

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. Following its meet and confer conversations with OFCCP, Oracle maintains its objections 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, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case.

During its June 5, 2017 meet and confer with Oracle, OFCCP clarified that this request is intended to obtain training or instruction that was relevant to the PT1 job group or Product Development.

Subject to and without waiving these objections, Oracle responds:

In light of this clarification, 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 ALJ Relevant Period

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. Following its meet and confer conversations with OFCCP, Oracle maintains its objections to this request on the grounds that it is vague and ambiguous, including but not limited to the phrases “eligibility requirements” and “any employment benefits.” 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. Due to OFCCP’s lack of limitation or clarification to this request, Oracle maintains its objections to this request on the grounds that it is vague and ambiguous. 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 that relates to and invades the privacy rights of individuals who are not a party to this action.

As explained in separate meet and confer correspondence, Oracle objects to this request

based on the California Constitution, which provides protection for individual privacy and an obligation for employers to protect the privacy interests of its employees and former employees. This right to privacy extends to employees' privacy in their home addresses and other contact information. *See Planned Parenthood Golden Gate v. Superior Court*, 83 Cal. App. 4th 347, 359 (Cal. Ct. App. 2000). Under California law, third parties who have entrusted Oracle with their private contact information have a right to expect Oracle "to resist attempts at unauthorized disclosure" and the affected employees are entitled to expect that their "right[s] will be thus asserted." *Craig v. Municipal Court*, 100 Cal. App. 3d 69, 77 (Cal. Ct. App. 1979); *see also Bd. of Trustees v. Superior Court*, 119 Cal. App. 3d 516, 526 (Cal. Ct. App. 1981) ("[T]he custodian of such private information may not waive the privacy rights of persons who are constitutionally guaranteed their protection."). OFCCP's contention that the implementation of a protective order moots Oracle's objections is a conflation of two separate concerns; the protective order protects confidential information from getting into the hands of third parties to this litigation, but this does nothing to address Oracle's objection to providing the government, a party to this litigation, with employee contact information.

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. Following its meet and confer conversations with OFCCP, Oracle maintains its objections 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.

During the meet and confer process, Oracle explained that, to the extent it understands this request as written, it does not believe that it has responsive documents. In separate correspondence, Oracle represented that the only statistical analysis that Oracle has relied upon to date in denying the allegation of the Amended Complaint is the OFCCP's analysis that it attached to its Notice of Violation. Nevertheless, Oracle requested that OFCCP provide a clarified or modified request in writing that Oracle could understand. To date, OFCCP has not provided such a request.

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.

RESPONSE TO REQUEST FOR PRODUCTION NO. 85:

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Following its meet and confer conversations with OFCCP, Oracle maintains its objections 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.

During its meet and confer with OFCCP on June 6, 2017, Oracle explained its objections and requested that OFCCP clarify and explain this request. Following OFCCP's explanation, Oracle requested that OFCCP provide a clarified or modified request in writing. OFCCP has yet to provide a clarified or modified request.

REQUEST FOR PRODUCTION NO. 86:

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

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. Following its meet and confer conversations with OFCCP, Oracle maintains its objections 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 that relates to and invades the privacy rights of individuals who are not a party to this action. During its meet and confer with OFCCP on June 1, 2017, Oracle explained its objections and requested that OFCCP clarify and explain this request. Following OFCCP's explanation, Oracle requested that OFCCP provide a clarified or modified request in writing. OFCCP has yet to provide a clarified or modified request.

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. During the meet and confer process, Oracle requested that OFCCP clarify the specific tests or

selection procedures relevant to OFCCP's hiring claims on which Oracle would have conducted validity studies. OFCCP declined to specify and instead reiterated that this request is for any validity study that was conducted in relation to the hiring process. Due to OFCCP's lack of limitation or clarification, Oracle maintains its objections to this request on the grounds that it is vague and ambiguous, including but not limited to the phrases "validity studies or evaluations" and "any step or component." 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.

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. During the meet and confer process, Oracle requested that OFCCP clarify the specific tests or selection procedures relevant to OFCCP's compensation claims on which Oracle would have conducted validity studies. OFCCP declined to specify and instead reiterated that this request is for any validity study that was conducted in relation to the compensation process. Due to OFCCP's lack of limitation or clarification, Oracle maintains its objections to this request on the grounds that it is vague and ambiguous, including but not limited to the phrases "validity studies or evaluations" and "any step or component." 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.

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. Following its meet and confer conversations with OFCCP, Oracle maintains its objections 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.

As discussed in separate meet and confer correspondence with OFCCP, Oracle’s objections arise from OFCCP’s demand for not only all documents Oracle relied upon, but “all documents YOU . . . reviewed” when drafting its answer. As written, this request extends to attorney mental impressions and even non-relevant documents by encompassing any and all documents that Oracle’s counsel may have reviewed but which were not ultimately relied upon or referenced in Oracle’s answer. Despite Oracle’s request for relevant authority, OFCCP has yet to identify any case or situation where a request for all documents that a party reviewed in drafting its answer was deemed permissible under Rule 34, and OFCCP has yet to modify or limit this request in any way

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. Following its meet and confer conversations with OFCCP, Oracle maintains its objections 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.

Subject to and without waiving these objections, Oracle responds:

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. 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. Following its meet and confer conversations with OFCCP, Oracle maintains its objections 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.

Subject to and without waiving these objections, Oracle responds:

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. 92:

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

RESPONSE TO REQUEST FOR PRODUCTION NO. 92:

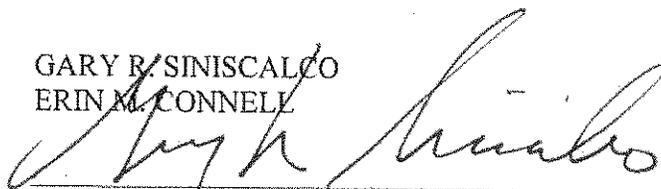
Oracle incorporates by reference its Objections to Specific Definitions set forth above. Following its meet and confer conversations with OFCCP, Oracle maintains its objections to this request on the grounds that it is premature. Oracle further objects to this request to the extent it seeks the mental 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:

Oracle will timely produce responsive documents in accordance with the schedule set by the Administrative Law Judge.

July 12, 2017

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