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Office of Administrative Law Judges
San Francisco, Ca

**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

**MOTION FOR SUMMARY
JUDGMENT OR, IN THE
ALTERNATIVE, TO STAY THE
PROCEEDINGS FOR FAILURE
TO CONCILIATE**

Defendant Oracle America, Inc. ("Oracle"), by and through its undersigned counsel and pursuant to 41 C.F.R. § 60-30.23 and 29 C.F.R. § 18.33, hereby requests that the Court grant summary judgment in its favor or, in the alternative, stay these proceedings and return this matter to conciliation. This Motion is based upon the accompanying Memorandum of Points and Authorities, the declarations of Shauna Holman-Harries and Gary R. Siniscalco filed herewith, all pleadings on file in this matter, and upon such other matters as may be presented to the court at the time of the hearing or otherwise.

The central dispute in the instant matter involves whether Plaintiff, the Office of Federal Contract Compliance Programs ("OFCCP"), satisfied its obligation to make "reasonable efforts" to conciliate its claims against Oracle prior to suing, as required under the governing regulations. See 41 C.F.R. § 60-1.20(b). Conciliation is an essential precursor to the filing of an administrative enforcement action such as the one now at issue. Oracle repeatedly sought an explanation of OFCCP's findings and attempted to engage OFCCP in meaningful conciliation prior to the present action. In response, OFCCP continually withheld vital information concerning its analysis and refused to make any concrete demands for relief, thereby forestalling any genuine conciliation efforts. The undisputed facts make clear that OFCCP refused to satisfy its mandate under 41 C.F.R. § 60-1.20(b). OFCCP's bad faith and politically-motivated tactics

MOT. FOR SUMM. J. OR TO STAY FOR
FAILURE TO CONCILIATE
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in this case fail to satisfy the “reasonable efforts” standard, even under the most generous of interpretations.

Accordingly, Oracle respectfully requests the Court to enter an Order granting its Motion for Summary Judgment. In the alternative, Oracle requests that this Court exercise its discretion in this matter to stay the proceedings and order the OFCCP to undertake the mandated efforts to obtain voluntary compliance.

Dated: April 21, 2017

Respectfully submitted,

GARY R. SINISCALCO
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