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Office of Administrative Law Judges
San Francisco, Ca

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Delivery by Hand

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Re: OFCCP v. Oracle America Inc.; Case No. 2017-OFC-00006
OFCCP's Motion for Reassignment

Dear Chief Judge Gee:

On Friday, October 12, 2018, Plaintiff OFCCP filed with Your Honor a motion to reassign the above-captioned matter to a different ALJ. Defendant Oracle America, Inc. writes this letter to inform this Court that Oracle intends to respond to Plaintiff's motion to reassign and will do so within 14 days of OFCCP's motion, as permitted under 29 CFR § 18.33(d)—i.e., on or before Friday, October 26.

As OFCCP explained in its memorandum in support of its motion to reassign, “[t]he Supreme Court’s decision in *Lucia [v. SEC]*, 138 S. Ct. 2044 (2018),] obliges the Court” to remove the matter from Judge Larsen, who is currently presiding and who “has adjudicated proceedings in this case, including potentially dispositive motions, without having been constitutionally appointed.” Pl.’s Mem. at 2-3. Oracle agrees with OFCCP that Judge Larsen cannot continue to preside over this case.

OFCCP requests that, upon Judge Larsen’s removal, the case be “reassigned to a different properly appointed ALJ.” *Id.* at 1 (emphasis added); accord *id.* at 2. Oracle is concerned that, for a variety of reasons—including defects with the Secretary’s ratification, selection-based constraints on the appointment of previously serving ALJs, and limitations on the authority to terminate ALJs who are inferior “officers” of the United States—there are, in fact, no “properly appointed” ALJs within the Department of Labor to whom this matter can be reassigned.

Accordingly, Oracle will file its response in partial opposition to OFCCP’s motion on the normal motion timeline, and respectfully requests that this Court postpone a ruling on OFCCP’s motion until it reviews Oracle’s response.

Very truly yours,

Erin Connell

cc: Administrative Law Judge Christopher Larsen
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