

PC
12/5/19
MB



April 12, 2019

RECEIVED

Orrick, Herrington & Sutcliffe LLP

The Orrick Building
405 Howard Street
San Francisco, CA 94105-2669
+1 415 773 5700
orrick.com

Delivery by Hand

APR 12 2019

Judge Richard M. Clark
U.S. Department of Labor
Office of Administrative Law Judges
90 Seventh Street, Suite 4-800
San Francisco, CA 94103-1516

Administrative Law Judges
San Francisco, Ca

Erin Connell

E econnell@orrick.com
D (415) 773-5969
F +1 415 773 5759

Re: OFCCP v. Oracle America, Inc.; 2017-OFC-00006

Dear Judge Clark:

Oracle America, Inc. ("Oracle") respectfully submits this letter to provide Notice that Oracle will file a motion to seal a narrow portion of Plaintiff's Motion to Compel Historical Data of Comparator Employees ("Motion"), within ten business of the April 10, 2019 filing, pursuant to §12.3 of the May 26, 2017 Protective Order ("2017 Order"), as affirmed and amended by your March 22, 2019 Order Addressing Protective Order and Order Modifying Pre-Hearing Order ("2019 Order"). Additionally, Oracle submits this letter to lodge an objection to the disclosure of Plaintiff's Motion pursuant to the 2019 Order.

The discrete portion of the Motion to which Oracle objects to the public disclosure thereof, and to which Oracle will move to seal, comprises less than twenty words in one paragraph found in Exhibit 6 at page 13 (Mantoan letter to Bremmer, p.4), which quotes from information provided to Plaintiffs in the data production which was produced with a confidential designation. § 12.3 of the 2017 Order, affirmed by your 2019 Order, dictates that the designating party can move to seal confidentially-designated information by written motion submitted within ten business days of the filing of such information, which Oracle will do. The 2019 Order does not modify this section of the 2017 Order but adds that a party seeking to seal any portion of a filing must provide notice and/or lodge an objection to the disclosure of the filing within four business days of the filing, which Oracle now does through this letter.

The relevant information divulges the initial salary offer amounts for two class members along with the reasoning for those initial salary offers. As such, the information falls under the Freedom of Information Act ("FOIA") Exemption 4: "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." 5 U.S.C.A. § 552 (West). Additionally, the relevant information divulges confidential salary range information which falls under the FOIA Exemption 6: "trade secrets and commercial or financial information obtained from a person and privileged or confidential," 5 U.S.C.A. § 552 (West), because disclosure would create a substantial risk of the "use of proprietary information by [Oracle's] competitors" to cause Oracle competitive harm. *Watkins v. U.S. Bureau of Customs & Border Prot.*, 643 F.3d 1189, 1195 (9th Cir. 2011).



Judge Richard M. Clark
April 11, 2019
Page 2

Respectfully submitted,


Erin M. Connell

cc: Laura C. Bremer (*via email*)
Norman E. Garcia (*via email*)
Jeremiah Miller (*via email*)
Mark Pilotin (*via email*)