed,” which render the definition vague, ambiguous, overbroad, compound, unduly burdensome, conclusory and oppressive. Oracle further objects to this definition to the extent it requests information regarding “Oracle employees” that is wholly irrelevant to the discriminatory conduct allegedly engaged in at Oracle’s Redwood Shores, CA, location. Oracle further objects to this definition on the ground that it invades the privacy rights of individuals who are not a party to this action.

**DEFINITION 4:**

“Personnel Record” or “Personnel File” means all documents kept by Oracle that refer to a particular employee, including but not limited to all of the following: personnel records; discipline records; internal or confidential documents referring to such employee; and other documents kept by Oracle that have been used or may have affected a particular employee’s qualifications for, eligibility for, subjection to, receipt of, or receipt of an offer of employment, promotion, transfer, additional compensation, termination, or disciplinary action.

**OBJECTION TO DEFINITION 4:**

Oracle objects to this definition as including the phrases “kept,” “particular employee,” “including but not limited to,” and “may have” render the definition vague, ambiguous, overbroad, unduly burdensome and oppressive. Likewise, the term “all documents” renders the definition completely overbroad. Oracle further objects to this definition as compound. Oracle further objects to this definition to the extent it requests information regarding Oracle employees at other locations not at issue in the Amended Complaint and that are wholly irrelevant to the discriminatory conduct allegedly engaged in at Oracle’s Redwood Shores, CA, location. Oracle further objects to this definition on the ground that it invades the privacy rights of individuals

who are not a party to this action.

**DEFINITION 5:**

The terms “including” and “includes” shall mean “including, but not limited to” or the grammatical equivalent, and shall not be construed to exclude items not listed.

**DEFINITION 6:**

For purposes of the subjects below, the relevant time period is from January 1, 2013 through the present.

**OBJECTION TO DEFINITION 6:**

Oracle objects to this definition as including the term “present,” which renders the phrase vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing testimony not relevant to any party’s claim or defense nor proportional to the needs of the case. Oracle further objects to this definition on the basis that it is overbroad. As to topics related to OFCCP’s recruiting and hiring claim, Oracle’s witnesses will be prepared to testify regarding the relevant time period of January 1, 2013 through June 30, 2014. As to topics related to OFCCP’s compensation claims, Oracle’s witnesses will be prepared to testify regarding the relevant time period of January 1, 2014 through December 31, 2014.

**MATTERS DESIGNATED FOR DEPOSITION TESTIMONY**

**TOPIC 1:**

Oracle’s databases containing information about Affected Employees, including Affected Employees’ Payroll Records and Personnel Files. In addition to being able to testify generally about such databases, any person or set of persons Oracle designates as being the most knowledgeable about such databases must also provide testimony on the specific matters below:

- a. the purpose of the databases;
- b. the identity, by job title or other general description, of individuals who use the databases;
- c. the content of the database, including the fields used in the databases and any changes to the content during the relevant period;

- d. the manner in which data is entered into the databases;
- e. the types of reports that can be generated from the databases;
- f. the process by which data can be exported from the databases;
- g. any relationships (*e.g.*, whether data stored in one database is used by another) among the databases; and,
- h. the extraction of data from the databases and creation of Excel Spreadsheets provided to OFCCP in response to data requests.

**OBJECTION TO TOPIC 1:**

Oracle incorporates by reference its Specific Objections to Definitions set forth above. Oracle further objects to this topic to the extent the discovery sought is obtainable from some other source that is more convenient, less burdensome, or less expensive, including declarations and documents to be produced. Oracle further objects to this topic on the grounds that it is compound, and lacks the requisite specificity and is vague and ambiguous, including but not limited to the terms “databases,” “use[d],” “content,” “reports,” “generated,” “exported,” “relationships,” and “extraction.” Oracle further objects to this topic on the grounds that it is vague, overbroad (including, but not limited to, as to time frame), and disproportional to the needs of the case in so far as it seeks information related to all “databases containing information on Affected Employees.” Likewise, the request to provide testimony regarding the content of the database, including changes to the content is overbroad and unduly burdensome. Oracle further objects to this topic on the grounds that it seeks confidential information, and invades the privacy rights of individuals who are not a party to this action. Oracle further objects to this topic to the extent it seeks confidential, trade secret and/or proprietary business information and so will produce witnesses on the non-objectionable portions of this topic after entering into an appropriate stipulated protective order.

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**TOPIC 2:**

Oracle's databases containing information about individuals expressing interest in, recruited for, or applying for positions held by Affected Employees (e.g., Recruitment and Taleo). In addition to being able to testify generally about such databases, any person or set of persons Oracle designates as being the most knowledgeable about such databases must also provide testimony on the specific matters below:

- a. the purpose of the databases;
- b. the identity, by job title or other general description, of individuals who use the databases;
- c. the content of the database, including the fields used in the databases and any changes to the content during the relevant period;
- d. the manner in which data is entered into the databases;
- e. the types of reports that can be generated from the databases;
- f. the process by which data can be exported from the databases;
- g. any relationships (e.g., whether data stored in one database is used by another) among the databases; and,
- h. the extraction of data from the databases and creation of Excel Spreadsheets provided to OFCCP in response to data requests.

**OBJECTION TO TOPIC 2:**

Oracle incorporates by reference its Specific Objections to Definitions set forth above. Oracle further objects to this topic to the extent the discovery sought is obtainable from some other source that is more convenient, less burdensome, or less expensive, including declarations and documents to be produced. Oracle further objects to this topic on the grounds that it is compound, and lacks the requisite specificity and is vague and ambiguous, including but not limited to the terms "databases," "expressing interest," "Recruitment," "use[d]," "content," "reports," "generated," "exported," "relationships," and "extraction." Oracle further objects to this topic on the grounds that it is vague, overbroad (including, but not limited to, as to time

frame), and disproportionate to the needs of the case insofar as it seeks information related to all “individuals expressing interest in, recruited for, or applying for positions held by Affected Employees,” where the Amended Complaint only alleges recruiting and hiring violations in Paragraph 10, not Paragraphs 7 through 10. Oracle also objects to this topic as it seeks information that is disproportionate to the needs of the case, e.g., information outside of the relevant time period (January 1, 2013 to June 30, 2014) and for jobs outside the PT1 job group at the Redwood Shores, CA location. Likewise, the request to provide testimony regarding the content of the database, including changes to the content is overbroad and unduly burdensome. Oracle further objects to this topic on the grounds that it seeks confidential information, and invades the privacy rights of individuals who are not a party to this action. Oracle further objects to this topic to the extent it seeks confidential, trade secret and/or proprietary business information and so will produce witnesses on the non-objectionable portions of this topic after entering into an appropriate stipulated protective order.

**TOPIC 3:**

The e-mail system Oracle uses at its Redwood Shores facility (including back-ups) and how material can be retrieved from that system.

**OBJECTION TO TOPIC 3:**

Oracle incorporates by reference its Specific Objections to Definitions set forth above. Oracle further objects to this topic on the grounds that it lacks the requisite specificity and is vague and ambiguous, including but not limited to the terms “back-ups” and “retrieved.” Oracle further objects to this topic on the ground that it is compound and overbroad (including, but not limited to, as to time frame). Oracle further objects to this topic to the extent it seeks confidential, trade secret and/or proprietary business information and so will produce witnesses on the non-objectionable portions of this topic after entering into an appropriate stipulated protective order.

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**TOPIC 4:**

Oracle's policies and practices regarding document retention and/or destruction and computer-based record-keeping.

**OBJECTION TO TOPIC 4:**

Oracle incorporates by reference its Specific Objections to Definitions set forth above. Oracle further objects to this topic on the grounds that it lacks the requisite specificity and is vague and ambiguous, including but not limited to the terms "document retention," "destruction," "computer-based," and "record-keeping." Oracle further objects to this topic on the ground that it is vague, overbroad (including, but not limited to, as to time frame), and disproportionate to the needs of the case in so far as it seeks information on policies and practices not related to the Product Development, Support and Information Technology job functions from January 1, 2013 to December 31, 2014 at the Redwood Shores, CA location. Oracle further objects to this topic to the extent it seeks confidential, trade secret and/or proprietary business information and so will produce witnesses on the non-objectionable portions of this topic after entering into an appropriate stipulated protective order.

**TOPIC 5:**

For information Oracle claimed or claims is not in any electronic database or cannot be easily extracted into an Excel spreadsheet or other electronic format (including, but not limited to: college(s) employees and applicants attended, educational degree(s) attained, prior salary, years of prior work experience, resumes, etc.):

- a. all locations where these records are stored;
- b. all formats these records are stored in to include native formats;
- c. The process required for Oracle to put these records into a digital format;
- d. The process necessary for Oracle to create spreadsheets or other lists containing such information;
- e. the cost to Oracle to individually or collectively put these records into a digital database and /or excel spreadsheets; the time it would take Oracle

to individually or collectively put these records into a digital database and /or excel spreadsheets; and

- f. any analysis of the costs that Oracle conducted regarding data and information that OFCCP requested.

**OBJECTION TO TOPIC 5:**

Oracle incorporates by reference its Specific Objections to Definitions set forth above. Oracle further objects to this topic to the extent the discovery sought is obtainable from some other source that is more convenient, less burdensome, or less expensive, including declarations and documents to be produced. Oracle further objects to this topic on the grounds that it lacks the requisite specificity and is vague and ambiguous, including but not limited to the terms “claimed or claims,” “databases,” “electronic format,” “including, but not limited to,” “process,” “digital format,” “cost,” “digital database,” and “analysis.” Moreover, without further specificity as to the purported information to which OFCCP is referring, the topic as stated is unintelligible, and Oracle is not in a position to speculate as to its meaning. Additionally, subparts (e) and (f) as stated appear to require Oracle to undergo some type of cost assessment or analysis of costs that is beyond the scope of 41 C.F.R. § 60-30.11 and Fed. R. Civ. P. 30(b)(6). Oracle further objects to this topic to the extent that it is vague, overbroad, and disproportional to the needs of the case in so far as it seeks information related to all “databases containing information on Affected Employees.” Likewise, the request to provide testimony regarding the content of the database, including changes to the content is overbroad and unduly burdensome. Oracle further objects to this topic to the extent it seeks confidential, trade secret and/or proprietary business information. Oracle further objects to this topic on the grounds that it seeks confidential information, and invades the privacy rights of individuals who are not a party to this action.

Oracle further specifically objects to subpart (e) as harassing and burdensome insofar as it requests testimony regarding costs not already ascertained or reasonably available to Oracle.

Oracle further specifically objects to subpart (f) as harassing and burdensome insofar as it requests testimony regarding analyses that Oracle has not performed and that are not reasonably

available.

Based on the objections asserted herein, Oracle is unable to provide any witness to testify on Topic 5.

March 9, 2017

GARY R. SINISCALCO  
ERIN M. CONNELL



ORRICK, HERRINGTON & SUTCLIFFE LLP

The Orrick Building

405 Howard Street

San Francisco, CA 94105-2669

Telephone: (415) 773-5700

Facsimile: (415) 773-5759

Email: gsiniscalco@orrick.com  
econnell@orrick.com

Attorneys For Defendant  
ORACLE AMERICA, INC.

**PROOF OF SERVICE BY ELECTRONIC MAIL**

I am more than eighteen years old and not a party to this action. My business address is Orrick, Herrington & Sutcliffe LLP, The Orrick Building, 405 Howard Street, San Francisco, California 94105-2669. My electronic service address is econnell@orrick.com.

On March 9, 2017, I served the interested parties in this action with the following document(s):

**ORACLE'S OBJECTIONS TO NOTICE OF DEPOSITION**

by serving true copies of these documents via electronic mail in Adobe PDF format the documents listed above to the electronic addresses set forth below:

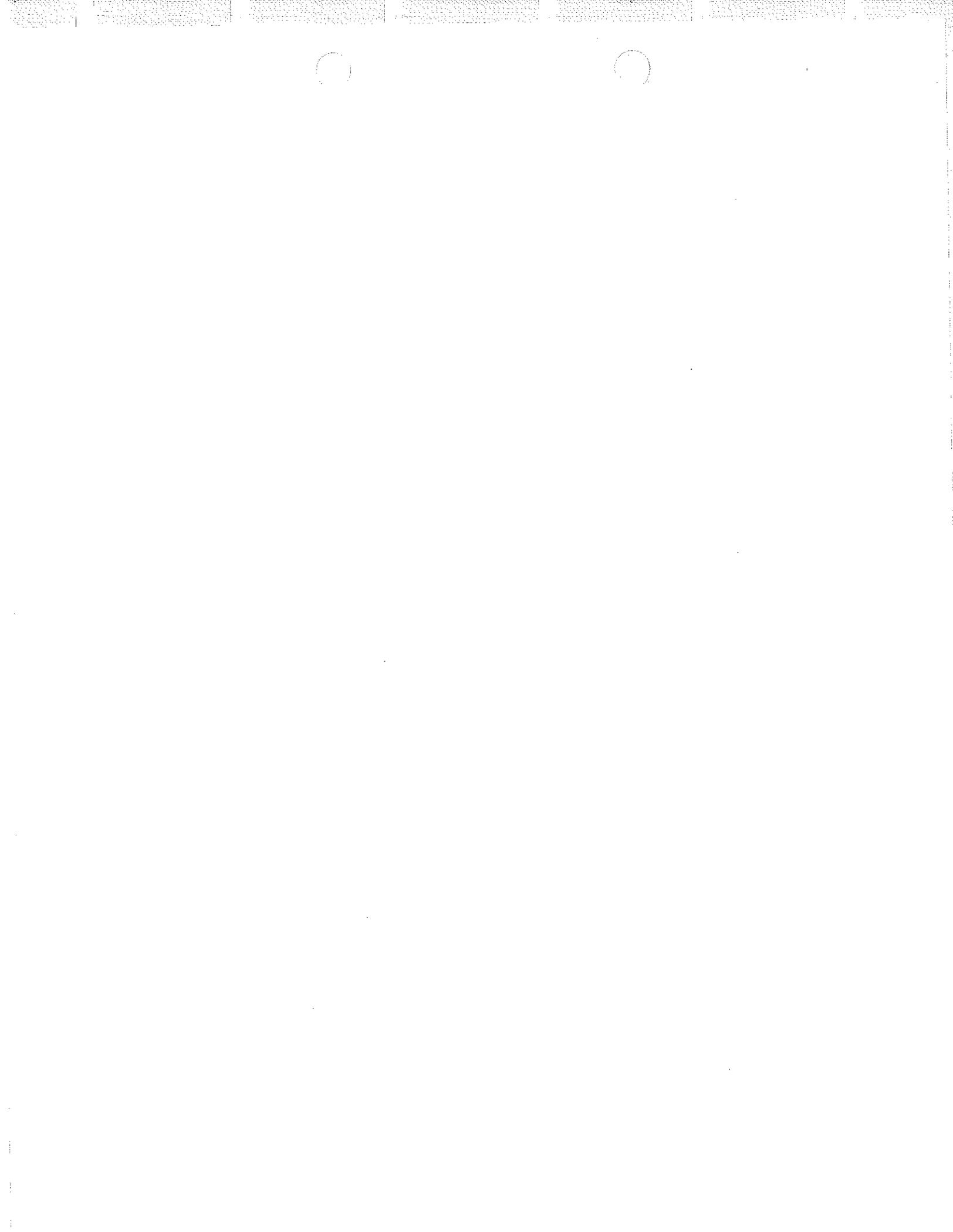
Marc A. Pilotin ([pilotin.marc.a@dol.gov](mailto:pilotin.marc.a@dol.gov))  
Laura Bremer ([Bremer.Laura@dol.gov](mailto:Bremer.Laura@dol.gov))  
Ian Eliasoph ([eliasoph.ian@dol.gov](mailto:eliasoph.ian@dol.gov))  
Jeremiah Miller ([miller.jeremiah@dol.gov](mailto:miller.jeremiah@dol.gov))  
U.S. Department of Labor, Office of the Solicitor, Region IX – San Francisco  
90 Seventh Street, Suite 3-700  
San Francisco, CA 94103  
Telephone: (415) 625-7769  
Fax: (415) 625-7772

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on March 9, 2017, at San Francisco, California.



Erin M. Connell



[REDACTED]

---

**From:** Connell, Erin M.  
**Sent:** Wednesday, March 15, 2017 4:50 PM  
**To:** Pilotin, Marc A - SOL; Bremer, Laura - SOL  
**Cc:** Riddell, J.R.; Herlinger, Logan J.; Kaddah, Jacqueline D.; Connell, Erin M.  
**Subject:** OFCCP v Oracle - Edits to Production Stipulation  
**Attachments:** 766600929(2)\_Oracle - Stipulation re Production (Orrick Redline).DOCX;  
766555804(2)\_OFCCP v. Oracle Draft Protective Order.docx

Hi Marc,

To help facilitate today's meet and confer call, I am attaching our edits, in track changes, to the production stipulation. We also would like to begin discussions about a protective order, and have attached a proposed draft.

Thanks,

Erin

**Erin M. Connell**  
Partner

Orrick

San Francisco   
T +1-415-773-5989  
M +1-415-305-8008  
econnell@orrick.com



Employment Blog



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**UNITED STATES DEPARTMENT OF LABOR  
OFFICE OF ADMINISTRATIVE LAW JUDGES**

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

Plaintiff,

v.

ORACLE AMERICA, INC.,

Defendant.

OALJ Case No. 2017-OFC-00006

OFCCP No. R00192699

**[PROPOSED] STIPULATED  
PROTECTIVE ORDER**

1. PURPOSES AND LIMITATIONS

Discovery activity in the above captioned action is likely to involve production of confidential, proprietary, trade secret, commercially sensitive, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the Office of Federal Contract Compliance Programs, United States Department of Labor ("OFCCP") and Oracle America, Inc. (each a "Party" and collectively the "Parties"), hereby stipulate to and petition the Administrative Law Judge ("ALJ") to enter the following Stipulated Protective Order. The Parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the information or items that are entitled to confidential treatment under applicable legal principles.

2. DEFINITIONS

2.1 Challenging Party: a Party or Non-Party that challenges the designation of information or items under this Order.

2.2 "CONFIDENTIAL" Information or Items: information (regardless of how it is generated, stored or maintained) or tangible things that qualify for protection under Federal Rule of Civil Procedure 26(c), as well as information or tangible things that contain information protected by

1 the constitutional privacy rights of Oracle employees, applicants, and/or other third parties.

2 2.3 Counsel: Outside Counsel of Record and House Counsel (as well as their support  
3 staff).

4 2.4 Designating Party: a Party or Non-Party that designates information or items that it  
5 produces in disclosures or in responding to discovery as "CONFIDENTIAL."

6 2.5 Disclosure or Discovery Material: all items or information, regardless of the medium  
7 or manner in which it is generated, stored, or maintained (including, among other things, testimony,  
8 transcripts, and tangible things), that are produced or generated in disclosures or responses to  
9 discovery in this matter.

10 2.6 Expert: a person with specialized knowledge or experience in a matter pertinent to  
11 the litigation who has been retained by a Party or its counsel to serve as an expert witness or as a  
12 consultant in this action.

13 2.7 House Counsel: any individual employed by either Party and who holds a position in  
14 which they serve as internal legal counsel for either Party. House Counsel does not include  
15 employees of a Party who are attorneys but who do not serve as internal legal counsel, nor does  
16 House Counsel include Outside Counsel of Record or any other outside counsel.

17 2.8 Non-Party: any natural person, partnership, corporation, association, or other legal  
18 entity not named as a Party to this action.

19 2.9 Outside Counsel of Record: attorneys who are not employees of either Party but are  
20 retained to represent or advise either Party and have appeared in this action on the Party's behalf,  
21 including Orrick, Herrington & Sutcliffe, LLP and the U.S. Department of Labor's Office of the  
22 Solicitor, or are affiliated with a law firm which has appeared on behalf of that party.

23 2.10 Party: Either Party, meaning the Office of Contract Compliance Programs and Oracle  
24 America, Inc. (collectively "Parties") including any officers, directors, employees, consultants,  
25 retained experts, and Outside Counsel of Record (and their support staffs).

26 2.11 Producing Party: a Party or Non-Party that produces Disclosure or Discovery  
27 Material in this action.

1           2.12 Professional Vendors: persons or entities that provide litigation support services  
2 (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing,  
3 storing, or retrieving data in any form or medium) and their employees and subcontractors.

4           2.13 Protected Material(s): any Disclosure or Discovery Material that is designated as  
5 “CONFIDENTIAL.”

6           2.14 Receiving Party: a Party that receives Disclosure or Discovery Material from a  
7 Producing Party.

8       3.     SCOPE

9           The protections conferred by this Stipulation and Order cover not only Protected Material (as  
10 defined above), but also (1) any information copied or extracted from Protected Material; (2) all  
11 copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony,  
12 conversations, or presentations by Parties or their Counsel that might reveal Protected Material.  
13 However, the protections conferred by this Stipulation and Order do not cover any information that  
14 is in the public domain at the time of disclosure to a Receiving Party or becomes part of the public  
15 domain after its disclosure to a Receiving Party as a result of publication not involving a violation of  
16 this Order, including becoming part of the public record through trial or otherwise. Any use of  
17 Protected Material at trial shall be governed by a separate agreement or order.

18       4.     DURATION

19           Even after final disposition of this litigation, the confidentiality obligations imposed by this  
20 Order shall remain in effect until a Designating Party agrees otherwise in writing or an ALJ order  
21 otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all claims and  
22 defenses in this action, with or without prejudice; and (2) final judgment herein after the completion  
23 and exhaustion of all appeals, rehearings, remands, trials, or reviews of this action, including the  
24 time limits for filing any motions or applications for extension of time pursuant to applicable law.

25       5.     DESIGNATING PROTECTED MATERIAL

26           5.1 Designating Material for Protection. Each Party or Non-Party that designates  
27 information or items for protection under this Order must take care to limit any such designation to  
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1 material that qualifies under the appropriate standards.

2 If it comes to a Designating Party's attention that information or items that it designated for  
3 protection do not qualify for protection, the Designating Party must promptly notify the other Party  
4 that it is withdrawing the mistaken designation.

5 5.2 Manner and Timing of Designations. Except as otherwise provided in this Order or  
6 as otherwise stipulated or ordered, Disclosure or Discovery Material that qualifies for protection  
7 under this Order must be clearly so designated before the material is disclosed or produced.

8 Designation in conformity with this Order requires:

9 (a) for information in documentary form (e.g., paper or electronic documents, but  
10 excluding transcripts of depositions or other pretrial or trial proceedings), to the extent practicable,  
11 that the Producing Party affix the legend "CONFIDENTIAL" to each page that contains protected  
12 material. If only a portion or portions of the material on a page qualifies for protection, the  
13 Producing Party will make reasonable efforts to clearly identify the protected portion(s).

14 A Party or Non-Party that makes original documents or materials available for inspection  
15 need not designate them for protection until after the inspecting Party has indicated which material it  
16 would like copied and produced. During the inspection and before the designation, all of the  
17 material made available for inspection shall be deemed "CONFIDENTIAL." After the inspecting  
18 Party has identified the documents it wants copied and produced, the Producing Party must  
19 determine which documents, or portions thereof, qualify for protection under this Order. Then,  
20 before producing the specified documents, the Producing Party must affix the "CONFIDENTIAL"  
21 legend to each page that contains Protected Material. If only a portion or portions of the material on  
22 a page qualifies for protection, the Producing Party will make reasonable efforts to clearly identify  
23 the protected portion(s).

24 (b) for testimony given in deposition or in other pretrial or trial proceedings, that the  
25 Designating Party identify all protected testimony on the record at the time of testimony or in a  
26 written notice served on all parties within 15 days of delivery of the final transcript (or within twenty  
27 (20) days if delivered by U.S. Mail).

1 (c) for information produced in some form other than documentary, including the  
2 production of electronic files in native format that cannot be marked as "CONFIDENTIAL", and for  
3 any other tangible items, that the Producing Party affix in a prominent place on the exterior of the  
4 medium or container in which the information or item is stored the legend "CONFIDENTIAL." If  
5 only a portion or portions of the information or item warrant protection, the Producing Party shall  
6 make reasonable efforts to identify the protected portion(s).

7 5.3 Inadvertent Failures to Designate. If timely corrected, meaning corrected as soon as  
8 practicable after discovered, an inadvertent failure to designate qualified information or items does  
9 not, standing alone, waive the Designating Party's right to secure protection under this Order for  
10 such material. Upon timely correction of a designation, the Receiving Party must make reasonable  
11 efforts to assure that the material is treated in accordance with the provisions of this Order.

## 12 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

13 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of  
14 confidentiality at any time. Unless a prompt challenge to a Designating Party's confidentiality  
15 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic burdens,  
16 or a significant disruption or delay of the litigation, a Party does not waive its right to challenge a  
17 confidentiality designation by electing not to mount a challenge promptly after the original  
18 designation is disclosed.

19 6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution process  
20 by providing written notice of each designation it is challenging and describing the basis for each  
21 challenge. To avoid ambiguity as to whether a challenge has been made, the written notice must  
22 recite that the challenge to confidentiality is being made in accordance with this specific paragraph  
23 of the Protective Order. The parties shall attempt to resolve each challenge in good faith and must  
24 begin the process by conferring directly (in voice to voice dialogue; other forms of communication  
25 are not sufficient) within 14 days of the date of service of notice. In conferring, the Challenging  
26 Party must explain the basis for its belief that the confidentiality designation was not proper and  
27 must give the Designating Party an opportunity to review the designated material, to reconsider the  
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1 circumstances, and, if no change in designation is offered, to explain the basis for the chosen  
2 designation. A Challenging Party may proceed to the next stage of the challenge process only if it  
3 has engaged in this meet and confer process first or establishes that the Designating Party is  
4 unwilling to participate in the meet and confer process in a timely manner.

5         6.3 Judicial Intervention. If the Parties cannot resolve a challenge without the ALJ's  
6 intervention, the Challenging Party shall thereupon request a ruling from the ALJ on all disputed  
7 designations within 21 days of the initial notice of challenge or within 14 days of the Parties  
8 agreeing that the meet and confer process will not resolve their dispute, whichever is later, unless the  
9 Parties agree to extend this time period. Each such motion must be accompanied by a competent  
10 declaration affirming that the movant has complied with the meet and confer requirements imposed  
11 in the preceding paragraph. Failure by the Challenging Party to make such a motion including the  
12 required declaration within the time indicated by this paragraph, or as otherwise agreed by the  
13 Parties, shall automatically waive the challenge to confidentiality designation for each challenged  
14 designation.

15         The burden of persuasion in any such challenge proceeding shall be on the Designating  
16 Party. All parties shall continue to afford the material in question the level of protection to which it  
17 is entitled under the Producing Party's designation until the ALJ rules on the challenge.

18         7. ACCESS TO AND USE OF PROTECTED MATERIAL

19         7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or  
20 produced by another Party or by a Non-Party in connection with this case only for prosecuting,  
21 defending, or attempting to settle this action. Consistent with the foregoing limitation, Protected  
22 Material may not be used by a Party or Counsel in furtherance of, or in the context of, any open,  
23 pending or future OFCCP compliance evaluation, OFCCP conciliation process, claims or litigation  
24 other than the above captioned action. Additionally, Protected Material may not be shared with any  
25 other governmental departments or agencies outside the OFCCP. Furthermore, such Protected  
26 Material may be disclosed only to the categories of persons and under the conditions described in  
27 this Order. When the litigation has been terminated, a Receiving Party must comply with the  
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1 provisions of section 13 below (FINAL DISPOSITION).

2 Protected Material must be stored and maintained by a Receiving Party at a location and in a  
3 secure manner that ensures that access is limited to the persons authorized under this Order.

4 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise ordered  
5 by the ALJ or permitted in writing by the Designating Party, a Receiving Party may disclose any  
6 information or item designated "CONFIDENTIAL" only to:

7 (a) the Receiving Party's Outside Counsel of Record in this action, as well as employees  
8 of said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for  
9 this litigation;

10 (b) House Counsel of the Receiving Party to whom disclosure is reasonably necessary for  
11 this litigation;

12 (c) the officers, directors, and employees of the Receiving Party to whom disclosure is  
13 reasonably necessary for this litigation and who have signed the "Acknowledgment and Agreement  
14 to Be Bound" that is attached hereto as Exhibit A;

15 (d) Experts (as defined in this Order) of the Receiving Party to whom disclosure is  
16 reasonably necessary for this litigation and who have signed the "Acknowledgment and Agreement  
17 to Be Bound" (Exhibit A);

18 (e) the ALJ and her or his personnel;

19 (f) court reporters and their staff to whom disclosure is reasonably necessary for this  
20 litigation;

21 (g) professional jury or trial consultants, mock jurors, and Professional Vendors to whom  
22 disclosure is reasonably necessary for this litigation and who have signed the "Acknowledgment and  
23 Agreement to Be Bound" (Exhibit A);

24 (h) during or in preparation for their depositions, witnesses in the action to whom  
25 disclosure is reasonably necessary and who have signed the "Acknowledgment and Agreement to Be  
26 Bound" (Exhibit A), unless otherwise agreed by the Designating Party or ordered by the ALJ. Pages  
27 of transcribed deposition testimony or exhibits to depositions that reveal Protected Material must be  
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1 separately bound by the court reporter and may not be disclosed to anyone except as permitted under  
2 this Stipulated Protective Order; and

3 (i) the author or recipient of a document containing the information or a custodian or  
4 other person who otherwise possessed or knew the information.

5 The party disclosing Confidential information under this section shall maintain a copy of  
6 each signed "Acknowledgement and Agreement to Be Bound" (Exhibit A). Nothing in this  
7 Protective Order limits or is intended to limit the way a party uses its own Protected Material.

8 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER  
9 LITIGATION

10 If a Party is served with a subpoena or a court order issued in other litigation that compels  
11 disclosure of any information or items designated in this action as "CONFIDENTIAL," that Party  
12 must:

13 (a) promptly notify in writing the Designating Party. Such notification shall include a  
14 copy of the subpoena or court order;

15 (b) promptly notify in writing the party who caused the subpoena or order to issue in the  
16 other litigation that some or all of the material covered by the subpoena or order is subject to this  
17 Protective Order. Such notification shall include a copy of this Stipulated Protective Order; and

18 (c) cooperate with respect to all reasonable procedures sought to be pursued by the  
19 Designating Party whose Protected Material may be affected.

20 If the Designating Party timely seeks a protective order, the Party served with the subpoena  
21 or court order shall not produce any information designated in this action as "CONFIDENTIAL"  
22 before a determination by the court from which the subpoena or order issued, unless the Party has  
23 obtained the Designating Party's permission. The Designating Party shall bear the burden and  
24 expense of seeking protection in that court of its confidential material – and nothing in these  
25 provisions should be construed as authorizing or encouraging a Receiving Party in this action to  
26 disobey a lawful directive from another court.

1 9. PROTECTED MATERIAL REQUESTED UNDER THE FREEDOM OF INFORMATION  
2 ACT

3 The Parties agree that the Protected Material is confidential commercial information under  
4 Exemption 4 of the Freedom of Information Act ("FOIA") (5 U.S.C. 552 (b)(4)) and is subject to  
5 withholding under FOIA. Further, the Parties agree that Protected Materials constitute trade secrets  
6 and should not be disclosed given that unauthorized disclosure of such information would violate the  
7 Trade Secrets Act of 2006 (18 U.S.C. 1905). Based on this Agreement, the notice and response  
8 requirements under 29 C.F.R. 70.26 (c) and (f) do not apply to any FOIA requests for Protected  
9 Material in this litigation. See 29 C.F.R. 70.26(g). If OFCCP, OFCCP's Counsel or the ALJ receive  
10 a request under FOIA, or the regulations at 29 C.F.R 70.19 et seq. or 41 C.F.R. 60-40.1, that seeks  
11 Protected Material, OFCCP, OFCCP's Counsel or the ALJ shall provide a copy of the request to  
12 Oracle and promptly notify the requester, in writing, that some or all of the material covered by the  
13 request is subject to this Stipulated Protective Order.

14 10. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN THIS  
15 LITIGATION

16 (a) The terms of this Order are applicable to information produced by a Non-Party in this  
17 action and designated as "CONFIDENTIAL." Such information produced by Non-Parties in  
18 connection with this litigation is protected by the remedies and relief provided by this Order.  
19 Nothing in these provisions should be construed as prohibiting a Non-Party from seeking additional  
20 protections.

21 (b) In the event that a Party is required, by a valid discovery request, to produce a Non-  
22 Party's confidential information in its possession, and the Party is subject to an agreement with the  
23 Non-Party not to produce the Non-Party's confidential information, then the Party shall:

24 (1) promptly notify in writing the Requesting Party and the Non-Party that some or  
25 all of the information requested is subject to a confidentiality agreement with a Non-Party;

26 (2) promptly provide the Non-Party with a copy of the Stipulated Protective Order in  
27 this litigation, the relevant discovery request(s), and a reasonably specific description of the  
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1 information requested; and

2 (3) make the information requested available for inspection by the Non-Party.

3 (c) If the Non-Party or the Receiving Party timely seeks a protective order **within 14**  
4 **days**, the Receiving Party shall not produce any information in its possession or control that is  
5 subject to the confidentiality agreement with the Non-Party before a determination by the ALJ.  
6 Absent a legal order to the contrary, the party seeking the protective order shall bear the burden and  
7 expense of seeking protection in this matter of the Protected Material.

8 11. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

9 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected  
10 Material to any person or in any circumstance not authorized under this Stipulated Protective Order,  
11 the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized  
12 disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c)  
13 inform the person or persons to whom unauthorized disclosures were made of all the terms of this  
14 Order, and (d) request such person or persons to execute the "Acknowledgment and Agreement to  
15 Be Bound" that is attached hereto as Exhibit A. If the person or persons to whom unauthorized  
16 disclosures were made refuses to sign the "Acknowledgment and Agreement to Be Bound" (Exhibit  
17 A) or otherwise comply with this Protective Order, and judicial intervention is required, the  
18 Receiving Party will, at its own expense, use its best efforts to maintain the protection of the  
19 improperly disclosed material.

20 12. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED  
21 MATERIAL

22 When a Producing Party gives notice to Receiving Parties that certain inadvertently produced  
23 material is subject to a claim of privilege or other protection, the obligations of the Receiving Parties  
24 are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B), which is adopted by reference.  
25 This provision is not intended to modify whatever procedure may be established in an e-discovery  
26 order that provides for production without prior privilege review. Pursuant to Federal Rule of  
27 Evidence 502, and by agreement of the Parties, no Party shall be deemed to have waived claims of  
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1 privilege as a result of production in this matter.

2 13. MISCELLANEOUS

3 13.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek  
4 its modification by the ALJ or any court in the future.

5 13.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order  
6 no Party waives any right it otherwise would have to object to disclosing or producing any  
7 information or item on any grounds. Similarly, no Party waives any right to object on any ground to  
8 use in evidence of any of the material covered by this Protective Order.

9 13.3 Filing Protected Material. Without written permission from the Designating Party or  
10 an ALJ order secured after appropriate notice to all interested persons, a Party may not file any  
11 Protected Material in this action's public record. To the extent a Party desires to have the ALJ  
12 consider Protected Material in support of, or in opposition to, an asserted claim, defense or position,  
13 the Party ("Filing Party") will file only a redacted version of the Protected Material in the public  
14 record of this matter ("Redacted Filing"). The Redacted Filing must prominently indicate where  
15 Protected Material has been redacted.

16 The Filing Party shall also cause unredacted hard copies of the Redacted Filing ("Unredacted  
17 Version") to be delivered to the ALJ and the non-filing party in sealed envelopes or other suitable  
18 containers with a cover sheet affixed to the envelope or container, setting forth the information  
19 required by 41 CFR 60-30.4, and prominently displaying the notation "PROTECTED MATERIALS  
20 SUBJECT TO STIPULATED PROTECTIVE ORDER-- CONFIDENTIAL." The Unredacted  
21 Version shall clearly identify what material was redacted by highlighting the redacted portions in  
22 color and including the notation "Redacted Protected Material." The ALJ, Parties and their Counsel  
23 shall treat the Unredacted Version of such filings as sealed and they shall be kept from public  
24 inspection.

25 The courtesy copies of sealed documents will be disposed of in accordance with the  
26 assigned judge's discretion in a manner that does not compromise the Protected Material (e.g.,  
27 copies will be shredded or returned to the Filing Party for appropriate disposition or destruction).

1 13. FINAL DISPOSITION

2 Within 60 days after the final disposition of this action, as defined in paragraph 4, each  
3 Receiving Party must return all Protected Material to the Producing Party or destroy such material.  
4 As used in this subdivision, "all Protected Material" includes all copies, abstracts, compilations,  
5 summaries, and any other format reproducing or capturing any of the Protected Material. Whether  
6 the Protected Material is returned or destroyed, the Receiving Party must submit a written  
7 certification to the Producing Party (and, if not the same person or entity, to the Designating Party)  
8 by the 60 day deadline that (1) identifies (by category, where appropriate) all the Protected Material  
9 that was returned or destroyed and (2) affirms that the Receiving Party has not retained any copies,  
10 abstracts, compilations, summaries or any other format reproducing or capturing any of the Protected  
11 Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all  
12 pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda,  
13 correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant  
14 and expert work product, even if such materials contain Protected Material. Any such archival  
15 copies that contain or constitute Protected Material remain subject to this Protective Order as set  
16 forth in Section 4 (DURATION).

17  
18 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

19  
20 March \_\_, 2017

GARY R. SINISCALCO  
ERIN M. CONNELL

21  
22  
23 

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25 San Francisco, CA 94105-2669  
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Attorneys For Defendant  
ORACLE AMERICA, INC.

March \_\_, 2017

JANET M. HEROLD  
IAN ELIASOPH  
LAURA C. BREMER  
NORMAN E. GARCIA  
MARC A. PILOTIN  
GRACE A. KIM

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OFFICE OF THE SOLICITOR  
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San Francisco, California 94103

405 Howard Street  
San Francisco, CA 94105-2669  
Telephone: (415) 625-7757  
Facsimile: (415) 625-7772  
Email: bremer.laura@dol.gov  
Attorneys For Plaintiff, OFCCP

Pursuant to stipulation, IT IS SO ORDERED.

IT IS FURTHER ORDERED that the United States Department of Labor, Office of Administrative Law Judges, including its employees, is directed to comply with the provisions of Sections 9 and 13.3 above, and recognize the Protected Materials as being exempt from production in response to FOIA requests and any other public disclosures.

DATED: \_\_\_\_\_

HONORABLE  
UNITED STATES DEPARTMENT OF LABOR  
OFFICE OF ADMINISTRATIVE LAW JUDGES

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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, \_\_\_\_\_ [print or type full name],  
of \_\_\_\_\_ [print  
or type full address], declare under penalty of perjury that I have read in its entirety and understand  
the Stipulated Protective Order that was issued by the United States Department of Labor Office of  
Administrative Law Judges on \_\_\_\_\_ in the case of *Office of Federal Contract Compliance  
Programs, United States Department of Labor v. Oracle America, Inc.*, OALJ Case No. 2017-OFC-  
0006. I agree to comply with and to be bound by all the terms of this Stipulated Protective Order  
and I understand and acknowledge that failure to so comply could expose me to sanctions and  
punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any  
information or item that is subject to this Stipulated Protective Order to any person or entity except  
in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of both the United States Department of Labor  
Office of Administrative Law Judges and the United States District Court for the Northern District  
of California for the purpose of enforcing the terms of this Stipulated Protective Order, even if such  
enforcement proceedings occur after termination of this action.

I hereby appoint \_\_\_\_\_ [print or type full  
name] of \_\_\_\_\_  
[print or type full address and telephone number] as my California agent for service of process in  
connection with this action or any proceedings related to enforcement of this Protective Order.

Date: \_\_\_\_\_  
City and State where sworn and signed: \_\_\_\_\_

Printed name: \_\_\_\_\_

Signature: \_\_\_\_\_



[REDACTED]

---

**From:** Connell, Erin M.  
**Sent:** Thursday, March 16, 2017 7:10 PM  
**To:** Pilotin, Marc A - SOL; Bremer, Laura - SOL  
**Cc:** Riddell, J.R.; Herlinger, Logan J.; Kaddah, Jacqueline D.  
**Subject:** RE: OFCCP v Oracle - Edits to Production Stipulation

Hi Laura and Marc,

Thanks for the call yesterday. To confirm, we understand that you will be getting back to us regarding our proposed edits to the production stipulation. We further understand that you will be getting back to us regarding the protective order – including whether you will agree to enter into one at all, and if so, whether you have revisions to the version we sent. We further understand that you will not be providing further responses to our first set of interrogatories, but instead are planning to send us a response letter containing authority you assert stands for the proposition that there is a limit of 25 interrogatories that applies to this case. You also agreed you would attempt to send that letter by Tuesday. Finally, we agreed that we would get back to you next week regarding the outstanding issues related to OFCCP's deposition notice, including whether we will agree to an alternative process (as outlined in your March 2 letter) and scheduling.

If your understanding of the outstanding issues following yesterday's call is different, please let us know.

Thanks,

Erin

**From:** Connell, Erin M.  
**Sent:** Wednesday, March 15, 2017 1:50 PM  
**To:** Pilotin, Marc A - SOL <Pilotin.Marc.A@DOL.GOV>; Bremer, Laura - SOL <Bremer.Laura@dol.gov>  
**Cc:** Riddell, J.R. <jriddell@orrick.com>; Herlinger, Logan J. <lherlinger@orrick.com>; Kaddah, Jacqueline D. <jkaddah@orrick.com>; Connell, Erin M. <econnell@orrick.com>  
**Subject:** OFCCP v Oracle - Edits to Production Stipulation

Hi Marc,

To help facilitate today's meet and confer call, I am attaching our edits, in track changes, to the production stipulation. We also would like to begin discussions about a protective order, and have attached a proposed draft.

Thanks,

Erin

**Erin M. Connell**  
Partner  
Orrick  
[San Francisco](#) 

U.S. Department of Labor

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90 7th Street, Suite 3-700  
San Francisco, California 94103  
Tel: (415) 625-7757  
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March 22, 2017

**VIA E-MAIL**

Erin M. Connell  
ORRICK, HERRINGTON & SUTCLIFFE LLP  
405 Howard Street  
San Francisco, CA 94105-2669

Re: OFCCP v. Oracle America, Inc., OALJ Case No. 2017-OFC-00006

Dear Erin:

This letter follows our meet and confer discussion on March 15, 2017 regarding the 30(b)(6) deposition that OFCCP noticed on March 2, 2017, and to which Oracle served objections on March 9, 2017. During our call, you agreed to let us know who will testify regarding the deposition topics this week, as well as their availability for depositions during the first week of April, and will respond to our offer to attempt to obtain the information more informally (as offered in my letter to you dated March 2, 2017).

**Location of Deposition**

You mentioned that we could discuss location of the deposition later. It is our position that the deposition should take place at the location in the notice--the Federal Building in San Francisco. The parties agree that San Francisco is the proper location for the case, and Oracle's principal place of business is within this jurisdiction, as well as the attorneys handling the case for both Oracle and OFCCP.

**Oracle's Proposed Protective Order**

During our conversation, we discussed Oracle's request for a protective order based on its objections that topics 1, 2, and 5 seek "confidential information, and invades the privacy rights of individuals who are not a party to this action," and that topics 1-5 seek "confidential, trade secret and/or proprietary business information." I stated that OFCCP would not agree to a protective order, since a protective order is unnecessary in light of statutory protections. Nevertheless, at your request, we agreed to review the draft protective order that you sent to us on March 15.

After our review, our position remains the same. Confidential information and documents produced to OFCCP, as well as documents filed with the Office of Administrative

Law Judges, are already protected by the Privacy Act and FOIA. Thus, a protective order is not necessary in this case.

Even if Oracle continues to assert that a protective order should be issued in this case, the absence of a protective order should not delay the deposition. First, as we discussed during our telephone call, OFCCP is not asking for information about how Oracle's systems are coded, which Oracle could argue is a trade secret. Rather, the deposition topics relate generally to Oracle's storage of electronic information and its ability to produce such information. The deposition is not seeking highly confidential information, and to the extent any confidential or private information is revealed, it will be protected by FOIA and the Privacy Act. Second, Oracle did not bring a motion for a protective order when it received the deposition notice on March 2. Oracle's objections are insufficient to stop the deposition.

### **Deposition Topics**

During our telephone call, when we discussed the type of people Oracle is interviewing, you suggested that Oracle would not be producing someone with knowledge of Oracle's production to OFCCP. Reviewing the topics again, they clearly request production of a person with knowledge of "the extraction of data from the databases and creation of Excel Spreadsheets provided to OFCCP in response to data requests" in connection with both Payroll Records and Personnel Files and Recruitment and Taleo Files. (Topic 1(h), Topic 2(h).) These topics clearly call for the testimony of the person most knowledgeable about how the data was exported from Oracle's databases and put into Excel spreadsheets for production to OFCCP in response to OFCCP's data requests.

Furthermore, Topic 5 requests testimony by the person most knowledgeable about Oracle's systems and databases for maintaining information and/or data that OFCCP requested during the compliance review that Oracle did not produce electronically. As Topic 5 indicates, Oracle never produced certain data OFCCP requested during the compliance review, including data regarding "college(s) employees and applicants attended, educational degree(s) attained, prior salary, years of prior work experience, resumes." Oracle's objection that this request is unintelligible, and that common words, such as "database," are vague rings hollow. Of course, we are willing to answer questions you have about this request, if you seek to clarify the request. Generally, OFCCP requests that Oracle produce a person knowledgeable about where all relevant information is stored, including the information sought by OFCCP during the compliance review, and methods of extracting (or exporting) the data to create Excel spreadsheets or other electronic formats for production. OFCCP is entitled to seek testimony from Oracle about its systems for maintaining information relevant to this case (and the compliance review) that Oracle has not produced.

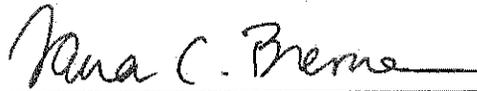
As to sub-topics (e) and (f) of Topic 5, to the extent that Oracle claims that producing certain data in electronic format would be burdensome and costly, OFCCP is entitled to seek the basis for Oracle's claims, which sub-topic (e) requests. Sub-topic (f) only seeks "any analysis of costs that Oracle conducted," so to the extent that Oracle has not conducted an analysis of costs, the topic does not require Oracle to do so. Please produce a person most knowledgeable with

respect to Topic 5. If Oracle fails to produce a deponent on all of the topics listed, OFCCP will move to compel the testimony, and will seek sanctions.

**Scope of Deposition**

Finally, we discussed during our call Oracle's statement that its witnesses would only "be prepared to testify regarding the relevant time period of January 1, 2013 through June 30, 2014" regarding the recruiting and hiring claim and regarding 2014 for the compensation claim. The relevant time period is the period alleged in the Amended Complaint: 2013 through the present. You agreed to let us know this week whether you will limit the deposition to this time period, including whether Oracle intends to instruct witnesses not to answer questions outside the narrow time period specified in its objection. If Oracle's witness(es) do not testify regarding the entire period at issue, OFCCP will move to compel and will seek to recall deponent(s) to testify regarding the entire time period alleged in the Amended Complaint, at Oracle's expense.

Sincerely,



---

Laura C. Bremer  
Senior Trial Attorney



March 23, 2017

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Re: *OFCCP v. Oracle America, Inc.*  
OALJ Case No. 2017-OFC-00006

Dear Laura:

I write in response to your letter dated March 22 regarding OFCCP's 30(b)(6) deposition notice, OFCCP's position with respect to a protective order, and the time frame relevant to discovery in this case. While this letter addresses the broader, over-arching issues you raise in your letter, you will receive a follow up letter specifically addressing the arguments you raise regarding Topic 5 early next week.

As an initial matter, your summary of our meet and confer call on March 15 is incorrect. I did not agree on that call to let you know the identity of Oracle's potential witnesses this week. Instead, I explained that we hoped to have determined the identity of the witnesses by this week, and I would get back to you regarding scheduling and your proposed alternative process, as described in your March 2 letter. I can now confirm that Oracle declines to engage in any alternative process. Rather, if OFCCP wishes to question Oracle witnesses on the topics outlined in OFCCP's deposition notice, it will need to do so via deposition.

With respect to scheduling, because of the broad, vague and compound manner in which OFCCP has defined its topics, including eight additional sub-topics that fall under both Topics 1 and 2, identifying the appropriate witnesses has been challenging and time consuming. Nevertheless, we diligently have conducted several interviews and are continuing to work towards identifying the appropriate witnesses. At present, we believe we have done so for most aspects of Topics 1 - 4. As I indicated on last week's call, we anticipate designating multiple witnesses for at least Topics 1 and 2. And, while we anticipate agreeing to hold the 30(b)(6) depositions in San Francisco (barring any particular circumstances impacting a witness' ability to travel), as I mentioned on our call, some of the witnesses are not local. They reside at various locations both within and outside California, including on the East Coast. Additionally, they will need to be prepared for their testimony. Particularly because of the travel involved for these depositions, and in light of other scheduling conflicts, the depositions cannot go forward during the first week of April, as you have requested.



Laura C. Bremer  
March 23, 2017  
Page 2

More broadly, OFCCP's refusal to enter into a protective order in this case is a problem. You state in your letter that a protective order is "not necessary" because confidential information produced by Oracle would be protected by the Privacy Act and FOIA. You do not explain, however, how these acts purport to protect Oracle's confidential information. Obviously, Oracle takes protection of its confidential information seriously, and disagrees with OFCCP's assessment of the protections afforded by the acts to which you cite. Oracle further disagrees that the multiple compound depositions topics listed in OFCCP's deposition notice will not encompass or elicit testimony that Oracle deems confidential. Accordingly, without further explanation and assurances from OFCCP as to how and why a protective order is "not necessary," Oracle will not produce any deposition witnesses for questioning by OFCCP.

Finally, the parties plainly have a dispute regarding the appropriate time frame governing this case. Specifically with respect to these depositions, it has a material impact on the scope of the testimony, and potentially the identity of the witnesses. As you know, Oracle claims the "relevant time frame" encompasses a maximum of 18 months. OFCCP claims it spans more than four years. If OFCCP is correct, the identity and number of witnesses may change. For purposes of framing both discovery and the scope of the litigation generally, the relevant time frame is a threshold issue. It makes no sense to move forward with depositions, particularly for witnesses who reside out of state and will need to travel, when this threshold issue remains in dispute.

Accordingly, before any depositions in this matter can go forward, the parties must either come to an agreement regarding a protective order and the relevant time frame, or an ALJ must resolve these disputes.

Sincerely,

A handwritten signature in cursive script that reads "Erin M. Connell".

Erin M. Connell

cc: Gary R. Siniscalco

U.S. Department of Labor

Office of the Solicitor  
90 7th Street, Suite 3-700  
San Francisco, California 94103



In reply, refer to:

Norman E. Garcia  
(415) 625-7747

March 27, 2017

VIA ELECTRONIC MAIL

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econnell@orrick.com

Re: *OFCCP v. Oracle America, Inc.*, Case No. 2017-OFC-00006,  
Meet and Confer Letter

Counsel:

I am writing to meet and confer about Oracle's responses to OFCCP's first and second sets of document production requests. Many of Oracle's responses and objections are contravened by case law or are insufficient. To avoid OFCCP seeking the Court's assistance to correct these deficiencies, we request that Oracle produce all responsive documents not later than April 6, 2017.

Oracle's Time and Scope Limitations Are Improper

Time Limitation

Oracle places an improper temporal limitation on its production by objecting to production of documents outside the period from January 1, 2013 through June 30, 2014, related to OFCCP's recruiting and hiring claims, and objecting to the production outside the period from January 1, 2014 to December 31, 2014, with respect to the compensation claims.

The Amended Complaint expressly alleges compensation violations "from 2013 going forward to the present." *See* Amended Complaint ¶¶ 7-9. Moreover, the hiring allegations pertain to the period "beginning from at least January 1, 2013, and on information and belief, going forward to the present." As such, the proper scope for discovery on the compensation and hiring claims is from January 1, 2013 to present.

Established case law makes clear that placing limits on a production relevant to a continuing violation is unlawful by operation of Executive Order 11246. In *OFCCP v. Uniroyal, Inc.*, the Secretary of Labor affirmed an ALJ's order to produce information from outside the review period over Uniroyal, Inc.'s objection that OFCCP was limited to the review period. *OFCCP v. Uniroyal, Inc.*, 77-OFCCP 1, at 10 (Sec'y June 28, 1979). It found that the Executive Order "contains no time limits on the periods that the Government can engage in discovery, so long as the discovery is related to the contractor's compliance with the Executive Order." *Id.* Uniroyal's challenge to the Secretary's Order affirming sanctions for failing to comply with the ALJ's discovery order failed in district court. The district court for the District of Columbia reasoned that "[t]he documents sought by the government from Uniroyal went to the heart of the matters pending before the Administrative Law Judge" *i.e.*, the matters alleged in the Complaint. *Uniroyal, Inc. v. Marshall*, 482 F. Supp. 364, 374 (D.D.C. 1979) *appeal dismissed* 22 Empl. Prac. Dec. P 30,889 (D.C. Cir. 1980).

The Administrative Review Board recently affirmed this principle in *OFCCP v. Bank of America*, ARB Case No. 13-099, 2016 WL 2892921 (Apr. 16, 2016). The three members of the panel each wrote separate opinions regarding Bank of America's liability for violations alleged by OFCCP arising 5-8 years after the administrative complaint was first filed. These violations were identified based on discovery that was ordered over Bank of America's objection to the time period. While the panel split on liability, it was united in permitting OFCCP to learn about those violations through discovery initiated more than ten years after the scheduling order and five years after the complaint was filed. Two members on the panel specifically agreed that OFCCP was entitled to discovery up to the present with respect to the violations asserted in the complaint and the third member concurred by ruling on the merits over Bank of America's procedural objection. *Id.* at \*12, \*23-\*25.

This holding is consistent with a number of other ALJ decisions. *See, e.g., OFCCP v. JBS USA Holdings, Inc.*, 2015-OFC-1, at \*5 (ALJ, Apr. 22, 2016) (rejecting a contractor's argument that information and documents falling outside of OFCCP's compliance review period were not discoverable); *OFCCP v. Volvo GM Heavy Truck Corp.*, 1996-OFC-2, at \*3 (ALJ, April 27, 1998) (rejecting the defendant's argument that OFCCP was not entitled to discovery after the review period because the agency had 'made no investigations or findings and did not conciliate for periods after [the review period].').

As in the cases cited above, the subject matter of this proceeding involves violations of compensation and hiring discrimination that began prior to the periods of time for which Oracle has improperly sought to limit its responses and which are continuing.<sup>1</sup> The information and documents related to Oracle's compensation discrimination and hiring beginning in 2013 are relevant to OFCCP's claims of ongoing discrimination. This discovery is also relevant to the remedies that OFCCP may seek, including back pay on behalf of the affected applicants and

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<sup>1</sup> We note that the 2013 information was within OFCCP's review period and OFCCP repeatedly asked for documents pertaining to this period that were improperly withheld by Oracle. Oracle cannot rely on its prior misconduct with respect to withholding documents to justify its current misconduct in this regard.

injunctive relief to enjoin Oracle from continuing to engage in its discriminatory practices. Oracle cannot deny OFCCP access to information other than a limited time frame during the compliance review, then claim in an enforcement proceeding that OFCCP cannot seek information during discovery beyond that narrow time frame.

### Scope Limitation

Oracle also places an improper scope limitation on its production by stating that its production will only include certain jobs groups and job functions which differ from those included the allegations made in the Amended Complaint and in OFCCP's requests for production.

For example, in the preliminary statements included in both sets of responses, Oracle states that its responses and production pertaining to the recruiting and hiring claims will relate only to positions in the PT1 job group at Oracle's Redwood Shores, CA, location. Likewise, its objections to definitions included in both sets of requests narrow its production.

Oracle has no basis for narrowing the production in terms of job category and job function because all documents requested are relevant. Further, this narrowing will necessarily lead to a deficient production. For example, in the first set of requests, Document Request No. 2. asks for documents related to "positions in the Professional Technical I, Individual Contributor ("PT1") job group or *Product Development line of business during the RELEVANT TIME PERIOD.*" (Emphasis added). Similarly, Document Request No. 21 requests "all documents and communications relating to efforts to recruit internationally for *any PT1 job group positions and all positions within the Product Development line of business during the RELEVANT TIME PERIOD.*" By only producing material related to the PT1 job group, material relevant to the product development line of business is excluded. Finally, this limitation constitutes a change in discovery parameters to which OFCCP did not agree. In light of this, Oracle's time and scope limitations set forth in its responses are impermissible and documents subject to these arbitrary limitations must be produced.

### Oracle Has Waived Its Opportunity to Seek a Protective Order

Oracle cannot use a protective order to withhold documents since it failed to timely file a motion seeking one. It is well settled that a motion for a protective order must be filed prior to the discovery due date. *Sheets v. Caliber Home Loans, Inc.*, 2015 WL 7756156, \* 4 (N.D. W.Va. 2015) ("a [m]otion[ ] for a protective order must be made before or on the date the discovery [response] is due"); *Barten v. State Farm Mut. Auto. Ins. Co.*, 2014 WL 348215, \* 1-2 (D. AZ 2014) (District Court affirmed a Magistrate Judge's ruling that "a motion for a protective order is untimely if it is requested after the deadline for producing discovery."); *Hayes v. Liberty Mut. Group Inc.*, 2012 WL 1564697, \*6 n.2 (E.D. Mich. 2012) ("Motions for a protective order must be made before or on the date the discovery is due."); *U.S. v. International Business Machines Corp.*, 79 F.R.D. 412, 414 (S.D.N.Y. 1978); (Memorex's claim for a protective order must be denied as untimely. The court has stated, ". . . motions under Rule 26(c) must be served before the date set for production' citing to *United States v. International Business Machines Corporation*, 70 F.R.D. 700, 701 (S.D.N.Y. 1976)."); *see also Seminara v. City of Long Beach*,

68 F.3d 481, \*4 (9th Cir. 1995) (unpublished) (stating there is an implicit requirement that the protective order motion must be made prior to the date set for the discovery). Thus, Oracle missed its chance for a protective order and must immediately produce all documents that it is withholding based on it waiting for one to be put in place.

Moreover, Oracle has not articulated specific grounds and good cause sufficient to justify the protective order. Indeed, the Ninth Circuit has stated that motions for protective orders must show precisely how prejudice or harm will result in the absence of an order. *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1130 (9th Cir. 2003); *see also* Rule 26(c) Fed. R. Civ. P. (requiring good cause be shown for a protective order.). Additionally, facts alleged in support of the motion must be particular and specific, as opposed to stereotyped and conclusory. *See, e.g., Welsh v. City and County of San Francisco*, 887 F. Supp. 1293, 1297 (N.D. Cal. 1995) (motion unsubstantiated by specific examples or articulated reasoning denied); *see also General Dynamics Corp. v. Selb Mfg. Co.*, 481 F.2d 1204, 1212 (8th Cir. 1973), *cert. denied*, 414 U.S. 1162 (1974) (articulating the specific demonstration of fact principle).

Further, a protective order is not necessary in this case, where the government seeks documents for a matter pending before a governmental agency. In this government setting, FOIA and the Privacy Act provide protections from public disclosure for documents that contain trade secrets, confidential, privileged, and private information.

#### Oracle Improperly Restricted Document Production in Reliance on Artificial, Incomplete and Hidden Search Terms

Oracle's objections reveal that it used artificial, hidden and/or incomplete document search parameters in identifying responsive documents. The governing procedural rules require Oracle to produce relevant and responsive documents that are not privileged. 41 C.F.R. § 60-30.10; Rule 26(b)(1) Fed. R. Civ. P. Oracle avoids this obligation by repeatedly limiting its production to unspecified search terms instead of producing all of the responsive documents. This artificial screening enables Oracle to produce less than what is required and to state that it has no specific documents for several requests, even where the veracity of such claim seems implausible.

For example, Document Request No. 3 in the first set of requests sought documents "sufficient to identify any and all PERSON(S), by name and job title, involved in determining YOUR budget for PERSONNEL costs." Document Request No. 4 in the same set of requests sought documents "sufficient to identify any and all PERSON(S), by name and job title, involved in determining how, once established, funds allocated in YOUR PERSONNEL budget are distributed" to three lines of business cited by name. In response to these requests, Oracle stated "After conducting a reasonably diligent search, Oracle does not have responsive documents in its possession, custody and control." It seems unlikely that there is not a single document, chart, spreadsheet, report, e-mail, memo, electronic record, etc. denoting who was involved in determining Oracle's personnel budget costs and the distribution of such costs to three lines of business. It appears Oracle's reliance on hidden, artificial and/or incomplete search terms likely resulted in Oracle's improperly withholding responsive documents, which must now be produced.

### Objections Based on a Trade Secrets or Confidentiality Are Baseless

In its responses to the second set of requests, Oracle repeatedly objects that it will not disclose material to the extent the information sought is confidential, trade secret, and/or proprietary business information. These objections provide no basis for Oracle to withhold documents. OFCCP asks for information squarely related to the allegations in its Amended Complaint. This includes materials that shed light on Oracle's practices, policies, and procedures relevant to: (1) hiring, *see, e.g.*, Document Request Nos. 34-40, (2) data retention, *see, e.g.*, Document Request No. 50, (3) performance evaluations, *see, e.g.*, Document Request No. 52, (4) assignment of personnel to certain salary codes, grades, and job titles, *see e.g.*, Document Request No. 54, and (5) compensation, *see, e.g.*, Document Request Nos. 55- 56. Therefore, Oracle must release the requested information.

### Unlawful Withholding of the Pay Equity Analysis

Oracle's refusal on privilege grounds to provide OFCCP its pay equity analyses required by 41 C.F.R. § 60-2.17 is improper. *See* Response to Document Request No. 71. Because the analyses are a mandatory component of the AAPs Oracle agreed to conduct as a federal contractor, OFCCP is entitled to review the analyses, irrespective of who was involved in its creation. *See* 41 C.F.R. § 60-2.17(b) ("The contractor *must* develop and execute action-oriented programs designed to correct any problem areas identified pursuant to § 60-2.17(b) and to attain established goals and objectives.") (Emphasis added.) Indeed, courts have repeatedly held that a party cannot cloak in privilege documents required by regulation. Such privileges include the attorney work product doctrine, *see, e.g., United States v. Richey*, 632 F.3d 559, 568 (9th Cir. 2011) (Court held that the work product doctrine did not apply to appraisal documents that Richey created to comply with the law); *National Union Fire Ins. v. Murray Sheet Metal*, 967 F.2d 980, 984 (4th Cir. 1992) (Materials prepared "pursuant to regulatory requirements or for other non-litigation purposes are not documents prepared in anticipation of litigation within the meaning of Rule 26(b)(3)"), and the attorney-client privilege, *see, e.g., Jewell v. Polar Tankers Inc.*, 2010 WL 1460165, \* 2 (N.D. CA 2010) ("[T]he mere submission of a report to an attorney for review does not render the communication privileged.") (internal citation omitted). In light of these well-settled principles, Oracle must produce the analyses.

### Vague and Ambiguous Objections Are Not Sustainable

Oracle also asserts groundless vague and ambiguous objections. For example, Oracle characterizes commonplace words and phrases, such as "you," "present," "orally," "each," "sufficient to identify," "communications with," "all domestic colleges and universities," "recruit," "applications," etc. as vague and ambiguous. Additionally, Oracle does not identify how these terms are allegedly vague and ambiguous. Either of these problems, by itself, is sufficient to overrule these objections.

Longstanding case law provides that vague and ambiguous objections must actually be predicated on something that is vague or ambiguous. *See, e.g., Chatman v. Felkner*, 2009 WL 173515, \*6 (E.D. Cal. 2009) ("When a party objects that an interrogatory is vague and ambiguous, he bears the burden of demonstrating such ambiguity or vagueness.") (internal

citation omitted). Indeed, Oracle is not supposed to strain to find something vague and ambiguous; rather, it must apply commonsense to give the ordinary and plain meaning to words. *See, e.g., Johnson v. Cate*, 2014 WL 1419816, \*2 (E.D. Cal 2014) (citing other authority for the proposition that an objection on the grounds of vagueness and ambiguity would be overruled if a party applied reason and common sense to attribute ordinary definitions to terms and phrases.); *Reinsdorf v. Skechers U.S.A., Inc.*, 2013 WL 12116416, \* 9 (C.D. Cal. 2013) (“Parties have ‘an obligation to construe ... discovery requests in a reasonable manner’ ... rather than strain to find ambiguity.”); *Santana Row Hotel Partners, L.P. v. Zurich Am. Ins. Co.*, 2007 WL 1168677, \*3 (N.D. Cal. 2007) (“Respondents should exercise reason and common sense to attribute ordinary definitions to terms and phrases utilized in interrogatories.”). Given this, documents being withheld on these grounds must also be produced.

#### Oracle Failed to Identify If It Will Be Producing Documents to Four Requests

In both sets of responses, Oracle objects without indicating whether it would be producing any documents in response to the requests. In its first set of responses, it does this for four requests: 8, 27-29. More egregiously, in its second set of responses, it does this for forty-seven of the sixty-two requests.

Oracle needs to identify if it will be producing documents in response to these requests. To the extent it is withholding documents on the basis of the improper objections discussed above, Oracle must produce these documents. It must also, where privilege is claimed, produce a privilege log.

Please ensure that Oracle complies as requested by April 6, 2017. If Oracle refuses to provide the documents OFCCP is entitled to, OFCCP will take the appropriate action, which may include filing a motion to compel.

Sincerely,

JANET HEROLD  
Regional Solicitor

By: /s/ Norman E. Garcia  
NORMAN E. GARCIA  
Senior Trial Attorney

KIMBERLY A. ROBINSON  
Trial Attorney

U.S. Department of Labor

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April 17, 2017

**VIA ELECTRONIC MAIL**

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Re: *OFCCP v. Oracle America, Inc.*, Case No. 2017-OFC-00006,  
Meet and Confer Letter

Dear Erin,

This letter responds to questions raised in your March 23, 2017 meet and confer letter and March 31, 2017 email, regarding OFCCP's position that a protective order is unnecessary in this case.

OFCCP has consistently rejected Oracle's request for a protective order, since Oracle first sent a proposed draft on March 15, 2017. As noted in Norman Garcia's March 27, 2017 letter, Oracle has waived its opportunity to seek a protective order by failing to bring a motion prior to the deadline for the response to the requests for production of documents (and similarly, by failing to bring a protective order prior to the date noticed for the 30(b)(6) deposition).

Moreover, as I already explained during our meet and confer call on March 15 and in my March 22 letter, OFCCP's position is that, generally, a protective order is inappropriate because of the protections and restrictions FOIA and the Privacy Act impose. Indeed, many of the specific provisions Oracle proposes, which appear to be pulled from the standard protective order used in the Northern District of California, conflict with FOIA and other federal law. For instance, sections 7.1 and 9 of Oracle's proposed protective order make broad guarantees of confidentiality and predetermine the application of FOIA exemptions. However, Administrative Review Board and Secretary decisions provide that broad guarantees of confidentiality are impermissible. *See, e.g., See, e.g., Koeck v. Gen. Elec. Consumer & Indus.*, ARB Case No. 08-068, 2008 WL 7835869, at \*3 (Admin. Rev. Bd. Aug. 28, 2008) (providing that "no assurances of confidentiality can be given in advance of an FOIA request"); *Jordan v. Sprint Nextel Corp.*, No. ARB Case No. 06-105, 2008 WL 7835837, at \*7 (Admin. Rev. Bd. June 19, 2008) (same); *Debose v. Carolina Power & Light Co.*, No. 92-ERA-14, 1994 WL 897419, at \*3 (Sec'y Feb. 7, 1994) (same). Likewise impermissible are determining that FOIA exemptions apply out of context, as Oracle's proposed order seeks to do. *See Debose*, 1994 WL 897419, at \*3 ("[I]t

would not be appropriate, in the absence of an FOIA request, to determine now whether any exemption is applicable.”). Section 13 of the proposed order requires return or destruction of produced protected materials. But such a provision is likewise inappropriate, in light of the Department’s obligations under the Federal Records Disposal Act, 44 U.S.C. §§ 3301, *et seq.* *See, e.g., See, e.g., EEOC v. Kronos Inc.*, 694 F.3d 351, 359 (3d Cir. 2012) (“Courts must exercise caution when issuing confidentiality orders so as not to demand that the EEOC destroy government documents, including notes and memoranda, in conflict with the EEOC’s duty to obey the requirements of the FRDA.”).

Oracle, as the proponent of a protective order, has not provided any authority demonstrating that its proposed protective order is appropriate in the administrative context. Instead, it has used the absence of a protective order as an improper excuse for withholding documents and deposition testimony.

Discovery needs to move forward and we ask Oracle drop its refusal to produce documents and testimony on the grounds that no protective order has been issued. However, if Oracle intends to seek a protective order, it should promptly move for one. If it has not done so by the end of this week, OFCCP intends to file a motion to compel next week based on Oracle’s failure to provide discovery based on its protective order objections.

Sincerely,

JANET HEROLD  
Regional Solicitor

By: /s/ Laura C. Bremer  
LAURA C. BREMER  
Senior Trial Attorney

KIMBERLY A. ROBINSON  
Trial Attorney

**From:** [Pilotin, Marc A - SOL](#)  
**To:** [Connell, Erin M.](#)  
**Cc:** [Riddell, J.R.](#); [Kaddah, Jacqueline D.](#); [Bremer, Laura - SOL](#); [Miller, Jeremiah - SOL](#); [Herlinger, Logan J.](#)  
**Subject:** RE: OFCCP v Oracle - Edits to Production Stipulation  
**Date:** Tuesday, April 04, 2017 2:07:14 PM  
**Attachments:** [image002.png](#)

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Erin,

I just wanted to follow up on the production stipulation. OFCCP is ready to begin finalizing its production, but is holding off until Oracle agrees to the proposed production specifications. Please let me know whether the draft I sent on March 22 is acceptable to Oracle.

We will follow up separately regarding the protective order.

Thanks,  
Marc

Marc A. Pilotin  
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This message may contain information that is privileged or otherwise exempt from disclosure under applicable law. Do not disclose without consulting the Office of the Solicitor. If you think you received this e-mail in error, please notify the sender immediately.

---

**From:** Connell, Erin M. [<mailto:econnell@orrick.com>]  
**Sent:** Friday, March 31, 2017 4:31 AM  
**To:** Pilotin, Marc A - SOL; Herlinger, Logan J.  
**Cc:** Riddell, J.R.; Kaddah, Jacqueline D.; Bremer, Laura - SOL; Miller, Jeremiah - SOL  
**Subject:** RE: OFCCP v Oracle - Edits to Production Stipulation

Hi Marc,

I am in meetings and traveling today, but will confirm with our e-discovery team and get back to you next week. In the meantime, I reiterate the request I made in my March 23 letter for a reasoned explanation of why OFCCP will not consider the protective order we sent—or any protective order governing the treatment of confidential information. We also request some legal authority to assist us in assessing OFCCP's position on this issue.

Thanks,  
Erin

---

**From:** Pilotin, Marc A - SOL [<mailto:Pilotin.Marc.A@DOL.GOV>]  
**Sent:** Thursday, March 30, 2017 11:56 AM  
**To:** Connell, Erin M. <[econnell@orrick.com](mailto:econnell@orrick.com)>; Herlinger, Logan J. <[herlinger@orrick.com](mailto:herlinger@orrick.com)>  
**Cc:** Riddell, J.R. <[jriddell@orrick.com](mailto:jriddell@orrick.com)>; Kaddah, Jacqueline D. <[jkaddah@orrick.com](mailto:jkaddah@orrick.com)>; Bremer, Laura - SOL <[Bremer.Laura@dol.gov](mailto:Bremer.Laura@dol.gov)>; Miller, Jeremiah - SOL <[Miller.Jeremiah@dol.gov](mailto:Miller.Jeremiah@dol.gov)>  
**Subject:** RE: OFCCP v Oracle - Edits to Production Stipulation

Erin,

I just wanted to follow up on the below. Please let me know whether you have any further changes to the production stipulation or if the parties have reached an agreement.

Thanks,  
Marc

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[pilotin.marc.a@dol.gov](mailto:pilotin.marc.a@dol.gov)

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**From:** Pilotin, Marc A - SOL  
**Sent:** Wednesday, March 22, 2017 9:52 PM  
**To:** Connell, Erin M.; Herlinger, Logan J.  
**Cc:** Riddell, J.R.; Kaddah, Jacqueline D.; Bremer, Laura - SOL; Miller, Jeremiah - SOL  
**Subject:** Re: OFCCP v Oracle - Edits to Production Stipulation

Erin,

Thanks for your email. With respect to the time metadata, we have processed some of our data in Pacific Time. However, going forward, we can switch to UTC so that the parties' productions can be largely consistent with respect to time. Where appropriate, we will indicate which productions contain time data in Pacific Time.

Attached is a revised stipulation, accepting the changes in the draft you sent on March 15, but making a change to the time metadata section to reflect the above. Please let me know whether you agree.

Thanks,  
Marc

---

**From:** Connell, Erin M. <[econnell@orrick.com](mailto:econnell@orrick.com)>  
**Sent:** Monday, March 20, 2017 3:22 PM  
**To:** Pilotin, Marc A - SOL; Herlinger, Logan J.  
**Cc:** Riddell, J.R.; Kaddah, Jacqueline D.; Bremer, Laura - SOL  
**Subject:** RE: OFCCP v Oracle - Edits to Production Stipulation

Hi Marc,

The reason we suggest UTC is that we already have processed data in UTC. Thus, so all of the emails use the same time zone, we suggest using UTC.

Additionally, we have confirmed that you are correct regarding the email threading process. The vendor uses Equivio and an in-house proprietary tool for email consolidation. The process will produce as independent documents the most complete email chain as well as all emails in the chain that contain unique attachments.

Thanks,  
Erin

**Erin M. Connell**  
Partner

Orrick  
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M +1-415-305-8008

[econnell@orrick.com](mailto:econnell@orrick.com)



[Employment Blog](#)

**From:** Pilotin, Marc A - SOL [<mailto:Pilotin.Marc.A@DOL.GOV>]  
**Sent:** Thursday, March 16, 2017 4:11 PM  
**To:** Connell, Erin M. <[econnell@orrick.com](mailto:econnell@orrick.com)>; Herlinger, Logan J. <[herlinger@orrick.com](mailto:herlinger@orrick.com)>  
**Cc:** Riddell, J.R. <[jriddell@orrick.com](mailto:jriddell@orrick.com)>; Kaddah, Jacqueline D. <[jkaddah@orrick.com](mailto:jkaddah@orrick.com)>; Bremer, Laura - SOL <[Bremer.Laura@dol.gov](mailto:Bremer.Laura@dol.gov)>  
**Subject:** RE: OFCCP v Oracle - Edits to Production Stipulation

Erin and Logan,

We've reviewed Orrick's proposed changes to the production stipulation. The only change we'd like to address is shifting time metadata to UTC. We proposed that time metadata reflect Pacific Time given that Oracle-Redwood Shores is located in this time zone. Moreover, having the metadata produced in Pacific Time would avoid any future need to convert timestamps on emails, which can often be problematic during depositions. We are prepared to do this. Please advise whether Oracle will do the same.

Also, for the "email threading" proposal, please advise as to how emails with attachments within a thread will be produced. Will emails containing attachments be produced separately as an independent document? It might help us as well to know which software you're using. If it'd be easier to discuss by phone, please let me know.

Thanks,

Marc

Marc A. Pilotin  
Trial Attorney  
U.S. Department of Labor, Office of the Solicitor, Region IX - San Francisco  
90 Seventh Street, Suite 3-700  
San Francisco, CA 94103  
tel: (415) 625-7769 | fax: (415) 625-7772  
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**From:** Connell, Erin M. [<mailto:econnell@orrick.com>]  
**Sent:** Wednesday, March 15, 2017 1:50 PM  
**To:** Pilotin, Marc A - SOL; Bremer, Laura - SOL  
**Cc:** Riddell, J.R.; Herlinger, Logan J.; Kaddah, Jacqueline D.; Connell, Erin M.  
**Subject:** OFCCP v Oracle - Edits to Production Stipulation

Hi Marc,

To help facilitate today's meet and confer call, I am attaching our edits, in track changes, to the production stipulation. We also would like to begin discussions about a protective order, and have attached a proposed draft.

Thanks,

Erin

**Erin M. Connell**

Partner

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[econnell@orrick.com](mailto:econnell@orrick.com)



Employment Blog

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**From:** [Connell, Erin M.](#)  
**To:** [Bremer, Laura - SOL](#); [Pilotin, Marc A - SOL](#)  
**Cc:** [Siniscalco, Gary R.](#); [Miller, Jeremiah - SOL](#); [Riddell, J.R.](#); [Kaddah, Jacqueline D.](#); [Eliasoph, Ian - SOL](#)  
**Subject:** RE: OFCCP v Oracle - protective order meet and confer  
**Date:** Thursday, April 20, 2017 1:49:40 PM  
**Attachments:** [image002.png](#)

---

Laura,

We regret that OFCCP remains unwilling to engage with us regarding the appropriate scope of a protective order to govern this case. To the extent OFCCP raises concerns with specific provisions of the protective order we have proposed, the Agency offers no proposed compromise or alternative. Instead, OFCCP continues to take the position that no protective is warranted at all. In light of the Agency's threat to file a motion to compel if Oracle does not file a motion for a protective order by tomorrow, Oracle intends to do so. Please note that as indicated in prior correspondence, the motion for a protective order is without prejudice to Oracle's position that this case should not be in litigation at all because OFCCP did not meet its pre-litigation administrative prerequisites prior to filing its complaint, as articulated in Oracle's Answer.

Thanks,

Erin

**From:** Bremer, Laura - SOL [mailto:[Bremer.Laura@dol.gov](mailto:Bremer.Laura@dol.gov)]  
**Sent:** Monday, April 17, 2017 3:13 PM  
**To:** Connell, Erin M. <[econnell@orrick.com](mailto:econnell@orrick.com)>; Pilotin, Marc A - SOL <[Pilotin.Marc.A@DOL.GOV](mailto:Pilotin.Marc.A@DOL.GOV)>  
**Cc:** Siniscalco, Gary R. <[grsiniscalco@orrick.com](mailto:grsiniscalco@orrick.com)>; Miller, Jeremiah - SOL <[Miller.Jeremiah@dol.gov](mailto:Miller.Jeremiah@dol.gov)>; Riddell, J.R. <[jriddell@orrick.com](mailto:jriddell@orrick.com)>; Kaddah, Jacqueline D. <[jkaddah@orrick.com](mailto:jkaddah@orrick.com)>; Eliasoph, Ian - SOL <[Eliasoph.Ian@dol.gov](mailto:Eliasoph.Ian@dol.gov)>  
**Subject:** RE: OFCCP v Oracle - protective order meet and confer

Erin,

Please see the attached response.

Laura C. Bremer  
Senior Trial Attorney  
Office of the Solicitor  
U.S. Department of Labor  
90 7<sup>th</sup> Street, Suite 3-700  
San Francisco, California 94103  
(415) 625-7757

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**From:** Connell, Erin M. [<mailto:econnell@orrick.com>]  
**Sent:** Friday, April 14, 2017 8:51 AM  
**To:** Pilotin, Marc A - SOL  
**Cc:** Bremer, Laura - SOL; Siniscalco, Gary R.; Miller, Jeremiah - SOL; Riddell, J.R.; Kaddah, Jacqueline D.; Eliasoph, Ian - SOL  
**Subject:** OFCCP v Oracle - protective order meet and confer

Marc,

I am following up on our last correspondence regarding a protective order. In your April 4 email, you indicated you would follow up regarding my request for a reasoned explanation and legal authority regarding OFCCP's position that it would not enter into a protective order in this case. We have not heard from you. In the interim, however, we have learned that the ALJ in the OFCCP's ongoing litigation against Google entered a protective order to prevent the public release of Google's confidential compensation information. We also have read that in connection with the OFCCP's litigation against Google, Regional Solicitor Janet Herold informed the press that the Department of Labor "has received compelling evidence of very significant discrimination against women in the most common positions at Google headquarters," and that the "government's analysis at this point indicates that discrimination against women in Google is quite extreme, even in this industry." We were surprised by the Regional Solicitor's public statements, both because they relate to ongoing litigation, and because—as we understand it—OFCCP has made no formal or administrative finding of pay discrimination in connection with compliance evaluation underlying the ongoing litigation. The Regional Solicitor's public statements do underscore, however, the need for a protective order here, to ensure Oracle's confidential information remains properly protected.

Please confirm by Tuesday, April 18 whether OFCCP will agree to a protective order in this matter. If not, we intend to raise this issue with the ALJ at the appropriate time.

Finally, please note that Oracle's engagement in these meet and confer efforts, and in discovery generally, is without prejudice to Oracle's position that this matter should not be in litigation at all because OFCCP did not comply with its administrative prerequisites prior to filing its complaint, as articulated in Oracle's Answer.

Thanks,

Erin

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 11 Telephone: (213) 894-1594  
 12 Facsimile: (213) 894-2064  
 13 Email: camacho.demian@dol.gov

14 Attorneys for Plaintiff, Edward C. Hugler,  
 15 Acting Secretary, United States Department of  
 16 Labor

17 (Defense counsel listed on next page)

18 UNITED STATES DISTRICT COURT  
 19 FOR THE CENTRAL DISTRICT OF CALIFORNIA

20 **EDWARD C. HUGLER**, Acting Secretary of  
 21 Labor, United States Department of Labor,

22 Plaintiff,

23 v.

24 **HIMANSHU BHATIA**, an individual,  
 25 Defendant.

26 **Case No. 8:16-cv-01548-JVS-JCG**

27 **STIPULATED PROTECTIVE  
 28 ORDER**

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Facsimile: 562.229.1221

Attorneys for Defendant  
HIMANSHU BHATIA

1           **1. A. PURPOSES AND LIMITATIONS**

2           Discovery in this action is likely to involve production of confidential or private  
3 information for which special protection from public disclosure and from use for any  
4 purpose other than prosecuting this litigation may be warranted. Accordingly, the parties  
5 hereby stipulate to and petition the Court to enter the following Stipulated Protective  
6 Order. The parties acknowledge that this Order does not confer blanket protections on all  
7 disclosures or responses to discovery and that the protection it affords from public  
8 disclosure and use extends only to the limited information or items that are entitled to  
9 confidential treatment under the applicable legal principles. The parties further  
10 acknowledge, as set forth in Section 12.3, below, that this Stipulated Protective Order  
11 does not entitle them to file confidential information under seal; Civil Local Rule 79-5  
12 sets forth the procedures that must be followed and the standards that will be applied  
13 when a party seeks permission from the court to file material under seal.

14  
15           **B. GOOD CAUSE STATEMENT**

16           This action is likely to involve financial, immigration, medical, and/or private  
17 stored communications information for which special protection from public disclosure  
18 and from use for any purpose other than prosecution of this action is warranted. Such  
19 confidential and proprietary materials and information consist of, among other things,  
20 confidential medical, financial, and telecommunications records (including information  
21 implicating privacy rights of third parties), information otherwise generally unavailable  
22 to the public, or which may be privileged or otherwise protected from disclosure under  
23 state or federal statutes, court rules, case decisions, or common law. Accordingly, to  
24 expedite the flow of information, to facilitate the prompt resolution of disputes over  
25 confidentiality of discovery materials, to adequately protect information the parties are  
26 entitled to keep confidential, to ensure that the parties are permitted reasonable  
27 necessary uses of such material in preparation for and in the conduct of trial, to address  
28 their handling at the end of the litigation, and serve the ends of justice, a protective order

1 for such information is justified in this matter. It is the intent of the parties that  
2 information will not be designated as confidential for tactical reasons and that nothing be  
3 so designated without a good faith belief that it has been maintained in a confidential,  
4 non-public manner, and there is good cause why it should not be part of the public  
5 record of this case.

6  
7 **2. DEFINITIONS**

8 2.1 Action: Refers to this pending action, Acting Secretary of Labor v. Himanshu  
9 Bhatia, Case No. 8:16-cv-01548-JVS-JCG.

10 2.2 Challenging Party: a Party or Non-Party that challenges the designation of  
11 information or items under this Order.

12 2.3 "CONFIDENTIAL" Information or Items: information (regardless of how it is  
13 generated, stored or maintained) or tangible things that qualify for protection under  
14 Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause  
15 Statement.

16 2.4 Designating Party: a Party or Non-Party that designates information or items  
17 that it produces in disclosures or in responses to discovery as "CONFIDENTIAL."

18 2.5 Disclosure or Discovery Material: all items or information, regardless of the  
19 medium or manner in which it is generated, stored, or maintained (including, among  
20 other things, testimony, transcripts, and tangible things), that are produced or generated  
21 in disclosures or responses to discovery in this matter.

22 2.6 Expert: a person with specialized knowledge or experience in a matter  
23 pertinent to the litigation who has been retained by a Party or its counsel to serve as an  
24 expert witness or as a consultant in this Action.

25 2.7 Non-Party: any natural person, partnership, corporation, association, or other  
26 legal entity not named as a Party to this action.

27 2.8 Counsel of Record: attorneys who are not employees of a party to this Action  
28 but are retained to represent or advise a party to this Action and have appeared in this

1 Action on behalf of that party or are affiliated with the agency or law firm which has  
2 appeared on behalf of that party, and includes support staff. Namely, for Plaintiff, the  
3 U.S. Department of Labor's Office of the Solicitor, and its attorneys. For Defendant  
4 Bhatia, Littler Mendelson, A Professional Corporation, and Chugh, A Limited Liability  
5 Partnership, and their attorneys and staff.

6 2.9 Party: any party to this Action, including all of its officers, directors,  
7 consultants, retained experts, and Counsel of Record (and their support staffs).

8 2.10 Producing Party: a Party or Non-Party that produces Disclosure or Discovery  
9 Material in this Action.

10 2.11 Professional Vendors: persons or entities that provide litigation support  
11 services (e.g., photocopying, videotaping, translating, preparing exhibits or  
12 demonstrations, and organizing, storing, or retrieving data in any form or medium) and  
13 their employees and subcontractors.

14 2.12 Protected Material: any Disclosure or Discovery Material that is designated  
15 as "CONFIDENTIAL."

16 2.13 Receiving Party: a Party that receives Disclosure or Discovery Material from  
17 a Producing Party.

18  
19 **3. SCOPE**

20 The protections conferred by this Stipulation and Order cover not only Protected  
21 Material (as defined above), but also (1) any information copied or extracted from  
22 Protected Material that might reveal Protected Material ; (2) all copies, excerpts,  
23 summaries, or compilations of Protected Material that might reveal Protected Material;  
24 and (3) any testimony, conversations, or presentations by Parties or their Counsel that  
25 might reveal Protected Material.

26 Any use of Protected Material at trial shall be governed by the orders of the trial  
27 judge. This Order does not govern the use of Protected Material at trial.

28

1           **4. DURATION**

2           Even after final disposition of this litigation, the confidentiality obligations  
3 imposed by this Order shall remain in effect until a Designating Party agrees otherwise  
4 in writing or a court order otherwise directs. Final disposition shall be deemed to be the  
5 later of (1) dismissal of all claims and defenses in this Action, with or without prejudice;  
6 and (2) final judgment herein after the completion and exhaustion of all appeals,  
7 rehearings, remands, trials, or reviews of this Action, including the time limits for filing  
8 any motions or applications for extension of time pursuant to applicable law.  
9

10           **5. DESIGNATING PROTECTED MATERIAL**

11           5.1 Exercise of Restraint and Care in Designating Material for Protection.

12           Each Party or Non-Party that designates information or items for protection under  
13 this Order must take care to limit any such designation to specific material that qualifies  
14 under the appropriate standards. The Designating Party must designate for protection  
15 only those parts of material, documents, items, or oral or written communications that  
16 qualify so that other portions of the material, documents, items, or communications for  
17 which protection is not warranted are not swept unjustifiably within the ambit of this  
18 Order.

19           Mass, indiscriminate, or routinized designations are prohibited. Designations that  
20 are shown to be clearly unjustified or that have been made for an improper purpose (e.g.,  
21 to unnecessarily encumber the case development process or to impose unnecessary  
22 expenses and burdens on other parties) may expose the Designating Party to sanctions.

23           If it comes to a Designating Party's attention that information or items that it  
24 designated for protection do not qualify for protection, that Designating Party must  
25 promptly notify all other Parties that it is withdrawing the inapplicable designation.

26           5.2 Manner and Timing of Designations. Except as otherwise provided in  
27 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise  
28 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection

1 under this Order must be clearly so designated before the material is disclosed or  
2 produced.

3 Designation in conformity with this Order requires:

4 (a) for information in documentary form (e.g., paper or electronic documents, but  
5 excluding transcripts of depositions or other pretrial or trial proceedings), that the  
6 Producing Party affix at a minimum, the legend "CONFIDENTIAL" (hereinafter  
7 "CONFIDENTIAL legend"), to each page that contains protected material. If only a  
8 portion or portions of the material on a page qualifies for protection, the Producing Party  
9 also must clearly identify the protected portion(s) (e.g., by making appropriate markings  
10 in the margins).

11 A Party or Non-Party that makes original documents available for inspection need  
12 not designate them for protection until after the inspecting Party has indicated which  
13 documents it would like copied and produced. During the inspection and before the  
14 designation, all of the material made available for inspection shall be deemed  
15 "CONFIDENTIAL." After the inspecting Party has identified the documents it wants  
16 copied and produced, the Producing Party must determine which documents, or portions  
17 thereof, qualify for protection under this Order. Then, before producing the specified  
18 documents, the Producing Party must affix the "CONFIDENTIAL legend" to each page  
19 that contains Protected Material. If only a portion or portions of the material on a page  
20 qualifies for protection, the Producing Party also must clearly identify the protected  
21 portion(s) (e.g., by making appropriate markings in the margins).

22 (b) for testimony given in depositions that the Designating Party identify the  
23 Disclosure or Discovery Material on the record, before the close of the deposition, all  
24 protected testimony.

25 (c) for information produced in some form other than documentary and for any  
26 other tangible items, that the Producing Party affix in a prominent place on the exterior  
27 of the container or containers in which the information is stored the legend  
28

1 “CONFIDENTIAL.” If only a portion or portions of the information warrants protection,  
2 the Producing Party, to the extent practicable, shall identify the protected portion(s).

3 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure  
4 to designate qualified information or items does not, standing alone, waive the  
5 Designating Party’s right to secure protection under this Order for such material. Upon  
6 timely correction of a designation, the Receiving Party must make reasonable efforts to  
7 assure that the material is treated in accordance with the provisions of this Order.

8  
9 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

10 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of  
11 confidentiality at any time that is consistent with the Court’s Scheduling Order.

12 6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution  
13 process under Local Rule 37.1 et seq.

14 6.3 The burden of persuasion in any such challenge proceeding shall be on the  
15 Designating Party. Frivolous challenges, and those made for an improper purpose (e.g.,  
16 to harass or impose unnecessary expenses and burdens on other parties) may expose the  
17 Challenging Party to sanctions. Unless the Designating Party has waived or withdrawn  
18 the confidentiality designation, all parties shall continue to afford the material in  
19 question the level of protection to which it is entitled under the Producing Party’s  
20 designation until the Court rules on the challenge.

21  
22 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

23 7.1 Basic Principles. A Receiving Party may use Protected Material that is  
24 disclosed or produced by another Party or by a Non-Party in connection with this Action  
25 only for prosecuting, defending, or attempting to settle this Action. Such Protected  
26 Material may be disclosed only to the categories of persons and under the conditions  
27 described in this Order. When the Action has been terminated, a Receiving Party must  
28 comply with the provisions of section 13 below (FINAL DISPOSITION).

1 Protected Material must be stored and maintained by a Receiving Party at a  
2 location and in a secure manner that ensures that access is limited to the persons  
3 authorized under this Order.

4 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise  
5 ordered by the court or permitted in writing by the Designating Party, a Receiving Party  
6 may disclose any information or item designated "CONFIDENTIAL" only to:

7 (a) the Receiving Party's Counsel of Record in this Action, as well as employees  
8 of said Counsel of Record to whom it is reasonably necessary to disclose the information  
9 for this Action;

10 (b) the officers, directors, and employees of the Receiving Party to whom  
11 disclosure is reasonably necessary for this Action;

12 (c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is  
13 reasonably necessary for this Action and who have signed the "Acknowledgment and  
14 Agreement to Be Bound" (Exhibit A);

15 (d) the court and its personnel;

16 (e) court reporters and their staff;

17 (f) professional jury or trial consultants, mock jurors, and Professional Vendors to  
18 whom disclosure is reasonably necessary for this Action and who have signed the  
19 "Acknowledgment and Agreement to Be Bound" (Exhibit A);

20 (g) the author or recipient of a document containing the information or a custodian  
21 or other person who otherwise possessed or knew the information;

22 (h) during their depositions, witnesses, and attorneys for witnesses, in the Action  
23 to whom disclosure is reasonably necessary provided: (1) the deposing party requests  
24 that the witness sign the form attached as Exhibit 1 hereto; and (2) they will not be  
25 permitted to keep any confidential information unless they sign the "Acknowledgment  
26 and Agreement to Be Bound" (Exhibit A), unless otherwise agreed by the Designating  
27 Party or ordered by the court. Pages of transcribed deposition testimony or exhibits to  
28 depositions that reveal Protected Material may be separately bound by the court reporter

1 and may not be disclosed to anyone except as permitted under this Stipulated Protective  
2 Order; and

3 (i) any mediator or settlement officer, and their supporting personnel, mutually  
4 agreed upon by any of the parties engaged in settlement discussions.

5  
6 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED**  
7 **PRODUCED IN OTHER LITIGATION**

8 If a Party is served with a subpoena or a court order issued in other litigation that  
9 compels disclosure of any information or items designated in this Action as  
10 “CONFIDENTIAL,” that Party must:

11 (a) promptly notify in writing the Designating Party. Such notification shall  
12 include a copy of the subpoena or court order;

13 (b) promptly notify in writing the party who caused the subpoena or order to issue  
14 in the other litigation that some or all of the material covered by the subpoena or order is  
15 subject to this Protective Order. Such notification shall include a copy of this Stipulated  
16 Protective Order; and

17 (c) cooperate with respect to all reasonable procedures sought to be pursued by the  
18 Designating Party whose Protected Material may be affected.

19 If the Designating Party timely seeks a protective order, the Party served with the  
20 subpoena or court order shall not produce any information designated in this action as  
21 “CONFIDENTIAL” before a determination by the court from which the subpoena or  
22 order issued, unless the Party has obtained the Designating Party’s permission. The  
23 Designating Party shall bear the burden and expense of seeking protection in that court  
24 of its confidential material and nothing in these provisions should be construed as  
25 authorizing or encouraging a Receiving Party in this Action to disobey a lawful directive  
26 from another court.

1           **9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE**  
2 **PRODUCED IN THIS LITIGATION**

3           (a) The terms of this Order are applicable to information produced by a Non-Party  
4 in this Action and designated as "CONFIDENTIAL." Such information produced by  
5 Non-Parties in connection with this litigation is protected by the remedies and relief  
6 provided by this Order. Nothing in these provisions should be construed as prohibiting a  
7 Non-Party from seeking additional protections.

8           (b) In the event that a Party is required, by a valid discovery request, to produce a  
9 Non-Party's confidential information in its possession, and the Party is subject to an  
10 agreement with the Non-Party not to produce the Non-Party's confidential information,  
11 then the Party shall:

12                   (1) promptly notify in writing the Requesting Party and the Non-Party that  
13 some or all of the information requested is subject to a confidentiality agreement with a  
14 Non-Party;

15                   (2) promptly provide the Non-Party with a copy of the Stipulated Protective  
16 Order in this Action, the relevant discovery request(s), and a reasonably specific  
17 description of the information requested; and

18                   (3) make the information requested available for inspection by the Non-  
19 Party, if requested.

20           (c) If the Non-Party fails to seek a protective order from this court within 14 days  
21 of receiving the notice and accompanying information, the Receiving Party may produce  
22 the Non-Party's confidential information responsive to the discovery request. If the Non-  
23 Party timely seeks a protective order, the Receiving Party shall not produce any  
24 information in its possession or control that is subject to the confidentiality agreement  
25 with the Non-Party before a determination by the court. Absent a court order to the  
26 contrary, the Non-Party shall bear the burden and expense of seeking protection in this  
27 court of its Protected Material.

1           **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

2           If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed  
3 Protected Material to any person or in any circumstance not authorized under this  
4 Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing  
5 the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve  
6 all unauthorized copies of the Protected Material, (c) inform the person or persons to  
7 whom unauthorized disclosures were made of all the terms of this Order, and (d) request  
8 such person or persons to execute the "Acknowledgment and Agreement to Be Bound"  
9 that is attached hereto as Exhibit A.

10  
11           **11. INADVERTENT PRODUCTION OF PRIVILEGED OR**  
12 **OTHERWISE PROTECTED MATERIAL**

13           When a Producing Party gives notice to Receiving Parties that certain  
14 inadvertently produced material is subject to a claim of privilege or other protection, the  
15 obligations of the Receiving Parties are those set forth in Federal Rule of Civil  
16 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure  
17 may be established in an e-discovery order that provides for production without prior  
18 privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the  
19 parties reach an agreement on the effect of disclosure of a communication or information  
20 covered by the attorney-client privilege or work product protection, the parties may  
21 incorporate their agreement in the stipulated protective order submitted to the court.

22  
23           **12. MISCELLANEOUS**

24           12.1 Right to Further Relief. Nothing in this Order abridges the right of any  
25 person to seek its modification by the Court in the future.

26           12.2 Right to Assert Other Objections. By stipulating to the entry of this  
27 Protective Order no Party waives any right it otherwise would have to object to  
28 disclosing or producing any information or item on any ground not addressed in this

1 Stipulated Protective Order. Similarly, no Party waives any right to object on any ground  
2 to use in evidence of any of the material covered by this Protective Order.

3 12.3 Filing Protected Material. A Party that seeks to file under seal any Protected  
4 Material must comply with Civil Local Rule 79-5. Protected Material may only be filed  
5 under seal pursuant to a court order authorizing the sealing of the specific Protected  
6 Material at issue. If a Party's request to file Protected Material under seal is denied by  
7 the court, then the Receiving Party may file the information in the public record unless  
8 otherwise instructed by the court.

9  
10 **13. FINAL DISPOSITION**

11 After the final disposition of this Action, as defined in paragraph 4, within 60 days  
12 of a written request by the Designating Party, each Receiving Party must return all  
13 Protected Material to the Producing Party or destroy such material. As used in this  
14 subdivision, "all Protected Material" includes all copies, abstracts, compilations,  
15 summaries, and any other format reproducing or capturing any of the Protected Material.  
16 Whether the Protected Material is returned or destroyed, the Receiving Party must  
17 submit a written certification to the Designating Party) by the 60 day deadline that (1)  
18 identifies (by category, where appropriate) all the Protected Material that was returned  
19 or destroyed and (2) affirms that the Receiving Party has not retained any copies,  
20 abstracts, compilations, summaries or any other format reproducing or capturing any of  
21 the Protected Material. Notwithstanding this provision, Counsel are entitled to retain an  
22 archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts,  
23 legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney  
24 work product, and consultant and expert work product, even if such materials contain  
25 Protected Material. Any such archival copies that contain or constitute Protected  
26 Material remain subject to this Protective Order as set forth in Section 4 (DURATION).  
27 Nothing in this paragraph shall be interpreted as requiring the Department to take any  
28 action inconsistent with its obligations under federal law, including those imposed by the

1 Federal Records Act, the Freedom of Information Act, and any other applicable statute  
2 or regulation.

3  
4 14. Any violation of this Order may be punished by any and all appropriate  
5 measures including, without limitation, contempt proceedings and/or monetary  
6 sanctions.

7  
8 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

9 Attorneys for Plaintiff Edward C. Hugler, Acting Secretary

10 DATED: February 10, 2017

11 /s/ Demian Camacho

12 DEMIAN CAMACHO

13 Trial Attorney

14 Attorneys for Defendant Himanshu Bhatia

15 DATED: February 10, 2017

16 /s/ Connie L. Michaels

17 CONNIE L. MICHAELS

18 LITTLER MENDELSON

19 A Professional Corporation

20 DATED: February 10, 2017

21 /s/ Mohammad N. Khan

22 MOHAMMAD N. KHAN

23 CHUGH, LLP

24 A Professional Corporation

25 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

26 DATED: February 14, 2017

27 

28 Jay C. Gandhi

United States Magistrate Judge

**EXHIBIT A**

**ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

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I, \_\_\_\_\_ [print or type full name], of \_\_\_\_\_  
[print or type full address], declare under penalty of perjury that I have read in its  
entirety and understand the Stipulated Protective Order that was issued by the United  
States District Court for the Central District of California on [date] in the case of Edward  
C. Hugler v. Himanshu Bhatia, Case No. 8:16-cv-01548-JVS-JCG. I agree to comply  
with and to be bound by all the terms of this Stipulated Protective Order and I  
understand and acknowledge that failure to so comply could expose me to sanctions and  
punishment in the nature of contempt. I solemnly promise that I will not disclose in any  
manner any information or item that is subject to this Stipulated Protective Order to any  
person or entity except in strict compliance with the provisions of this Order. I further  
agree to submit to the jurisdiction of the United States District Court for the Central  
District of California for the purpose of enforcing the terms of this Stipulated Protective  
Order, even if such enforcement proceedings occur after termination of this action. I  
hereby appoint \_\_\_\_\_ [print or type full name] of  
\_\_\_\_\_ [print or type full address and  
telephone number] as my California agent for service of process in connection with this  
action or any proceedings related to enforcement of this Stipulated Protective Order.

Date: \_\_\_\_\_  
City and State where sworn and signed: \_\_\_\_\_  
Printed name: \_\_\_\_\_  
Signature: \_\_\_\_\_



Confidential by any party. By entering into this SPO, the Secretary and his counsel and the Defendants and their counsel shall only use information and/or documents disclosed pursuant to this SPO for purposes of litigating this action, *Thomas E. Perez, Secretary of Labor, United States Department of Labor v. Vesuvio's Pizza & Subs 2, Inc. d/b/a Vesuvio's II Pizza & Grill, Inc, et. al.*, in the United States District Court for the Middle District of North Carolina, Civil Action No. 1:15-cv-00519-LCB-LPA.

2. To the extent information and/or documents are produced, such information and/or documents are produced on the following conditions:

a. The information and/or documents obtained shall be disclosed only between the parties and their counsel.

(1) "The Secretary's counsel" shall include M. Patricia Smith, Stanley E. Keen, Channah S. Broyde, Robert L. Walter, Lydia J. Chastain, Kristin R. Murphy, Melanie L. Paul as well as any attorney, paralegal, or employee of the Office of the Solicitor, U.S. Department of Labor.

(2) "Defendants' counsel" shall include Denise S. Cline and Amie Flowers Carmack, as well as any attorney, staff member, paralegal or any other employee of their respective offices at Law Offices of Denise Smith Cline, PLLC and Morningstar Law Group.

b. Counsel for the Secretary and Defendants expressly agree that all documents previously produced by either party, as well as the documents to be produced by either party in the future, which are clearly designated by the producing party as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" will be treated as confidential documents

in accordance with the provisions contained in this SPO, unless waiver of such designation is obtained.

c. Counsel for the Secretary and Defendants expressly agree not to disclose any information and/or document marked as "CONFIDENTIAL" to any other person, group or entity, except those with a legitimate need to know in the conduct of this litigation or as needed for meetings with witnesses or consulting or testifying experts, in depositions, law and motion practice, and hearings and trials on this matter, and then only upon the individual's or entity's express written agreement to maintain the confidentiality of such documents and to not use or disclose the documents outside of this litigation

(1) The producing party shall clearly designate documents as "CONFIDENTIAL" if they involve or include information pertaining to the compensation, personal or corporate finances, discipline or discharge of Ms. Solais, Defendants or other persons.

(2) The producing party shall clearly designate documents as "CONFIDENTIAL" if they involve or include information relating to trade secrets, competitive advantage or other proprietary business documents.

d. Counsel for the Secretary and Defendants expressly agree not to disclose any information and/or document marked as "HIGHLY CONFIDENTIAL" to any person or entity other than counsel for the party to whom the documents are produced, an expert witness in the litigation, or a party in the litigation and to the Court under seal (no party shall file a document under seal without first having obtained an order granting leave to file under seal on a showing of particularized need), unless within fourteen days after designation, the party to whom the documents are produced objects in writing and the Court orders no designation or a different

designation. Unless the Court orders otherwise, such documents may not be disclosed to a non-party or non-expert witness unless counsel identifies a legitimate need to disclose such documents to effectively prepare the prosecution and/or defense of this case. In the event that counsel for the Secretary and/or Defendant identifies a legitimate need to disclose such information and/or document to a non-party or non-expert witness, the opposing party must move for a protective order within seven (7) days of the date of disclosure by counsel in order to prevent disclosure of the document to a non-party or non-expert witness.

(1) The producing party shall clearly designate documents as "HIGHLY CONFIDENTIAL" if they involve or include information pertaining to the medical, psychological or psychiatric condition of persons other than Ms. Solais.

e. The Secretary's counsel and Defendants' counsel are responsible for employing reasonable measures to control, consistent with this SPO, duplication of, access to, and distribution of copies of any documents marked as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" by individuals or entities hired by them to perform a service connected to litigating this matter.

f. Nothing herein shall prevent a party from entering into evidence a document covered by this SPO that would otherwise be admissible. Counsel for the Secretary and Defendants agree that they shall make reasonable efforts to redact pertinent confidential and/or personal information from the aforesaid documents prior to use in a pleading, motion, memorandum, exhibit, transcript, or other paper filed or to be filed in this action. Furthermore, nothing herein shall prevent any party or other person from objecting to discovery it believes to be otherwise improper. Counsel for the Secretary and Defendant agree that any documents subject to this SPO used in a pleading or exhibit shall be marked "CONFIDENTIAL" or

"HIGHLY CONFIDENTIAL" on each page. The parties shall inform the Judge in a cover letter or verbally on the record if any "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" documents are included in a pleading, motion, memorandum, exhibit, transcript, or other paper filed or to be filed in this action.

g. The provisions of this SPO, insofar as they restrict the communication about and use of the covered documents, shall, without written permission from the producing party or further order of the Judge, continue to be binding after the conclusion of this litigation.

h. Counsel for Defendants agrees to return any documents produced by the Secretary marked "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" to the Secretary within four weeks of a request for their return following the close of this action. However, Defendants will not be responsible for such information and/or documents to the extent they are destroyed or otherwise lost due to theft, fire or other acts of God. Due to legal requirements that the Secretary maintain his litigation files, the Secretary cannot return the documents to Defendants but agrees to protect the documents to the maximum extent allowable under FOIA. *See* 5 U.S.C. §§ 552 *et. seq.* If the Secretary receives a FOIA request, the Secretary's counsel must contact Defendants' counsel in writing regarding any documents marked "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" which he believes are not covered by one of the FOIA exemptions, *see* 5 U.S.C. §§ 552(b)(1) – (9), and allow Defendants seven (7) days to seek judicial relief prior to disclosing such information and/or documents.

i. The foregoing terms shall be binding on the Secretary and Defendants, and their every agent, employee, attorney, successor, assign, heir or legatee.

j. Any violation of this SPO shall subject the violator to all appropriate sanctions including, but not limited to, penalties under the Privacy Act, 5 U.S.C. § 552(a), and discovery sanctions available in this Court.

k. It is the intention of the parties to submit this SPO to the Court for approval as an order of the Court. Nonetheless, this SPO shall be effective as between the parties immediately upon execution by the parties.

ADDRESS:

Office of the Solicitor  
U. S. Department of Labor  
61 Forsyth Street, S.W.  
Room 7T10  
Atlanta, GA 30303

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By: s/Kristin R. Murphy  
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KRISTIN R. MURPHY  
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Attorney for Defendants Vesuvio's Pizza & Subs 2, Inc. d/b/a Vesuvio's II Pizza & Grill and Giovanni Scotti D'Abbusco

/s/Amie Flowers Carmack  
Morningstar Law Group  
630 Davis Drive, Suite 200

Morrisville, NC 27560  
(919) 590-0394  
Fax: (919) 882-8890  
Email: [acarmack@morningstarlawgroup.com](mailto:acarmack@morningstarlawgroup.com)

Attorney for Defendant Alfredo Capuano

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

THOMAS E. PEREZ, )  
Secretary of Labor, ) FILE NO. 1:15-cv-00519-LCB-LPA  
United States Department of Labor, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
VESUVIO'S PIZZA & SUBS 2, INC. d/b/a )  
VESUVIO'S II PIZZA & GRILL, INC., )  
GIOVANNI SCOTTI D'ABBUSCO, an )  
individual and in his official capacity, and )  
ALFREDO CAPUANO, an individual and )  
in his official capacity, )  
 )  
Defendants. )

CERTIFICATE OF SERVICE

I hereby certify that on April 6, 2016, I electronically filed the Joint Motion for the Entry of a Protective Confidentiality Order, Joint Stipulation of Confidentiality and Protective Order, and Proposed Order with the Clerk of Court using the CM/ECF system, which will send electronic notification of such filing to the following CM/ECF participants:

Denise S. Cline  
Law Offices of Denise Smith Cline, PLLC  
[denise@dsclinelaw.com](mailto:denise@dsclinelaw.com)

Amie Flowers Carmack  
Morningstar Law Group  
[acarmack@morningstarlawgroup.com](mailto:acarmack@morningstarlawgroup.com)

/s/ Kristin R. Murphy  
KRISTIN R. MURPHY  
Trial Attorney

Exhibit H  
Page 23 of 42

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

THOMAS E. PEREZ, )  
Secretary of Labor, ) FILE NO. 1:15-cv-00519-LCB-LPA  
United States Department of Labor, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
VESUVIO'S PIZZA & SUBS 2, INC. d/b/a )  
VESUVIO'S II PIZZA & GRILL, INC., )  
GIOVANNI SCOTTI D'ABBUSCO, an )  
individual and in his official capacity, and )  
ALFREDO CAPUANO, an individual and )  
in his official capacity, )  
 )  
Defendants. )

[PROPOSED] ORDER

THIS MATTER came before the Court on Defendants Vesuvio's Pizza & Subs 2, Inc. d/b/a Vesuvio's Pizza & Grill, Inc., Alfredo Capuano, and Giovanni Scotti D'Abbusco ("Defendants") and Plaintiff Thomas E. Perez, Secretary of Labor, United States Department of Labor's ("Plaintiff") Joint Motion for the Entry of a Protective Confidentiality Order ("Joint Motion"). Having reviewed and considered the Parties' Joint Motion and the Parties' Joint Stipulation of Confidentiality and Protective Order, and it appearing that the Parties agree and consent to the entry of this Order,

IT IS HEREBY ORDERED that the terms of the Joint Stipulation and Protective Order are approved and that the Joint Stipulation and Protective Order is hereby entered as the Order of this Court.

SO ORDERED, this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

---

UNITED STATES MAGISTRATE JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 06-CV-01273-WYD-BNB
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,  Plaintiff,  v. ALBERTSON'S LLC, f/k/a Albertson's, Inc.,  Defendant.
<del>{PROPOSED}</del> STIPULATION AND PROTECTIVE ORDER REGARDING THE USE AND DISSEMINATION OF CONFIDENTIAL INFORMATION

Defendant Albertson's LLC ("Albertson's") and Plaintiff Equal Employment Opportunity Commission ("EEOC") (collectively, the "Stipulating Parties") through their respective counsel of record, hereby agree and stipulate to the following:

Upon a showing of good cause in support of the entry of a protective order to protect the discovery and dissemination of confidential information or information which will improperly annoy, embarrass, or oppress any party, witness, or person providing discovery in this case, IT IS ORDERED:

1. This Protective Order shall apply to all documents, materials, and information, including without limitation, documents produced, answers to interrogatories, responses to requests for admission, deposition testimony, and other information disclosed pursuant to the disclosure or discovery duties created by the Federal Rules of Civil Procedure.

2. As used in this Protective Order, "document" is defined as provided in Fed. R. Civ. P. 34(a). A draft or non-identical copy is a separate document within the meaning of this term.

3. Information designated "CONFIDENTIAL" shall be information that is confidential and implicates common law and statutory privacy interests, such as: (a) personnel records of current or former employees of Defendant; (b) Defendant's trade secrets or other confidential research, development, or commercial information within the meaning of Fed. R. Civ. P. 26(c)(7); and (c) medical, financial, or tax records of individual Claimants. CONFIDENTIAL information shall not be disclosed or used for any purpose except the preparation and trial of this case, however, neither party is prevented from the continued use of documents in the regular course and scope of its business that were already in its possession.

4. CONFIDENTIAL documents, materials, and/or information (collectively "CONFIDENTIAL information") shall not, without the consent of the party producing it or further Order of the Court, be disclosed *except that* such information may be disclosed to:

- (a) attorneys actively working on this case;
- (b) persons regularly employed or associated with the attorneys actively working on the case whose assistance is required by said attorneys in the preparation for trial, at trial, or at other proceedings in this case;
- (c) Plaintiff and Defendant;
- (d) expert witnesses and consultants retained in connection with this proceeding, to the extent such disclosure is necessary for preparation, trial or other proceedings in this case;

- (e) the Court and its employees ("Court Personnel");
- (f) stenographic reporters who are engaged in proceedings necessarily incident to the conduct of this action;
- (g) deponents;
- (h) witnesses, or potential witnesses, except that the EEOC will not share the personnel files of current and former Albertson's LLC's employees or financial records with other current or former Albertson's LLC's employees and will not share confidential management training materials with non-management employees; and
- (i) other persons by written agreement of the parties.

5. Prior to disclosing any CONFIDENTIAL information to any person listed above (other than counsel, persons employed by counsel, Court Personnel and stenographic reporters), counsel shall provide such person with a copy of this Protective Order and explain the person's obligations under the Protective Order. For all persons other than counsel, persons employed by counsel, Court Personnel, stenographic reporters, and deponents (other than claimants in this lawsuit), counsel shall obtain from such person a written acknowledgment of Confidentiality attached as Exhibit A to this Stipulation. All such acknowledgments shall be retained by counsel and shall be subject to *in camera* review by the Court if good cause for review is demonstrated by opposing counsel.

6. Documents are designated as CONFIDENTIAL by placing or affixing on them (in a manner that will not interfere with their legibility) the following or other appropriate notice: "CONFIDENTIAL."

7. Before any information is designated "CONFIDENTIAL," counsel of record for the designating party must first review the information and make a determination, in

good faith, that the documents and/or information are confidential or otherwise entitled to protection under Fed. R. Civ. P. 26(c).

8. Whenever a deposition involves the disclosure of CONFIDENTIAL information, the deposition or portions thereof shall be designated as CONFIDENTIAL and shall be subject to the provisions of this Protective Order. Such designation shall be made on the record during the deposition whenever possible, but a party may designate portions of depositions as CONFIDENTIAL after transcription, provided written notice of the designation is promptly given to all counsel of record within thirty (30) days after notice by the court reporter of the completion of the transcript.

9. A party may object to the designation of particular CONFIDENTIAL information by giving written notice to the party designating the disputed information. The written notice shall identify the information to which the objection is made. If the parties cannot resolve the objection within ten (10) business days after the time the notice is received, it shall be the obligation of the party designating the information as CONFIDENTIAL to file an appropriate motion requesting that the Court determine whether the disputed information should be subject to the terms of this Protective Order. If such a motion is timely filed, the disputed information shall be treated as CONFIDENTIAL under the terms of this Protective Order until the Court rules on the motion. If the designating party fails to file such a motion within the prescribed time, the disputed information shall lose its designation as CONFIDENTIAL and shall not thereafter be treated as CONFIDENTIAL in accordance with this Protective Order. In connection with a motion filed under this provision, the party designating the information as CONFIDENTIAL shall bear the burden of establishing that good cause exists for the disputed information to be treated as CONFIDENTIAL.

10. This Stipulated Protective Order shall not prohibit the use of CONFIDENTIAL material in depositions, pleadings or motions, or at trial, or in post trial motions or proceedings, provided that all such uses be related to the prosecution or defense of this case. Notwithstanding that CONFIDENTIAL documents may be used, this Stipulated Protective Order does not waive any right of any party to file a motion under D.C.COLO.LCivR 7.2 to seal all or a portion of papers and documents filed with the Court. In addition, the parties agree to comply with D.C.COLO.LCivR 7.3 regarding procedures for filing papers and documents under seal for any documents that are marked CONFIDENTIAL.

11. Within thirty days after receipt of written notice of the final disposition of the lawsuit, whether by judgment, exhaustion of all appeals, or by settlement, unless other arrangements are agreed upon, each document and all copies thereof which have been designated as CONFIDENTIAL shall be returned to the party that designated it CONFIDENTIAL, or the parties may elect to destroy CONFIDENTIAL documents, provided, however, that counsel for each party may retain copies of the CONFIDENTIAL documents for the sole purpose of maintaining a complete file, and all such retained documents will not be released, disclosed, or utilized except upon express permission of this Court after reasonable written notice to counsel for the party that produced the documents. Where the parties agree to destroy CONFIDENTIAL documents, the destroying party shall provide all parties with an affidavit confirming the destruction.

12. This Protective Order may be modified by the Court at any time for good cause shown following notice to all parties and an opportunity for them to be heard.

IT IS SO ORDERED

DATED June 25, 2007, at Denver, Colorado.

BY THE COURT:

s/ Boyd N. Boland  
United States Magistrate Judge

APPROVED AS TO FORM:

s/ [Signature]

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s/ Lawrence J. Gartner  
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Attorneys for Defendant

**EXHIBIT A**

**WRITTEN ACKNOWLEDGEMENT OF CONFIDENTIALITY**

I, \_\_\_\_\_, have read and fully understand the “Stipulation And Order Regarding The Use And Dissemination Of Confidential Information” produced by \_\_\_\_\_ in *EEOC v. Albertson's LLC*, Civil Action No. 06-CV-01273-WYD-BNB of the United States District Court, for the District of Colorado (the “Protective Order”). I agree to comply with and be bound by the Protective Order. I agree that I will not disclose any Confidential Information, as defined in the Protective Order, to any persons or in any manner not specifically authorized by the Protective Order, and I agree that I will not copy, use or disclose any Confidential Information except solely in connection with the case referenced above.

Signed: \_\_\_\_\_

117181.v4

THE HONORABLE ROBERT J. BRYAN

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

THOMAS E. PEREZ, SECRETARY OF )  
LABOR, UNITED STATES DEPARTMENT )  
OF LABOR, )

Plaintiff / Counterclaim Defendant, )

v. )

GUARDIAN ROOFING LLC, a Washington )  
limited liability company; MATTHEW )  
SWANSON, an individual; LORI )  
SWANSON, an individual; and AARON )  
SANTAS, an individual, )

Defendants / Counterclaim Plaintiff. )

Case No. 3:15-cv-05623-RJB

**STIPULATED  
PROTECTIVE ORDER**

**1. PURPOSES AND LIMITATIONS**

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection may be warranted. Specifically, the Secretary seeks the Court's protection of sensitive materials contained in the Wage and Hour Division's Field Operations Handbook ("FOH"), as directed by the Court's order issued on May 11, 2016. The Secretary's purpose in obtaining this protective order is to ensure confidential portions of the FOH disclosed in this litigation are reviewed only by Defendants' counsel of record in this action. Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The parties acknowledge that this agreement is consistent with LCR 26(c). It does not confer blanket protection on all disclosures or responses to discovery,

STIPULATED PROTECTIVE ORDER - 1  
No. 3:15-cv-05623-RJB

LANE POWELL PC  
1420 FIFTH AVENUE, SUITE 4200  
P.O. BOX 91302  
SEATTLE, WA 98111-9402  
206.223.7000 FAX: 206.223.7107

Exhibit H  
Page 34 of 42

1 the protection it affords from public disclosure and use extends only to the limited information  
2 or items that are entitled to confidential treatment under the applicable legal principles, and it  
3 does not presumptively entitle parties to file confidential information under seal.

4 **2. "CONFIDENTIAL ATTORNEYS' EYES ONLY MATERIAL"**

5 Subject to Section 6, *infra*, "Confidential Attorneys' Eyes Only" material shall only be  
6 reviewed by Defendants' counsel of record in this action. Items designated "Confidential  
7 Attorneys' Eyes Only" include highly sensitive information. The disclosure of such information  
8 beyond Defendants' counsel of record in the present action would create a substantial risk of  
9 harm. This category may include the following documents and tangible things produced or  
10 otherwise exchanged: Internal publications of the U.S. Department of Labor ("DOL")  
11 concerning the standards, practices, and techniques for conducting investigations of alleged  
12 violations of the Fair Labor Standards Act ("FLSA"), including but not limited to the FOH.

13 **3. SCOPE**

14 The protections conferred by this agreement cover not only confidential attorneys' eyes  
15 only material (as defined above), but also (1) any information copied or extracted from such  
16 material; (2) all copies, excerpts, summaries, or compilations of such material; and (3) any  
17 testimony, conversations, or presentations by parties or their counsel that might reveal such  
18 material. However, the protections conferred by this agreement do not cover information that  
19 is in the public domain or becomes part of the public domain through trial or otherwise.

20 **4. ACCESS TO AND USE OF CONFIDENTIAL ATTORNEYS' EYES ONLY**  
21 **MATERIAL**

22 4.1 Basic Principles. Defendants may use confidential attorneys' eyes only material  
23 that is disclosed or produced by the Secretary in connection with this case only for prosecuting,  
24 defending, or attempting to settle this litigation. Confidential attorneys' eyes only material may  
25 be disclosed only to the categories of persons and under the conditions described in this  
26 agreement. Confidential attorney's eyes only material must be stored and maintained by  
27

1 Defendants at a location and in a secure manner that ensures that access is limited to the  
2 persons authorized under this agreement.

3 4.2 Disclosure of "CONFIDENTIAL ATTORNEYS' EYES ONLY" Information or  
4 Items. Unless otherwise ordered by the court or permitted in writing by the designating party,  
5 confidential attorneys' eyes only material may be disclosed only to

6 (a) Defendants' counsel of record in this action, as well as employees of  
7 counsel to whom it is reasonably necessary to disclose the information for this litigation;

8 (b) experts and consultants to whom disclosure is reasonably necessary for  
9 this litigation and who have signed the "Acknowledgment and Agreement to Be Bound"  
10 (Exhibit A);

11 (c) the court, court personnel, and court reporters and their staff;

12 (d) copy or imaging services retained by counsel to assist in the duplication  
13 of confidential attorneys' eyes only material, provided that counsel for the party retaining the  
14 copy or imaging service instructs the service not to disclose any such material to third parties  
15 and to immediately return all originals and copies of any such material;

16 (e) during their depositions, witnesses employed (or formerly employed) by  
17 the Secretary. Pages of transcribed deposition testimony or exhibits to depositions that reveal  
18 confidential material must be separately bound by the court reporter and may not be disclosed  
19 to anyone except as permitted under this agreement;

20 (f) the author or recipient of a document containing the information or a  
21 custodian or other person who otherwise possessed or knew the information.

22 4.3 Filing Confidential Material. Before filing confidential attorneys' eyes only  
23 material or discussing or referencing such material in court filings, Defendants shall confer  
24 with the Secretary to determine whether the Secretary will remove the confidential attorneys'  
25 eyes only designation, whether the document can be redacted, or whether a motion to seal or  
26 stipulation and proposed order is warranted. Local Civil Rule 5(g) sets forth the procedures  
27

1 that must be followed and the standards that will be applied when a party seeks permission  
2 from the court to file material under seal.

3 **5. DESIGNATING PROTECTED MATERIAL**

4 5.1 Exercise of Restraint and Care in Designating Material for Protection. The  
5 Secretary will take care to limit any confidential attorneys' eyes only designation to specific  
6 material that qualifies under the appropriate standards. The Secretary will designate for  
7 protection only those parts of material, documents, items, or oral or written communications  
8 that qualify, so that other portions of the material, documents, items, or communications for  
9 which protection is not warranted are not swept unjustifiably within the ambit of this  
10 agreement.

11 Mass, indiscriminate, or routinized designations are prohibited. Designations that are  
12 shown to be clearly unjustified or that have been made for an improper purpose (*e.g.*, to  
13 unnecessarily encumber or delay the case development process or to impose unnecessary  
14 expenses and burdens on other parties) expose the designating party to sanctions.

15 If it comes to the Secretary's attention that information or items that he designated for  
16 protection do not qualify for protection, he must promptly notify all other parties that he is  
17 withdrawing the mistaken designation.

18 5.2 Manner and Timing of Designations. Except as otherwise provided in this  
19 agreement (*see, e.g.*, second paragraph of section 5.2(a) below), or as otherwise stipulated or  
20 ordered, disclosure or discovery material that qualifies for protection under this agreement must  
21 be clearly so designated before or when the material is disclosed or produced.

22 (a) Information in documentary form: (*e.g.*, paper or electronic documents  
23 and deposition exhibits, but excluding transcripts of depositions or other pretrial or trial  
24 proceedings), the Secretary must affix the word "CONFIDENTIAL ATTORNEYS' EYES  
25 ONLY" to each page that contains such confidential material. If only a portion or portions of  
26 the material on a page qualifies for protection, the Secretary also must clearly identify the  
27 protected portion(s) (*e.g.*, by making appropriate markings in the margins).

1 (b) Testimony given in deposition or in other pretrial or trial proceedings:  
2 the parties must identify on the record, during the deposition, hearing, or other proceeding, all  
3 protected testimony, without prejudice to their right to so designate other testimony after  
4 reviewing the transcript. Any party may, within fifteen days after receiving a deposition  
5 transcript, designate portions of the transcript, or exhibits thereto, as confidential attorneys'  
6 eyes only.

7 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to  
8 designate qualified information or items does not, standing alone, waive the Secretary's right to  
9 secure protection under this agreement for such material. Upon timely correction of a  
10 designation, Defendants must make reasonable efforts to ensure that the material is treated in  
11 accordance with the provisions of this agreement.

12 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

13 6.1 Timing of Challenges. Defendants may challenge the Secretary's designation of  
14 confidentiality at any time. Unless a prompt challenge to the Secretary's confidentiality  
15 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic  
16 burdens, or a significant disruption or delay of the litigation, Defendants do not waive their  
17 right to challenge a confidentiality designation by electing not to mount a challenge promptly  
18 after the original designation is disclosed. However, all such challenges must be made before  
19 the close of discovery.

20 6.2 Meet and Confer. The parties must make every attempt to resolve any dispute  
21 regarding confidential designations without court involvement. Any motion regarding  
22 confidential designations or for a protective order must include a certification, in the motion or  
23 in a declaration or affidavit, that the movant has engaged in a good faith meet and confer  
24 conference with other affected parties in an effort to resolve the dispute without court action.  
25 The certification must list the date, manner, and participants to the conference. A good faith  
26 effort to confer requires a face-to-face meeting or a telephone conference.

1           6.3    Judicial Intervention. If the parties cannot resolve a challenge without court  
2 intervention, the Secretary may file and serve a motion to retain confidentiality under Local  
3 Civil Rule 7 (and in compliance with Local Civil Rule 5(g), if applicable). The burden of  
4 persuasion in any such motion shall be on the Secretary. Frivolous challenges, and those made  
5 for an improper purpose (*e.g.*, to harass or impose unnecessary expenses and burdens on other  
6 parties) may expose Defendants to sanctions. All parties shall continue to maintain the material  
7 in question as confidential until the court rules on the challenge.

8    7.    PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN  
9    OTHER LITIGATION

10           If Defendants are served with a subpoena or a court order issued in other litigation that  
11 compels disclosure of any information or items designated in this action as "CONFIDENTIAL  
12 ATTORNEYS' EYES ONLY," they must:

13                   (a)    promptly notify the Secretary in writing and include a copy of the  
14 subpoena or court order;

15                   (b)    promptly notify in writing the party who caused the subpoena or order to  
16 issue in the other litigation that some or all of the material covered by the subpoena or order is  
17 subject to this agreement. Such notification shall include a copy of this agreement; and

18                   (c)    cooperate with respect to all reasonable procedures sought to be pursued  
19 by the Secretary.

20    8.    UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

21           If Defendants learn that, by inadvertence or otherwise, they have disclosed confidential  
22 material to any person or in any circumstance not authorized under this agreement, Defendants  
23 must immediately (a) notify in writing the Secretary of the unauthorized disclosures, (b)  
24 describe in full the circumstances that led to the unauthorized disclosure, (c) use their best  
25 efforts to retrieve all unauthorized copies of the protected material, (d) inform the person or  
26 persons to whom unauthorized disclosures were made of all the terms of this agreement, and (e)

1 request that such person or persons execute the "Acknowledgment and Agreement to Be  
2 Bound" that is attached hereto as Exhibit A.

3 **9. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**  
4 **PROTECTED MATERIAL**

5 In view of the large volume of documents and data to be produced, documents and data  
6 produced may include documents or data that could have been withheld in whole or in part  
7 upon the basis of an absolute or qualified privilege or some other protection from disclosure.  
8 Mere production of all or a part of a document or data shall not constitute a waiver of any  
9 privilege or protection as to any portion of that document or data, or as to any undisclosed  
10 privileged or protected communications or information concerning the same subject matter, in  
11 this or in any other proceeding.

12 If Defendants discover a document produced by the Secretary that is privileged or  
13 otherwise protected, the Defendants shall promptly notify the Secretary and return, sequester,  
14 delete, or destroy the document or data.

15 When the Secretary gives notice to Defendants that certain inadvertently produced  
16 material is subject to a claim of privilege or other protection, the obligations of Defendants are  
17 those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to  
18 modify whatever procedure may be established in an e-discovery order or agreement that  
19 provides for production without prior privilege review. Parties shall confer on an appropriate  
20 non-waiver order under Fed. R. Evid. 502.

21 **10. NON TERMINATION AND RETURN OF DOCUMENTS**

22 Within 60 days after the termination of this action, including all appeals, Defendants  
23 must return all confidential material to the Secretary, including all copies, extracts and  
24 summaries thereof. Alternatively, the parties may agree upon appropriate methods of  
25 destruction.

26 Notwithstanding this provision, counsel are entitled to retain one archival copy of all  
27 documents filed with the court, trial, deposition, and hearing transcripts, correspondence,

1 deposition and trial exhibits, expert reports, attorney work product, and consultant and expert  
2 work product, even if such materials contain confidential material.

3 The confidentiality obligations imposed by this agreement shall remain in effect until a  
4 designating party agrees otherwise in writing or a court orders otherwise.

5 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

6 U.S. DEPARTMENT OF LABOR

7  
8 DATED: May 23, 2016

By /s/ Brian J. Schmidt

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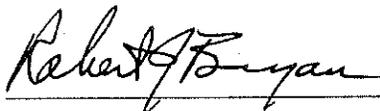
15  
16 DATED: May 19, 2016

By /s/ Charles P. Rullman

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Attorneys for Defendant

21  
22 PURSUANT TO STIPULATION, IT IS SO ORDERED.

23  
24 DATED this 24<sup>th</sup> day of May, 2016.

25  
26 

27 ROBERT J. BRYAN  
United States District Judge

STIPULATED PROTECTIVE ORDER - 8  
No. 3:15-cv-05623-RJB

128321.0001/6672342.1

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Exhibit H  
Page 41 of 42

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

1 I, \_\_\_\_\_ [print or type full name], of \_\_\_\_\_  
 2  
 3 [print or type full address], declare under penalty of perjury that I have read in its entirety and  
 4 understand the Stipulated Protective Order that was issued by the United States District Court  
 5 for the Western District of Washington on [date] in the case of *Perez v. Guardian Roofing LLC,*  
 6 *et al.*, Case No. 3:15-CV-05623-RJB. I agree to comply with and to be bound by all the terms  
 7 of this Stipulated Protective Order and I understand and acknowledge that failure to so comply  
 8 could expose me to sanctions and punishment in the nature of contempt. I solemnly promise  
 9 that I will not disclose in any manner any information or item that is subject to this Stipulated  
 10 Protective Order to any person or entity except in strict compliance with the provisions of this  
 11 Order.  
 12

13 I further agree to submit to the jurisdiction of the United States District Court for the  
 14 Western District of Washington for the purpose of enforcing the terms of this Stipulated  
 15 Protective Order, even if such enforcement proceedings occur after termination of this action.  
 16  
 17

18 Date: \_\_\_\_\_

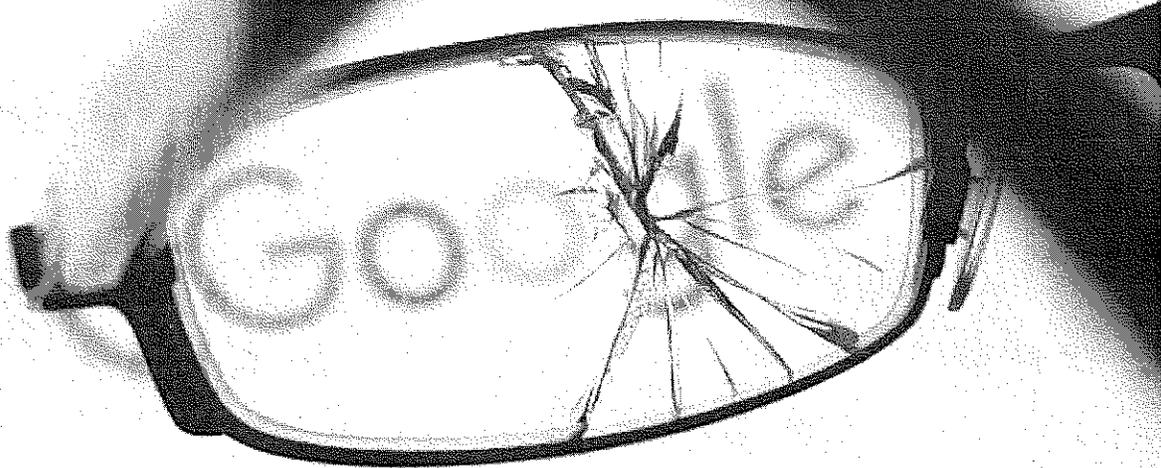
19 City and State where sworn and signed: \_\_\_\_\_

20 Printed name: \_\_\_\_\_

21 Signature: \_\_\_\_\_



theguardian



## Google accused of 'extreme' gender pay discrimination by US labor department

Allegations of possible employment violations emerge at court hearing as part of lawsuit to compel company, a federal contractor, to provide compensation data

**Sam Levin in San Francisco**

Friday 7 April 2017 18.48 EDT

Google has discriminated against its female employees, according to the US Department of Labor (DoL), which said it had evidence of “systemic compensation disparities”.

As part of an ongoing DoL investigation, the government has collected information that suggests the internet search giant is violating federal employment laws with its salaries for women, agency officials said.

“We found systemic compensation disparities against women pretty much across the entire workforce,” Janette Wipper, a DoL regional director, testified in court in San Francisco on Friday.

Reached for comment Friday afternoon, Janet Herold, regional solicitor for the DoL, said: "The investigation is not complete, but at this point the department has received compelling evidence of very significant discrimination against women in the most common positions at Google headquarters."

Herold added: "The government's analysis at this point indicates that discrimination against women in Google is quite extreme, even in this industry."

Google strongly denied the accusations of inequities, claiming it did not have a gender pay gap.

The explosive allegation against one of the largest and most powerful companies in Silicon Valley comes at a time when the male-dominated tech industry is facing increased scrutiny over gender discrimination, pay disparities and sexual harassment.

The allegations emerged at a hearing in federal court as part of a lawsuit the DoL filed against Google in January, seeking to compel the company to provide salary data and documents to the government.

Google is a federal contractor, which means it is required to allow the DoL to inspect and copy records and information about its compliance with equal opportunity laws. Last year, the department's office of federal contract compliance programs requested job and salary history for Google employees, along with names and contact information, as part of the compliance review.

Google, however, repeatedly refused to hand over the data, which was a violation of its contractual obligations with the federal government, according to the DoL's lawsuit. After the suit was originally filed, a company spokesperson claimed that Google had provided "hundreds of thousands of records" to the government and that the requests outlined in the complaint were "overbroad", revealed confidential information, or violated employees' privacy.

Labor officials detailed the government's discrimination claims against Google at the Friday hearing while making the case for why the company should be forced to comply with the DoL's requests for documents. Wipper said the department found pay disparities in a 2015 snapshot of salaries and said officials needed earlier compensation data to evaluate the root of the problem and needed to be able to confidentially interview employees.

"We want to understand what's causing the disparity," she said.

Lisa Barnett Sween, one of Google's attorneys, testified in opening remarks that the DoL's request constituted a "fishing expedition that has absolutely no relevance to the compliance review". She said the request was an unconstitutional violation of the company's fourth amendment right to protection from unreasonable searches.

Marc Pilotin, a DoL attorney, said: "For some reason or another, Google wants to hide the pay-related information."

In a statement to the Guardian, Google said: "We vehemently disagree with [Wipper's] claim. Every year, we do a comprehensive and robust analysis of pay across genders and we have found no gender pay gap. Other than making an unfounded statement which we heard for the first time in court, the DoL hasn't provided any data, or shared its methodology."

The company has recently claimed that it has closed its gender pay gap globally and provides equal pay across races in the US.

Herold told the Guardian that the department "seeks additional information to ensure the accuracy of the department's findings, because if the findings are confirmed, this is a troubling situation".

Google is not the first tech company to face legal action from the labor department over employment practices. In September, the DoL filed a lawsuit against Palantir, the Palo Alto data analytics company, alleging it systematically discriminated against Asian job applicants in its hiring process. Palantir has argued that the DoL's analysis was flawed and the company has denied the accusations.

In January, the department sued Oracle, another large tech company, claiming it paid white men more than others, leading to pay discrimination against women and black and Asian employees. Oracle claimed the case was "politically motivated" and said its employment decisions were based on merit and experience.

In recent months, there has been uncertainty about the future of these kinds of aggressive DoL enforcement efforts under Donald Trump. The president has rolled back Obama-era protections for female workers, and some DoL staffers have raised concerns that the new administration will not embrace the agency's core mission of supporting workers' rights. An Oracle executive also joined Trump's transition team, and the president's close adviser Peter Thiel co-founded Palantir.

In the Google case, the labor department's lawyers have asked the court to cancel all of the company's federal contracts and block any future business with the government if it continues to refuse to comply with the audit.

Google began releasing diversity statistics in 2014 and reported last year that women made up 31% of its overall workforce and that only 2% of workers were black and 3% Latino. White employees accounted for 59% of the US workforce and Asians made up 32%.

*Contact the author: [sam.levin@theguardian.com](mailto:sam.levin@theguardian.com)*

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**Google**

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