

UNITED STATES DEPARTMENT OF LABOR  
OFFICE OF ADMINISTRATIVE LAW JUDGES

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by 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 GARY R.  
SINISCALCO IN SUPPORT OF  
DEFENDANT'S OPPOSITION TO  
OFCCP'S MOTION FOR  
PARTIAL SUMMARY  
JUDGMENT**

I, GARY R. SINISCALCO, hereby declare as follows:

1. I am an attorney admitted to practice in the State of California. I am a senior counsel at Orrick, Herrington & Sutcliffe LLP ("Orrick"), and counsel to Oracle America, Inc. ("Oracle") in the above matter. I make this declaration in support of Defendant's Opposition to OFCCP's Motion for Partial Summary Judgment. 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. I attended Oracle's conciliation meeting with OFCCP, and there was never any assertion by anyone from OFCCP that they had made a finding of channeling or assignment discrimination. And there was no discussion of the other new claims added to OFCCP's Second Amended Complaint, including: (1) a claim that Oracle discriminated against female, Asian, and Black employees by relying on their prior salaries; (2) claims arising outside the audit period; (3) a claim that Oracle discriminated against Asian female employees in assessing total compensation; and (4) a claim alleging violations regarding Oracle's Affirmative Action Plan.

3. Throughout the conciliation process, OFCCP adamantly refused to produce its "regression analysis" – the statistical analysis upon which OFCCP's entire complaint is based – making it impossible for Oracle to evaluate the legitimacy of OFCCP's purported conclusions

and respond accordingly.

4. During the duration of the brief conciliation process, OFCCP never made specific demands of Oracle or identified conditions to resolve issues alleged in the NOV. All OFCCP presented in the conciliation was a range of dollar amounts that may be sufficient to settle once agreed upon. Indeed, when pressed by Oracle, OFCCP expressly declined offering specifics regarding any programmatic or policy changes. Accordingly, Oracle never even had the opportunity to reject any of OFCCP's conditions or demands because the conciliation never progressed to that point. Furthermore, Oracle never refused to respond to any request from OFCCP.

5. On April 18, 2019, Oracle served deposition notices to the following individuals: Hea Jung Atkins, Robert Lajeunesse, Jane Suhr, Milton Crossland, Hoan Luong, and Brian Mikel. These notices are currently pending. Each of these individuals either played an active role in the audit and/or conciliation of Oracle. For example, Jane Suhr was at the conciliation meeting and signed a declaration in opposition to Oracle's 2017 motion for summary judgment on the same conciliation issue.

I declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct.

Executed in San Francisco, California on April 30, 2019.



Gary R. Siniscalco