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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

**DECLARATION OF JONATHAN  
RIDDELL IN SUPPORT OF  
DEFENDANT ORACLE  
AMERICA INC.'S OPPOSITION  
TO PLAINTIFF'S MOTION TO  
COMPEL DEPOSITION OF  
ORACLE AMERICA, INC.  
PURSUANT TO 41 C.F.R. § 60-  
30.11 AND FEDERAL RULE OF  
CIVIL PROCEDURE 30(b)(6)**

I, Jonathan Riddell, declare:

1. I am an attorney, duly admitted to practice in the State of California, at the law firm of Orrick, Herrington & Sutcliffe LLP, attorneys of record for Defendant Oracle America, Inc. ("Oracle"). I make this declaration in support of Oracle's Opposition to Plaintiff's Motion to Compel Deposition of Oracle America, Inc. Pursuant to 41 C.F.R. § 60-3.11 and Federal Rule of Civil Procedure 30(b)(6). I have personal knowledge of the facts set forth herein, except where stated on information and belief. If called as a witness, I could competently testify to the facts set forth below. I am familiar with the proceedings, correspondence, and history of discovery in this case based on my knowledge and experience as Oracle's counsel in this matter.

2. Orrick, Herrington & Sutcliffe LLP is also counsel of record for Oracle in *Rong Jewett v. Oracle Corporation*, San Mateo Superior Court Case No. 17CIV02669 (filed June 16, 2017) (“*Jewett* case”). I am also familiar with the correspondence, motion practice, and discovery history of that case.

3. OFCCP has propounded over 230 requests for production, 45 requests for admission, and 19 interrogatories in this action. Attached hereto as **Exhibit A** is a true and correct copy of OFCCP’s Fifth Set of Requests for the Production of Documents to Oracle America, Inc. OFCCP’s Request for Production number 166 contains OFCCP’s request for transcripts from the *Jewett* case.

4. Following negotiations between Oracle and OFCCP’s counsel, Oracle agreed to produce deposition transcripts and exhibits for four person most knowledgeable (“PMK”) witnesses in the *Jewett* case. Oracle’s agreement to produce the *Jewett* PMK transcripts was based upon OFFCP’s commitment to review the transcripts and to narrow its 30(b)(6) topics so as to avoid duplicating subject matter covered in the produced *Jewett* testimony. Attached hereto as **Exhibit B** is a true and correct copy of email correspondence between Erin Connell, counsel for Oracle, and Norman Garcia, counsel for OFCCP, dated February 20, 2019 to February 22, 2019. Attached hereto as **Exhibit C** is a true and correct copy of email correspondence between Norman Garcia, counsel for OFCCP, and Erin Connell and John Giansello, counsel for Oracle, dated March 15, 2019 to April 2, 2019.

5. In an email dated February 21, attached as part of Exhibit B, Mr. Garcia stated that “[OFCCP’s] request for [*Jewett*] depositions would also render discovery in this action more efficient, as it may eliminate the need for us to duplicate depositions.” Ms. Connell responded that Oracle “also recognize[d] there may be some efficiencies to be gained for both sides by stipulating that PMK depo testimony there can apply here, so we don’t have to repeat depositions on the same topics.” In his March 26 email attached as part of Exhibit C, Mr. Garcia repeated OFCCP’s position: “As stated previously, after [OFCCP] review[s] [the transcripts], we may

determine that it is unnecessary to depose some of the witnesses, or may choose to limit our questioning. Thus, providing the depositions will likely lead to efficiencies for both parties.”

6. On April 2, 2019, Mr. Giansello informed Mr. Garcia that Oracle would produce the *Jewett* PMK deposition transcripts and exhibits by April 5, 2019, and Mr. Garcia acknowledged the production would occur on that date. Oracle then produced the *Jewett* PMK transcripts on April 5, 2019 as promised. Attached hereto as **Exhibit D** is a true and correct copy of the April 5, 2019 Letter from John Giansello, counsel for Oracle, to Norman Garcia, counsel for OFCCP, that accompanied Oracle’s production of the unredacted transcripts and exhibits from the depositions of Oracle’s four PMK deponents in the *Jewett* case.

7. Despite committing to review the *Jewett* PMK transcripts in order to tailor its 30(b)(6) depositions to avoid redundant subjects, OFCCP instead served its 30(b)(6) deposition notice on April 5, 2019, hours before even receiving the *Jewett* transcripts. OFCCP’s Amended Deposition Notice is attached to the Declaration of Jeremiah Miller in support of OFCCP’s Motion as Exhibit D.

8. Oracle responded to OFCCP’s Notice on April 10, 2019, raising objections to OFCCP’s topics, agreeing to produce a witness as to some topics, and seeking to meet and confer on others. Oracle’s Objections to OFCCP’s Amended Deposition Notice is also attached to the Miller Declaration as Exhibit E.

9. I met and conferred with counsel for OFCCP on April 18, 2019 regarding Oracle’s Objections to OFCCP’s 30(b)(6) Amended Deposition Notice. When the Parties were unable to discuss all of OFCCP’s topics within the time allotted for the call, I agreed to continue the Parties’ meet and confer the next day at OFCCP’s request.

10. During the Parties’ April 18 and 19 meet and confer, I reminded counsel for OFCCP of its commitment to review the *Jewett* testimony to narrow the scope of the 30(b)(6) notice. Charles Song and Jessica Flores, counsel for OFCCP, responded that OFCCP would have undertaken a review to narrow the topics if only it had received the *Jewett* deposition

transcripts before serving its 30(b)(6) notice. While OFCCP knew and confirmed its understanding that the transcripts were being produced on April 5, it chose not to wait to review the transcripts per its commitment. Mr. Song and Ms. Flores also stated that OFCCP had not yet completed its review of the *Jewett* PMK transcripts, and that, in any case, it was unlikely OFCCP would narrow its topics. Counsel for OFCCP instead communicated OFCCP's demand that Oracle prepare corporate witnesses for all of the noticed topics, including those already covered in the *Jewett* PMK testimony.

11. Later on April 19, I received a letter from Mr. Song purporting to memorialize the Parties' discussions. Attached hereto as **Exhibit E** is a true and correct copy of the April 19, 2019 Letter from Charles Song, counsel for OFCCP, to J.R. Riddell, counsel for Oracle. Mr. Song's April 19 letter omitted and misrepresented many of Oracle's statements and positions and inaccurately stated that Oracle had "refused" to produce a witness on a number of topics (including topics 11, 12, and 30). In Mr. Song's April 19 Letter, he further stated that OFCCP would not narrow its 30(b)(6) topics, despite again acknowledging that it had not even finished reviewing the *Jewett* PMK transcripts that were produced two weeks earlier.

12. On April 22, I sent Mr. Song a letter correcting the factual inaccuracies in his April 19 letter. Attached hereto as **Exhibit F** is the April 22, 2019 Letter from J.R. Riddell, counsel for Oracle, to Charles Song, counsel for OFCCP. As I explained in my April 22 Letter, Oracle did *not* refuse to produce a witness on topics 11, 12, or 30. To the contrary, I informed counsel for OFCCP during the meet and confer that Oracle would produce a witness—likely Kate Waggoner, Oracle's Senior Director of Compensation—as to portions of each of the compensation topics. However, I also made clear that Oracle wanted OFCCP—consistent with its agreement—to narrow the scope of its topics so that Oracle's witnesses would not have to not testify on duplicative subject matter.

13. Specifically, with respect to topic 11, I informed counsel for OFCCP that Oracle agreed that, at a minimum, subtopics 11(e) and (f) contained new areas of discovery and that Oracle would produce a witness to testify to those and other issues agreed upon by the Parties during meet and confer.

14. With respect to topic 12, I explained that Oracle does not “assign” workers to particular products. As a result, there are no policies, practices, or procedures regarding the “assigning of workers . . .” to particular jobs or products as the topic purports to include. However, because topic 12 also refers to compensation, I stated that Oracle would produce a witness to testify to the compensation-related portions of the topic (subject to the Parties’ discussions about narrowing). In fact, Oracle also made that statement in its initial responses and objections to OFCCP’s 30(b)(6) Notice.

15. With respect to topic 30, I explained that Oracle was not refusing to produce a witness but wanted OFCCP to clarify what more it still needed considering Oracle had produced three *Jewett* transcripts from three different witnesses exhaustively testifying about the same subject matter.

16. During the Parties’ April 18 and 19 meet and confer and subsequent correspondence, I also requested that OFCCP consider combining the 30(b)(6) and individual depositions of witnesses into a single day or consecutive days where the same witness was set to testify to both. I repeated that request in my April 22 Letter. In particular, I requested that OFCCP combine the individual and 30(b)(6) depositions of Kate Waggoner in order to reduce the burden on her and avoid the necessity of requiring her to travel to California.

17. On April 22, 2019, I received an email from Jeremiah Miller, counsel for OFCCP, in which he apparently misread my April 22 Letter as indicating that Oracle was not planning to produce Ms. Waggoner for her upcoming individual deposition, even though my letter made no such claim. Attached hereto as **Exhibit G** is a true and correct copy of email correspondence

between Jeremiah Miller, counsel for OFCCP, and J.R. Riddell, counsel for Oracle, dated April 22, 2019.

18. My colleague, Erin Connell, responded to Mr. Miller the next day, explaining that Oracle had not called off the deposition and reiterating Oracle's request that OFCCP limit its topics as agreed and combine depositions. Despite OFCCP's insistence that it wants to seek efficiencies in its discovery, Laura Bremer, counsel for OFCCP, sent an email to Ms. Connell on April 26 informing her that OFCCP was refusing Oracle's request to combine the depositions of Kate Waggoner. Attached hereto as **Exhibit H** is a true and correct copy of email correspondence between Laura Bremer and Jeremiah Miller, counsel for OFCCP, and Erin Connell, counsel for Oracle, dated April 23, 2019 to April 26, 2019. OFCCP deposed Ms. Waggoner in her individual capacity only in Denver, Colorado on May 1, 2019.

19. After receiving Oracle's April 22 letter, OFCCP waited 10 days, until May 2, 2019, to send a letter informing Oracle that OFCCP had completed its review of the *Jewett* PMK transcripts and still would not agree to limit its 30(b)(6) topics in any way. Attached hereto as **Exhibit I** is a true and correct copy of the May 2, 2019 Letter from M.J. Christopher Santos, counsel for OFCCP, to Erin Connell and J.R. Riddell, counsel for Oracle. Mr. Santos's May 2 Letter also failed to address a number of other points and concerns raised in my April 22 Letter, including those on pages 2-4 regarding OFCCP's commitments as to the *Jewett* PMK transcripts.

20. On May 8, 2019, I sent a letter to counsel for OFCCP responding to Mr. Santos's May 2 Letter as well as a separate letter sent to me by Mr. Song on May 6. In my May 8 Letter, I again raised OFCCP's failure to provide an explanation for its change in course and specifically requested that OFCCP evaluate the *Jewett* PMK testimony and identify areas beyond that testimony where it desired further clarification or elaboration on compensation topics 11, 12, and 30. Attached hereto as **Exhibit J** is a true and correct copy of the May 8, 2019 Letter from J.R. Riddell, counsel for Oracle, to Charles Song, counsel for OFCCP. I also requested that OFCCP respond regarding its availability on May 10 or May 13, 2019 for further meet and confer.

21. On May 9, Mr. Song proposed that the Parties meet and confer on the morning of May 10. By that time, I was no longer available to meet and confer on May 10 due in part to Oracle's final push to produce documents ahead of the May 13, 2019 document production deadline (between May 9 and 13, 2019, Oracle produced 15,518 documents, totaling 167,103 pages, to OFCCP). Later on May 9, I responded to Mr. Song to advise him regarding my availability and proposed that the Parties meet and confer on May 13 instead.

22. On May 10, I received a letter from Mr. Song responding to my May 8 Letter as to certain issues. However, Mr. Song's letter did not discuss Oracle's request with respect to the *Jewett* PMK transcripts. Instead, Mr. Song stated that "the remaining issues raised in your letter will be addressed at our meet and confer on May 13, 2019," while simultaneously falsely accusing Oracle of failing to comply with its obligations and threatening to "proceed with [OFCCP's] motion to compel 30(b)(6) testimony." Attached hereto as **Exhibit K** is a true and correct copy of the May 10, 2019 Letter from Charles Song, counsel for OFCCP, to J.R. Riddell, counsel for Oracle. I understood Mr. Song's letter to mean that while OFCCP contemplated moving to compel, meet and confer discussions regarding narrowing of 30(b)(6) topics would continue on May 13.

23. As is clear from the Parties' May 8 and May 10, 2019 correspondence, the Parties had not concluded their meet and confer with respect to several of the topics at issue in OFCCP's Motion, including Oracle's request that OFCCP abide by its commitment to narrow its 30(b)(6) topics in light of Oracle's production of the *Jewett* transcripts.

24. OFCCP filed its Motion to Compel on May 10, the same day that Mr. Song indicated the Parties would continue their meet and confer discussions on May 13.

25. Throughout the meet and confer process, Oracle has attempted in good faith to narrow the scope of depositions in order to reduce the burden on its witnesses and the cost to the Parties. Oracle has also raised legitimate objections to the topics proposed by OFCCP, while attempting to seek a compromise position. However, OFCCP has steadfastly refused to offer any

compromise on any of the topics raised in its Motion. OFCCP has never provided an explanation regarding why it decided to renege on its commitment to narrow topics based on the *Jewett* PMK transcripts or why it was willing to evaluate narrowing its topics before serving its notice, but not as part of meet and confer discussions.

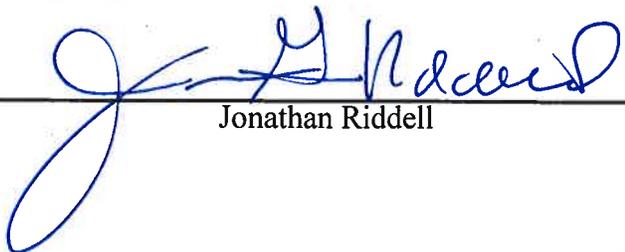
26. OFCCP now has the benefit of three depositions for Ms. Waggoner relating to compensation issues – two transcripts from the *Jewett* case, as well as OFCCP’s own deposition on May 1, 2019. Additionally, OFCCP previously questioned Ms. Waggoner as part of a 30(b)(6) interview, which OFCCP elected to take in lieu of a transcribed deposition. All three depositions and the interview covered compensation-related topics. Moreover, OFCCP also received transcripts for the depositions of Kris Edwards and Chad Kidder that provide testimony regarding compensation. Despite Oracle’s repeated requests, OFCCP has offered no explanation as to why it needs to depose any witness on topics for which it already has testimony.

27. Oracle also previously produced a witness, Lisa Ripley, to testify broadly as to Oracle’s high-level document and electronic recordkeeping policies. OFCCP elected to conduct a 30(b)(6) interview of Ms. Ripley, rather than a deposition. Oracle did not produce Ms. Ripley to testify as to recordkeeping specific to Oracle’s Affirmative Action Program.

28. Attached hereto as **Exhibit L** is a true and correct copy of the March 6, 2019 Letter from Laura Bremer, counsel for OFCCP, to Kathryn Mantoan, counsel for Oracle. Page 3 of the letter reflects the agreement between Oracle and OFCCP to establish January 18, 2019 as the cut-off date for document and data discovery.

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

Executed on May 24, 2019, at Sacramento, California.

  
Jonathan Riddell

# **EXHIBIT A**

**UNITED STATES DEPARTMENT OF LABOR  
OFFICE OF ADMINISTRATIVE LAW JUDGES**

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OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS, UNITED STATES DEPARTMENT OF LABOR,	:	
	:	
Plaintiff,	:	OALJ Case No. 2017-OFC-00006
	:	
v.	:	OFCCP No. R00192699
	:	
ORACLE AMERICA, INC.	:	
	:	
Defendant.	:	
	:	
	:	

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**OFCCP’S FIFTH SET OF REQUESTS FOR THE PRODUCTION OF DOCUMENTS TO ORACLE AMERICA, INC.**

Plaintiff, the Office of Federal Contract Compliance Programs, United States Department of Labor (“OFCCP”), under 41 C.F.R. § 60-30.10, requests that Defendant, Oracle America, Inc. (“Oracle”), produce at the Office of the Solicitor, U.S. Department of Labor, 90 7th Street, Suite 3-700, San Francisco, California 94103, within 25 days after these requests are served, the documents requested below that are in Oracle’s possession, custody, or control, or in the possession, custody, or control of any of its agents, representatives, attorneys, consultants, successors, subsidiaries, or divisions.

**DEFINITIONS**

1. “YOU” AND “YOUR” mean Oracle America, Inc. AND all of its agents, representatives, attorneys, accountants, consultants, successors, subsidiaries, OR divisions.

2. “RELEVANT TIME PERIOD” means **January 1, 2013, to the present** unless otherwise stated.

3. “ANALYSES” means any AND all draft AND final narratives, summaries, chronologies, determination memorandums, statistical summaries, charts, matrices, spreadsheets, audits, evaluations, studies, methodologies, models, actual computations, AND regression AND other statistical analysis.

4. “AND” AND “OR” shall be construed conjunctively OR disjunctively as necessary to make the request inclusive rather than exclusive.

5. “APPLICANT” means any person who YOU received expressions of interest, solicited, recruited, communicated with, screened, interviewed, evaluated, determined starting salary AND other COMPENSATION for, OR extended offers to, persons who expressed interest in a job at Oracle.

6. “ASSIGNED” means responsible, designated, appointed, worked on, performed work.

7. “CAP-GAP EXTENSION” means a temporary extension of employment authorization under provisions allowing relief for holders of F-1 US VISAs who are seeking H1-B US VISAs.

8. “COLLEGE RECRUIT” means any person who expresses interest OR applies to YOU through YOUR college recruiting program (including undergraduate students, graduate students, AND recent graduates) for positions in the Professional Technical I, Individual Contributor Job Group, including product development positions.

9. “COMMUNICATIONS” means all transactions OR transfers of information of any kind, whether orally, in writing, OR in any other manner, at any time

OR place, under any circumstances whatsoever.

10. “COMPA-RATIO” means the ratio of the employee’s base salary to the midpoint of their job’s salary range multiplied by 100.

11. “COMPENSATION” means any payments made to, OR on behalf of, YOUR employee as remuneration for employment, including but not limited to salary, wages, money for relocation, overtime pay, shift differentials, commissions, bonuses, vacation AND holiday pay, retirement AND other benefits, stock options AND awards, AND profit sharing.

12. “DOCUMENT” means all writings of any kind, including any written, printed, typed, electronically stored, OR other graphic matter of any kind OR nature AND all mechanical OR electronic sound recordings OR transcripts thereof, in YOUR possession OR control OR known by YOU to exist, AND also means all copies of DOCUMENTS by whatever means made, including, but not limited to: papers, letters, correspondence, emails, text messages, presentations, manuals, computerized files, computerized spreadsheets, telegrams, interoffice communications, memoranda, notes, notations, notebooks, reports, records, accounting books OR records, schedules, tables, charts, transcripts, publications, scrapbooks, diaries, AND any drafts, revisions, OR amendments of the above, AND all other materials enumerated in the definition provided in Rule 34 of the Federal Rules of Civil Procedure.

13. “HIRING” OR “HIRE” means to establish an employer to employee relationship, to employ someone.

14. “LIST” means a compilation of information, a record of information AND includes Excel spreadsheets OR other types of documents OR files compiling

information.

15. “OFCCP” means the Office of Federal Contract Compliance Programs, United States Department of Labor.

16. “OPT EXTENSION” means Optional Practical Training employment authorization extension for students with F-1 US VISAs.

17. “PAY DECISION” means any choice Oracle made about a person’s COMPENSATION, including whether to give OR not to give a particular type of COMPENSATION (e.g., starting pay, bonus, stock options), the amount of COMPENSATION to give, OR to change OR not to change the amount of COMPENSATION of a person.

18. “POLICIES,” “PRACTICES,” OR “PROCEDURES” means each rule, action, OR directive, whether formal OR informal, AND each common understanding OR course of conduct that was recognized as such by YOUR present OR former officers, agents, employees, OR other PERSONS acting OR purporting to act on YOUR behalf OR at YOUR direction, that was in effect at any time during the RELEVANT TIME PERIOD. These terms include any changes that occurred to them during the RELEVANT TIME PERIOD.

19. “RELATED TO” means constituting, memorializing, evidencing, containing, showing, supporting, contradicting, summarizing, pertaining to, OR referring to, whether directly OR indirectly, the subject of the particular request.

20. “SELECTION PROCESS” mean YOU responding to expressions of interest, soliciting, recruiting, communicating with, screening, interviewing, evaluating, determining starting salary AND other COMPENSATION for, OR extending job offers to, persons who

express interest in a job at Oracle.

21. “STEM OPT EXTENSION” means Optional Practical Training employment authorization extension for students with F-1 US VISAs who earned degrees in science, technology, engineering OR mathematics.

22. “SUPPORTING” OR “SUPPORTS” means relied upon, used, sustained, utilized.

23. “USCIS” means the United States Custom AND Immigration Services.

24. “US VISA” means an endorsement issued by an authorized representative of the United States AND marked in a passport, permitting the passport holder to enter, travel through, OR reside in the United States.

### **INSTRUCTIONS**

1. Unless otherwise stated, these requests RELATE TO Oracle’s headquarters located at Redwood Shores, California.

2. In responding to these requests, furnish all information that is available to YOU. If, after exercising due diligence to secure the DOCUMENTS, YOU cannot produce the requested DOCUMENTS in full, respond to the extent possible, specifying YOUR inability to produce the remainder. If YOU object to any request, state with specificity the basis for the objection, decline to respond to only that portion of the request deemed objectionable, AND respond to the balance of the request.

3. If any requested DOCUMENT was, but is no longer, in YOUR possession, custody, OR control, OR is no longer in existence, state whether such DOCUMENT is:

- a. missing OR lost;
- b. destroyed;
- c. transferred to others; OR
- d. otherwise disposed of.

For any DOCUMENT so disposed of, summarize the contents of the DOCUMENT in as much detail as possible. If the DOCUMENT is missing, lost, OR destroyed, set forth the circumstances surrounding such disposition. If the DOCUMENT was transferred to others OR otherwise disposed of, describe in detail the authorization for such disposition, state the date OR closest approximate date known to YOU of such disposition, state the current location of the DOCUMENT, AND IDENTIFY the custodian of all copies of such DOCUMENT.

4. These requests are intended to cover all DOCUMENTS in existence OR in effect at any time during the RELEVANT TIME PERIOD. If any responsive DOCUMENT has changed over the RELEVANT TIME PERIOD, produce all responsive DOCUMENTS, regardless of whether they reflect YOUR POLICIES, PRACTICES OR PROCEDURES that are no longer in effect.

5. With respect to the application of privileges: If YOU decline to produce any DOCUMENT OR to otherwise provide information on the basis of a claim of privilege, so state in response to the DOCUMENT production request. Any part of a DOCUMENT for which YOU do not claim a privilege must be produced. Furnish a complete log of any DOCUMENTS OR portions of DOCUMENTS withheld on the basis of privilege, describing each such DOCUMENT OR portion thereof in a manner that will enable OFCCP to assess the applicability of the privilege being asserted. This includes,

without limitation, setting forth for each such DOCUMENT the dates the DOCUMENT was prepared AND transmitted, to whom AND from whom the DOCUMENT was transmitted, including copies thereof, the length of the DOCUMENT, the privilege(s) claimed, AND the factual basis for the claim of each privilege.

6. Under 41 C.F.R. § 60-30.1 AND Rule 26(e) of the Federal Rules of Civil Procedure, these requests for production are continuing in nature AND, to the extent that the responses may be enlarged, diminished, OR otherwise modified by information acquired by YOU OR YOUR attorneys after filing this response, YOU AND YOUR attorneys are required to promptly serve AND file supplemental DOCUMENTS reflecting the changes.

7. The parties responding to these requests are charged with knowledge of what they know, what their agents, employees, servants, representatives, AND attorneys know, what is in records available to them, AND what others have told them on which they intend to rely in their defense.

8. All DOCUMENT productions made in response to these requests must comply with OFCCP's technical specifications previously provided.

### **REQUESTS FOR PRODUCTION OF DOCUMENTS**

131. For all of the people who were YOUR employees in the PT1 Job Group OR COLLEGE RECRUITS for the PT1 Job Group during the RELEVANT TIME PERIOD, produce all DOCUMENTS IDENTIFYING a person's eligibility to work in the United States, including, but not limited to, a person being on a US VISA OR any extension thereto (e.g., E-3, F-1, F-1 with OPT EXTENSION, F-1 with STEM OPT EXTENSION, H-1B, H-4, J-1, L-1, L-1A, L-1B, L-2,

O-1, TN, CAP-GAP EXTENSIONS); United States Passport; United States identification card; certified birth certificate issued by the city, county OR state of birth; Consular Report of Birth (of U.S. citizen) Abroad OR Certification of Birth; Naturalization Certificate; Certificate of Citizenship; foreign passport with an I-551 stamp; foreign passport with Form I-94 containing an endorsement of nonimmigrant status; alien registration receipt card; alien permanent resident card (aka green card); employment authorization card (e.g., filled out I-765 form for YOUR employees); employment authorization document; Social Security card; USCIS' Employment Eligibility Verification Form (i.e., USCIS's I-9 Form) filled out for YOUR employees; USCIS' Petition for a Non-Immigrant Worker Form (i.e., USCIS's I-129 Form) filled out for YOUR employees; YOUR "Employment Eligibility Questionnaire" in any of its forms (e.g., Bates stamp number ("BSN") ORACLE\_HQCA\_1279 & 2003); YOUR "VISA Status Questionnaire" in any of its forms (e.g., ORACLE\_HQCA\_916).

132. For all of the people who were YOUR employees in the PT1 Job Group OR COLLEGE RECRUITS for the PT1 Job Group during the RELEVANT TIME PERIOD who were not citizens of the United States at any time during the RELEVANT TIME PERIOD, produce, to the extent not otherwise produced in response to the previous request, all DOCUMENTS of a person having a US VISA OR any extension thereto (e.g., E-3, F-1, F-1 with OPT EXTENSION, F-1 with STEM OPT EXTENSION, H-1B, H-4, J-1, L-1, L-1A, L-1B, L-2, O-1, TN, CAP-GAP EXTENSIONS); employment authorization card (e.g., filled out I-765 form for YOUR employees); employment authorization document; Social Security card; USCIS' Employment Eligibility Verification Form (i.e., USCIS's I-9 Form) filled out for YOUR employees; USCIS' Petition for a Non-Immigrant Worker Form (i.e., USCIS's I-129 Form) filled out for YOUR employee; YOUR "Employment Eligibility Questionnaire" in any of its forms (e.g., Bates stamp

number (“BSN”) ORACLE\_HQCA\_1279 & 2003); YOUR “VISA Status Questionnaire” in any of its forms (e.g., ORACLE\_HQCA\_916); Labor Condition Application; Immigration & Naturalization Service Work Authorization; DOCUMENTS RELATING TO YOU sponsoring people for US VISAS.

133. For all of the people who were YOUR employees in the Information Technology, Product Development AND Support Job Functions during the RELEVANT TIME PERIOD, produce all DOCUMENTS IDENTIFYING a person’s eligibility to work in the United States, including, but not limited to, a person being on a US VISA OR any extension thereto (e.g., E-3, F-1, F-1 with OPT EXTENSION, F-1 with STEM OPT EXTENSION, H-1B, H-4, J-1, L-1, L-1A, L-1B, L-2, O-1, TN, CAP-GAP EXTENSIONS); United States Passport; United States identification card; certified birth certificate issued by the city, county OR state of birth; Consular Report of Birth (of U.S. citizen) Abroad OR Certification of Birth; Naturalization Certificate; Certificate of Citizenship; foreign passport with an I-551 stamp; foreign passport with Form I-94 containing an endorsement of nonimmigrant status; alien registration receipt card; alien permanent resident card (aka green card); employment authorization card (e.g., filled out I-765 form for YOUR employees); employment authorization document; Social Security card; USCIS’ Employment Eligibility Verification Form (i.e., USCIS’s I-9 Form) filled out for YOUR employees; USCIS’ Petition for a Non-Immigrant Worker Form (i.e., USCIS’s I-129 Form) filled out for YOUR employees; YOUR “Employment Eligibility Questionnaire” in any of its forms (e.g., Bates stamp number (“BSN”) ORACLE\_HQCA\_1279 & 2003); YOUR “VISA Status Questionnaire” in any of its forms (e.g., ORACLE\_HQCA\_916).

134. For all of the people who were YOUR employees in the Information Technology, Product Development AND Support Job Functions during the RELEVANT TIME PERIOD who

were not citizens of the United States at any time during the RELEVANT TIME PERIOD, produce, to the extent not otherwise produced in response to the previous request, all DOCUMENTS of a person having a US VISA OR any extension thereto (e.g., E-3, F-1, F-1 with OPT EXTENSION, F-1 with STEM OPT EXTENSION, H-1B, H-4, J-1, L-1, L-1A, L-1B, L-2, O-1, TN, CAP-GAP EXTENSIONS); employment authorization card (e.g., filled out I-765 form for YOUR employees); employment authorization document; Social Security card; USCIS' Employment Eligibility Verification Form (i.e., USCIS's I-9 Form) filled out for YOUR employees; USCIS' Petition for a Non-Immigrant Worker Form (i.e., USCIS's I-129 Form) filled out for YOUR employee; YOUR "Employment Eligibility Questionnaire" in any of its forms (e.g., Bates stamp number ("BSN") ORACLE\_HQCA\_1279 & 2003); YOUR "VISA Status Questionnaire" in any of its forms (e.g., ORACLE\_HQCA\_916); Labor Condition Application; Immigration & Naturalization Service Work Authorization; DOCUMENTS RELATING TO YOU sponsoring people for US VISAS.

135. For all of the people who were YOUR employees in the Information Technology, Product Development AND Support Job Functions from January 1, 1985, through AND including December 31, 2012, produce all DOCUMENTS IDENTIFYING a person's eligibility to work in the United States, including, but not limited to, a person being on a US VISA OR any extension thereto (e.g., E-3, F-1, F-1 with OPT EXTENSION, F-1 with STEM OPT EXTENSION, H-1B, H-4, J-1, L-1, L-1A, L-1B, L-2, O-1, TN, CAP-GAP EXTENSIONS); United States Passport; United States identification card; certified birth certificate issued by the city, county OR state of birth; Consular Report of Birth (of U.S. citizen) Abroad OR Certification of Birth; Naturalization Certificate; Certificate of Citizenship; foreign passport with an I-551 stamp; foreign passport with Form I-94 containing an endorsement of nonimmigrant

status; alien registration receipt card; alien permanent resident card (aka green card); employment authorization card (e.g., filled out I-765 form for YOUR employees); employment authorization document; Social Security card; USCIS' Employment Eligibility Verification Form (i.e., USCIS's I-9 Form) filled out for YOUR employees; USCIS' Petition for a Non-Immigrant Worker Form (i.e., USCIS's I-129 Form) filled out for YOUR employees; YOUR "Employment Eligibility Questionnaire" in any of its forms (e.g., Bates stamp number ("BSN") ORACLE\_HQCA\_1279 & 2003); YOUR "VISA Status Questionnaire" in any of its forms (e.g., ORACLE\_HQCA\_916).

136. For all of the people who were YOUR employees in the Information Technology, Product Development AND Support Job Functions from January 1, 1985, through AND including December 31, 2012, who were not citizens of the United States at any time during the RELEVANT TIME PERIOD, produce, to the extent not otherwise produced in response to the previous request, all DOCUMENTS of a person having a US VISA OR any extension thereto (e.g., E-3, F-1, F-1 with OPT EXTENSION, F-1 with STEM OPT EXTENSION, H-1B, H-4, J-1, L-1, L-1A, L-1B, L-2, O-1, TN, CAP-GAP EXTENSIONS); employment authorization card (e.g., filled out I-765 form for YOUR employees); employment authorization document; Social Security card; USCIS' Employment Eligibility Verification Form (i.e., USCIS's I-9 Form) filled out for YOUR employees; USCIS' Petition for a Non-Immigrant Worker Form (i.e., USCIS's I-129 Form) filled out for YOUR employee; YOUR "Employment Eligibility Questionnaire" in any of its forms (e.g., Bates stamp number ("BSN") ORACLE\_HQCA\_1279 & 2003); YOUR "VISA Status Questionnaire" in any of its forms (e.g., ORACLE\_HQCA\_916); DOCUMENTS RELATING TO YOU sponsoring people for US VISAS.

137. For all of the people who were YOUR employees in the Information Technology,

Product Development AND Support Job Functions who YOU identified in response to the prior six requests of this set of document production requests as having any US VISAs, produce, for each type of US VISA previously identified, DOCUMENTS IDENTIFYING the type of US VISA (e.g., E-3, F-1, F-1 with OPT EXTENSION, F-1 with STEM OPT EXTENSION, H-1B, H-4, J-1, L-1, L-1A, L-1B, L-2, O-1, TN, CAP-GAP EXTENSIONS), the start AND end dates of this US VISA AND the country of origin for the employees holding the US VISA

138. For all of the people who were YOUR employees in the PT1 Job Group OR COLLEGE RECRUITS for the PT1 Job Group during the RELEVANT TIME PERIOD, produce DOCUMENTS sufficient to IDENTIFY their: country of birth, country of origin, race AND gender.

139. Produce all of YOUR POLICIES, PRACTICES OR PROCEDURES RELATING TO employees OR COLLEGE RECRUITS who were not citizens of the United States at any time during the RELEVANT TIME PERIOD being eligible to lawfully work in the United States, including, but not limited to YOUR POLICIES, PRACTICES OR PROCEDURES, RELATING TO US VISAs, passports, permanent resident cards (green cards), OPT EXTENSIONS, STEM OPT EXTENSIONS, CAP-GAP EXTENSIONS, employment authorization card (e.g., filled out I-765 form for YOUR employees); employment authorization document, USCIS' Employment Eligibility Verification Form (i.e., USCIS's I-9 Form) filled out for YOUR employees, USCIS' Petition for a Non-Immigrant Worker Form (i.e., USCIS's I-129 Form) filled out for YOUR employees, YOUR "Employment Eligibility Questionnaire" in any of its forms (e.g., Bates stamp number ("BSN") ORACLE\_HQCA\_1279 & 2003), YOUR "VISA Status Questionnaire" in any of its forms (e.g., ORACLE\_HQCA\_916), YOU sponsoring workers for US VISAS, Labor Condition Applications, POLICIES, PRACTICES OR PROCEDURES regarding the

eligibility of non-United States citizens to work OR not work in the United States.

140. For all of the people who were YOUR employees in the PT1 Job Group OR COLLEGE RECRUITS for the PT1 Job Group during the RELEVANT TIME PERIOD OR YOUR employees in the Product Development, Support, OR Information Technology Job Functions since 1985, produce DOCUMENTS sufficient to IDENTIFY the following information, for each college degree that they obtained at any time: the full name of the college they obtained the degree from, the degree obtained, the year they obtained this degree, the major they acquired this degree in. This request should include employees listed in the HQCA\_iRec\_MAIN.xlsx file, AND include the data fields in the APL\_EMPLOYMENT\_HISTORY, APL\_QUALIFICATIONS, AND APPLICANT\_PROFILES tabs produced in the PT1\_HQCA\_iRec\_MAIN.xlsx file.

141. Produce all COMMUNICATIONS (including, but not limited to, memos, letters, emails, spreadsheets, photographs, transcripts, reports, print outs, text messages, computer screen shots, computer files, to include any attachments to any of these examples) to AND from Larry Lynn, Vice President, College Recruiting, RELATED TO the SELECTION PROCESS for COLLEGE RECRUITS during the RELEVANT TIME PERIOD.

142. Produce all COMMUNICATIONS (including, but not limited to, memos, letters, emails, spreadsheets, photographs, transcripts, reports, print outs, text messages, computer screen shots, computer files, to include any attachments to any of these examples) to AND from Thomas Kurian RELATED TO the SELECTION PROCESS FOR COLLEGE RECRUITS OR PAY DECISIONS for the Product Development Job Function during the RELEVANT TIME PERIOD.

143. Produce each LIST RELATED TO COLLEGE RECRUITS for positions in the PT1 Job

Group during the RELEVANT TIME PERIOD, including “TK Master List,” LIST of offers, LIST of people who declined OR reneged on offers, LIST tracking the eligibility of people to work in the United States, LIST of their US VISA status, LIST of people by educational degrees, LIST of people who applied for jobs, LIST of people who were screened AND rejected, LIST of people interviewed, LIST of people interviewed AND rejected, LIST of people submitted to Larry Lynn for review, LIST of people rejected by Larry Lynn, LIST of people accepted by Larry Lynn, LIST of people by country of origin, LIST of people by country of birth, LIST of people by race, LIST of people by gender.

144. Produce all e-mails AND attachments COLLEGE RECRUITS sent to Oracle’s college recruiting inbox (college\_US e-mail account) during the RELEVANT TIME PERIOD.

145. Produce all DOCUMENTS wherein YOU evaluated whether YOU should HIRE OR reject a COLLEGE RECRUIT during any part of the SELECTION PROCESS.

146. Produce all resumes of COLLEGE RECRUITS sent to Larry Lynn to review during the RELEVANT TIME PERIOD, including, but not limited to, copies of e-mails in the “sent to Larry” box OR folder of YOUR college\_US e-mail account.

147. Produce all spreadsheets AND other DOCUMENTS used, reviewed by OR considered by Larry Lynn for his review of any COLLEGE RECRUITS during the RELEVANT TIME PERIOD, including spreadsheets, resumes, letters, text messages, e-mails, references, transcripts submitted to him during his annual review AND DOCUMENTS including, but not limited to, spreadsheets with any writings made by Larry Lynn.

148. Produce all DOCUMENTS RELATED TO any actions YOU took during the RELEVANT TIME PERIOD in response to any ANALYSES YOU conducted pursuant to 41 C.F.R. § 60-2.17(b) for YOUR Information Technology, Product Development AND Support

Job Functions OR PT1 Job Group, including, but not limited to, all DOCUMENTS RELATING TO action-oriented programs identified in 41 C.F.R. § 60-2.17(c).

149. Produce all DOCUMENTS RELATED TO any actions YOU took during the RELEVANT TIME PERIOD in response to any ANALYSES YOU conducted pursuant to 41 C.F.R. § 60-3.15A for YOUR Information Technology, Product Development AND Support Job Functions OR YOUR PT1 Job Group.

150. Produce all DOCUMENTS RELATED TO any PAY DECISION ANALYSES YOU conducted for the COMPENSATION YOU provided to YOUR employees in YOUR Information Technology, Product Development AND Support Job Functions during the RELEVANT TIME PERIOD, including but not limited to, COMPENSATION audits YOU conducted, statistical ANALYSES YOU conducted, the “salary surveys,” “equity studies,” AND “ad hoc analyses” YOU conducted referenced by either Shauna Holman-Harries OR Lisa Gordon in Lisa Gordon’s interview signed February 15, 2015 at BSN DOL 584, 587-89; AND the “different analyses,” “compensation analyses,” “adverse impact analyses,” “internal audits,” OR “internal self-audits” that YOU conducted that were referenced by Shauna Holman-Harries in her March 26, 2015, interview at BSN DOL 36769, 36772-73.

151. Produce all DOCUMENTS RELATED TO any actions YOU took during the RELEVANT TIME PERIOD in response to any ANALYSES conducted pursuant to the previous document production request.

152. Produce all DOCUMENTS RELATED TO “Oracle’s evaluation of its compensation system” that Shauna Holman-Harries referenced in her June 2, 2015, e-mail at BSN DOL 1212 for YOUR Information Technology, Product Development AND Support Job Functions during the RELEVANT TIME PERIOD, including but not limited to, all of evaluations that YOU

conducted, the underlying data OR information considered in these evaluations, AND the COMMUNICATIONS RELATED TO these evaluations.

153. All DOCUMENTS RELATED TO any actions YOU took during the RELEVANT TIME PERIOD in response to any evaluation conducted pursuant to the previous document production request.

154. Produce all DOCUMENTS RELATED TO YOUR “pay audits to assess legal compliance with Oracle’s non-discrimination obligations and to further ensure Oracle’s compensation policies and practices are carried out” that Shauna Holman-Harries referenced in her June 2, 2015, e-mail at BSN DOL 1212 for YOUR Information Technology, Product Development AND Support Job Functions during the RELEVANT TIME PERIOD, including but not limited to, all of audits that YOU conducted, the underlying data OR information considered in these audits, AND the COMMUNICATIONS RELATED TO these audits.

155. All DOCUMENTS RELATED TO any actions YOU took during the RELEVANT TIME PERIOD in response to any audits conducted pursuant to the previous document production request.

156. Produce all DOCUMENTS RELATED TO any ANALYSES YOU conducted of the SELECTION PROCESS YOU used to HIRE COLLEGE RECRUITS to work for YOU in the PT1 Job Group during the RELEVANT TIME PERIOD.

157. Produce all DOCUMENTS RELATED TO any actions YOU took during the RELEVANT TIME PERIOD in response to any ANALYSES conducted pursuant to the previous document production request.

158. Produce all DOCUMENTS RELATED TO the data, information AND DOCUMENTS you provided to any person at Orrick, Herrington & Sutcliffe, LLP to conduct any ANALYSES

AND evaluation(s) referenced in document production request nos. 143-157, 160-165, 174-175 including, but not limited to, the data, information AND DOCUMENTS that YOU provided to Orrick, Herrington & Sutcliffe, LLP to conduct these ANALYSES AND any data, information AND DOCUMENTS Orrick, Herrington & Sutcliffe, LLP provided to YOU regarding the ANALYSES it conducted.

159. Produce all DOCUMENTS RELATED TO any actions YOU took during the RELEVANT TIME PERIOD in response to any ANALYSES OR evaluation(s) conducted by Orrick, Herrington & Sutcliffe, LLP.

160. Produce all DOCUMENTS RELATED TO YOUR establishment of OR changes to salary grade ranges for the job titles within YOUR Information Technology, Product Development AND Support Job Functions during the RELEVANT TIME PERIOD, including DOCUMENTS RELATED TO YOU matching job titles to salary grades, DOCUMENTS RELATED TO YOUR annual review of market data to adjust salary grades, DOCUMENTS RELATED TO salary surveys YOU reviewed, AND DOCUMENTS RELATED TO the matching of YOUR jobs AND the survey jobs that Lisa Gordon referenced in her interview signed February 15, 2015, at BSN DOL 584, 578. This request includes documents pertaining to salary grades that were matched to job titles prior to the RELEVANT TIME PERIOD wherein this matching remained in effect during the RELEVANT TIME PERIOD.

161. Produce all DOCUMENTS IDENTIFYING the COMPENSATION AND COMPARATIO information that Oracle reviewed during the RELEVANT TIME PERIOD when it considered HIRING OR transferring someone from another company OR an Oracle-affiliated company such as Oracle India Pvt. Ltd. OR a company that YOU acquired to work in the Product Development, Information Technology AND Support Job Functions, including, but not

limited to, the person's: annual OR base salary in the other company in United States dollars; annual OR base salary in the other company in another country's currency, COMPA-RATIO in the other company in another company's currency, bonuses received in the other company, AND what a person's COMPA-RATIO would be with their new salary in the United States in dollars.

162. Produce all YOUR POLICIES, PRACTICES OR PROCEDURES RELATING TO how each employee in the Product Development, Information Technology AND Support Job Functions were ASSIGNED to product lines, product line groups, teams, OR organizations during the RELEVANT TIME PERIOD. This includes assignments requested by YOUR employees AND assignments directed by YOU.

163. For each employee in the Product Development, Information Technology AND Support Job Functions, produce DOCUMENTS RELATING TO what initial product line, product line groups, team, AND organization each employee was ASSIGNED when the employee first started working for Oracle, including DOCUMENTS IDENTIFYING who made the decision for the assignment, DOCUMENTS IDENTIFYING when the assignment decision was made AND DOCUMENTS IDENTIFYING why each employee was ASSIGNED to a particular product line, product line group, team AND organization..

164. Produce all COMMUNICATIONS (including, but not limited to, memos, letters, emails, spreadsheets, reports, print outs, text messages, computer screen shots, computer files, to include any attachments to any of these examples) regarding YOUR employees expressing a desire to move (i.e., transfer) from their current position to a different supervisor, product, product line, organization, OR team in the Product Development, Information Technology AND Support Job Functions during the RELEVANT TIME PERIOD, including, but not limited to DOCUMENTS IDENTIFYING: requests to transfer, evaluations of transfer, justifications for transfer,

SUPPORT for transfer OR recommending rejection of transfer, acceptance OR rejection of transfer, headcount OR budget changes because of the transfer.

165. Produce all YOUR POLICIES, PRACTICES OR PROCEDURES RELATING TO the movement (i.e., transfer) of YOUR employees from their current position to a different supervisor, product, product line, organization, OR team in the Product Development, Information Technology AND Support Job Functions during the RELEVANT TIME PERIOD, including, but not limited to DOCUMENTS IDENTIFYING: information to be included in a transfer request AND the approval OR rejection thereof; guidance for approvals AND rejections of transfer requests; the effect of transfers on headcount; the effect of transfers on budgets, AND PAY DECISIONS RELATED TO transfer.

166. Produce all unredacted deposition transcripts of depositions taken in the *Jewett et al. v. Oracle America, Inc.*, California state case number 17-CIV-02669 litigation.

167. Produce all DOCUMENTS YOU produced to OR received from the plaintiffs in the *Jewett et al. v. Oracle America, Inc.*, California state case number 17-CIV-02669 litigation that were not previously produced in this litigation.

168. Produce all DOCUMENTS YOU provided to OR received from the plaintiffs in the *Jewett et al. v. Oracle America, Inc.*, California state case number 17-CIV-02669 litigation RELATED TO written discovery requests (e.g., interrogatories, requests for admissions, requests for the production of DOCUMENTS) to include the discovery requests, the responses AND meet AND confer COMMUNICATIONS RELATED TO the discovery requests OR responses. This request does not include the DOCUMENTS actually produced RELATED TO the responses, but it does include any AND all COMMUNICATIONS RELATED TO the written discovery requests OR responses thereto.

169. Produce all COMMUNICATIONS (including, but not limited to, memos, letters, emails, spreadsheets, photographs, transcripts, reports, print outs, text messages, computer screen shots, computer files, to include any attachments to any of these examples) RELATED TO allocating budget funds to each organization OR supervisor within the different product lines AND product groups in the Product Development, Information Technology AND Support Job Functions during the RELEVANT TIME PERIOD, including, but not limited to DOCUMENTS pertaining to the amount of budget funds allocated to each organization OR Supervisor, who made each of the decisions to allocate the budget funds allocated, the date each allocation decision was made, what each person who allocated the budget funds considered when allocating these funds OR why each person who allocated the budgets funds chose the specific amount of budget funds allocated to the specific organizations he/she allocated it.

170. Produce all COMMUNICATIONS (including, but not limited to, memos, letters, emails, spreadsheets, photographs, transcripts, reports, print outs, text messages, computer screen shots, computer files, electronic approvals, to include any attachments to any of these examples) wherein someone having a Global Career Level of M7 OR above made any decisions in the SELECTION PROCESS OR PAY DECISIONS for anyone working in the Product Development, Information Technology AND Support Job Functions OR PT1 Job Group during the RELEVANT TIME PERIOD, including, but not limit to, approving job offers, transfers, promotions to a higher Global Career Level, COMPENSATION OR approving recommendations for job offers, transfers, promotions OR COMEPNSATION..

171. Produce all DOCUMENTS during the RELEVANT TIME PERIOD RELATED TO the “TK Campus Program” OR “TK Campus Hires” OR “IDC Campus Hires” wherein college graduates from India were HIRED to work in the PT1 Job Group OR Product Development Job

Function.

172. Produce all COMMUNICATIONS (including, but not limited to, memos, letters, emails, spreadsheets, photographs, transcripts, reports, print outs, text messages, computer screen shots, computer files, electronic approvals, to include any attachments to any of these examples) during the RELEVANT TIME PERIOD between YOU AND COLLEGE RECRUITS.

173. Produce the YOUR AAPs for HQCA YOU are required to make AND maintain pursuant to 41 C.F.R. §§ 60-2.10(b) & (c) from 2013 to the present.

174. Produce all DOCUMENTS RELATED TO any actions YOU took during the RELEVANT TIME PERIOD in response to any ANALYSES YOU conducted pursuant to 41 C.F.R. § 60-2.12 for YOUR Information Technology, Product Development AND Support Job Functions OR YOUR PT1 Job Group.

175. Produce all DOCUMENTS RELATED TO any actions YOU took during the RELEVANT TIME PERIOD in response to any ANALYSES YOU conducted pursuant to 41 C.F.R. § 60-2.12 for YOUR Information Technology, Product Development AND Support Job Functions OR YOUR PT1 Job Group.

176. Produce the data AND DOCUMENTS YOU relied upon when creating the “job groups” in YOUR affirmative action programs during the RELEVANT TIME PERIOD.

177. Produce all COMPENSATION DOCUMENTS for every employee working in the Product Development, Information Technology AND Support Job Functions during the RELEVANT TIME PERIOD.

178. Produce all COMPENSATION DOCUMENTS for every employee working in the Product Development, Information Technology AND Support Job Functions from January 1, 1985, through AND including December 31, 2012, whether OR not they were employees in one

of these Job Functions after January 1, 2013.

179. Produce all DOCUMENTS IDENTIFYING the COMPENSATION AND COMPARATIO information that YOU reviewed during the RELEVANT TIME PERIOD when YOU considered HIRING OR transferring someone from an another company OR an Oracle affiliated company, e.g., Oracle India Pvt. Ltd., OR a company that YOU acquired to work in the Product Development, Information Technology AND Support Job Functions, including, but not limited to, the person's: annual OR base salary in the other company in United States dollars; annual OR base salary in the other company in another country's currency; annual OR base salary at Oracle's headquarters located at Redwood Shores, California; COMPARATIO in the other company AND at Oracle's headquarters located at Redwood Shores, California; bonuses AND stocks received in the other company; AND, if applicable, Global Career Level in the other company AND at Oracle's headquarters located at Redwood Shores, California.

180. For employees listed in the HQCA\_iRec\_MAIN.xlsx file having a "HIRE\_TYPE" of "International Transfer" in Column AR, OR for YOUR employees for which a salary is in a denomination other than US dollars that is listed in the CANDIDATE\_CURRENT\_SALARY\_ATV (Column BC), produce YOUR employee's last COMPARATIO at that Oracle affiliate.

181. Produce all DOCUMENTS of YOUR POLICIES, PRACTICES OR PROCEDURES, RELATING TO the SELECTION PROCESS for COLLEGE RECRUITS from June 1, 2012, to the present.

182. Produce all DOCUMENTS of YOUR POLICIES, PRACTICES OR PROCEDURES, RELATING TO seeking, referring to OR using prior pay information from APPLICANTS, COLLEGE RECRUITS, HIRES OR anyone involved in the SELECTION PROCESS during the

RELEVANT TIME PERIOD.

183. Produce all DOCUMENTS RELATING TO the prior pay of APPLICANTS, COLLEGE RECRUITS, HIRES OR anyone involved in the SELECTION PROCESS during the RELEVANT TIME PERIOD IN YOUR Product Development, Information Technology AND Support Job Functions OR PT1 Job Group, including, but not limited to, DOCUMENTS received from APPLICANTS, COLLEGE RECRUITS, HIRES OR anyone involved in the SELECTION PROCESS, DOCUMENTS showing how YOU used the prior pay information received to make PAY DECISIONS, AND DOCUMENTS comparing OR evaluating the person's prior pay.

DATED: January 30, 2019

JANET M. HEROLD  
Regional Solicitor

JEREMIAH MILLER  
Acting Counsel for Civil Rights

LAURA C. BREMER  
Senior Trial Attorney

/s/ Norman E. Garcia  
NORMAN E. GARCIA  
Senior Trial Attorney

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90 7th Street, Suite 3-700  
San Francisco, California 94103  
Tel: (415) 625-7747  
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Email: [garcia.norman@dol.gov](mailto:garcia.norman@dol.gov)

**CERTIFICATE OF SERVICE**

I am a citizen of the United States of America and am over eighteen years of age. I am not a party to the instant action; my business address is 90 Seventh St., Rm. 3-700, San Francisco, CA 94103.

On the date indicated below, I served the foregoing **OFCCP'S FIFTH SET OF REQUESTS FOR THE PRODUCTION OF DOCUMENTS TO ORACLE AMERICA, INC.** by electronic mail, by prior written agreement between counsel, to the following:

Connell, Erin M.: econnell@orrick.com

Kaddah, Jacqueline D.: jkaddah@orrick.com

James, Jessica R. L.: jessica.james@orrick.com

Siniscalco, Gary: grsiniscalco@orrick.com

I certify under penalty of perjury that the above is true and correct.

Executed: January 30, 2019

          /s/ Laura C. Bremer            
LAURA C. BREMER  
Senior Trial Attorney

Office of the Solicitor  
U.S. Department of Labor

# **EXHIBIT B**

## Riddell, J.R.

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**From:** Connell, Erin M.  
**Sent:** Friday, February 22, 2019 10:59 AM  
**To:** Garcia, Norman - SOL  
**Cc:** Bremer, Laura - SOL; Miller, Jeremiah - SOL; Parker, Warrington; Grundy, Kayla Delgado; Mantoan, Kathryn G.; Siniscalco, Gary R.; Kaddah, Jacqueline D.  
**Subject:** RE: OFCCP v Oracle - subpoena issue

Norm,

Thanks for your response, although it doesn't address the substantive points made in my letter. For example, you don't address the legal authority we provided – nor OFCCP's prior admission – confirming that OFCCP lacks authority to serve a third-party subpoena (nor that you presumably did not inform Judge Clark of that fact when you asked him to sign it). You also ignore that you never served us with the subpoena – we only learned of it over the weekend when plaintiffs' counsel in *Jewett* forwarded it to us via email. These omissions lead us to conclude that you know we are right.

In your email below, you attempt to deflect attention away from these facts by making unfounded accusations of wrongdoing by Oracle. I note you employed the same strategy in your letter to John Giansello on Wednesday of this week – instead of addressing the merits of the issues or providing substantive, thoughtful explanations backed by legal authority articulating why you are entitled to the massively burdensome documents and data you have requested, you instead accuse Oracle of discovery misconduct (and even bring up the audit, which obviously has nothing to do with whether the discovery requests you've served in this litigation are relevant and reasonably tailored to the claims asserted here). This repeated tactic of avoiding the substance of our disputes and instead resorting to attacks on Oracle is not helpful. It doesn't advance things or help narrow the disputes for which we may need assistance from the ALJ, which is the entire purpose of the meet and confer process.

With respect to the "compromises" you suggest below, they are not really compromises at all. You need to immediately withdraw the subpoena, having all but conceded it is invalid. Please confirm you will do so, or we'll have no choice but to raise this with Judge Clark. The documents and data you've requested from plaintiffs' counsel are covered by a protective order in *Jewett* – you know this, because you acknowledge it in your email to Jim Finberg attaching the subpoena. The putative class in *Jewett* is state-wide, and therefore broader than the class at issue here. Accordingly, the data you've requested is covered by third party privacy rights of individuals who are not part of this litigation. It also includes information that the *Jewett* plaintiffs (not Oracle) have designed as confidential – and three of them (including the three remaining named class representatives) never worked at HQCA. Particularly given OFCCP's current position regarding a protective order in this case, we need immediate assurance that the confidential information produced in *Jewett* will remain confidential.

With respect to Request Nos. 166-168, our written objections and responses are not due until next week. As you'll see when we serve them, however, we are willing to meet and confer and produce documents from the *Jewett* case that are also relevant here. There is overlap – we see that. We also recognize there may be some efficiencies to be gained for both sides by stipulating that PMK depo testimony there can apply here, so we don't have to repeat depositions on the same topics. As to other documents and depo transcripts – we assume you already have everything not marked "confidential" pursuant to your "common interest agreement" with *Jewett*'s

counsel, so you should be in a very good position to articulate during the meet and confer process why you need unredacted versions of things, and exactly what it is you think you're missing.

Please confirm whether you will withdraw the subpoena, or whether we need to ask Judge Clark to quash it. If you won't withdraw it, please confirm when you are available for a phone call to meet and confer regarding our motion, per Judge Clark's scheduling order.

Thanks,  
Erin

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**From:** Garcia, Norman - SOL

**Sent:** Thursday, February 21, 2019 4:29 PM

**To:** Connell, Erin M.

**Cc:** Bremer, Laura - SOL ; Miller, Jeremiah - SOL ; Parker, Warrington ; Grundy, Kayla Delgado ; Mantoan, Kathryn G. ; Siniscalco, Gary R. ; Kaddah, Jacqueline D.

**Subject:** RE: OFCCP v Oracle - subpoena issue

Erin,

We seek to avoid a repeat of Oracle's actions when we served discovery in February 2017. At that time, Oracle demanded a very lengthy meet and confer process, we were forced to eventually file a motion to compel, and did not receive any data, and most of the documents Oracle produced, until September and October 2017. Over the last month, we have received repeated communications from your office regarding discovery, objections thereto, how burdensome it is and, how your office would be hard pressed to provide the documents and data, etc. In fact, up and until Tuesday of this week, the date our joint proposed schedule was due to the Court, Oracle resisted providing a date certain to produce data. Moreover, Oracle's response to a set of document production requests and interrogatories that we served before the stay consisted solely of objections, and claimed a new judge and the filing of a new complaint excused it from producing documents or answers (even to requests relevant to both the First Amended Complaint and the Second Amended Complaint).

To lessen the burden to Oracle and to ensure that we actually receive the data and documents on time, we issued a subpoena to the lead Jewitt Plaintiff to secure documents, to include data, from that case since you had already produced it or received it in that litigation. The request for depositions would also render discovery in this action more efficient, as it may eliminate the need for us to duplicate depositions. However, you have identified that you have issues with us taking this tack. In an effort to compromise to lessen the amount of time spent to meet and confer and to avoid motion practice, we would be willing to withdraw the subpoena in Jewitt if you would agree to produce the requested documents to RFPs 166-168. Alternatively, we would agree to withdraw RFPs 166-168 if you permit us to secure and use the documents from the Jewitt plaintiffs that we seek in the subpoena.

Please advise if you are willing to agree to one of these compromises.

Thanks,

Norm

Norman E. Garcia  
Senior Trial Attorney  
United States Department of Labor  
90 7th Street, Rm. 3-700; SF, CA 94103 Telephone number: (415) 625-7747 Facsimile number: (415) 625-7772

This message may contain information that is privileged or otherwise exempt from disclosure under applicable law. Do not disclose without consulting the Office of the Solicitor. If you think you received this e-mail in error, please notify the sender immediately.

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**From:** Connell, Erin M. <[econnell@orrick.com](mailto:econnell@orrick.com)>  
**Sent:** Thursday, February 21, 2019 10:19 AM  
**To:** Garcia, Norman - SOL <[Garcia.Norman@DOL.GOV](mailto:Garcia.Norman@DOL.GOV)>  
**Cc:** Bremer, Laura - SOL <[Bremer.Laura@dol.gov](mailto:Bremer.Laura@dol.gov)>; Miller, Jeremiah - SOL <[Miller.Jeremiah@dol.gov](mailto:Miller.Jeremiah@dol.gov)>; Parker, Warrington <[wparker@orrick.com](mailto:wparker@orrick.com)>; Grundy, Kayla Delgado <[kgrundy@orrick.com](mailto:kgrundy@orrick.com)>; Mantoan, Kathryn G. <[kmantoan@orrick.com](mailto:kmantoan@orrick.com)>; Siniscalco, Gary R. <[grsiniscalco@orrick.com](mailto:grsiniscalco@orrick.com)>; Kaddah, Jacqueline D. <[jkaddah@orrick.com](mailto:jkaddah@orrick.com)>  
**Subject:** RE: OFCCP v Oracle - request for meet and confer call tomorrow

Norm,

I understand the purpose of the extension – I wasn't clear if you intended to respond to my letter in writing, or if we would discuss it on a call. I'll look for your written response.

Thanks,  
Erin

---

**From:** Garcia, Norman - SOL <[Garcia.Norman@DOL.GOV](mailto:Garcia.Norman@DOL.GOV)>  
**Sent:** Thursday, February 21, 2019 10:10 AM  
**To:** Connell, Erin M. <[econnell@orrick.com](mailto:econnell@orrick.com)>  
**Cc:** Bremer, Laura - SOL <[Bremer.Laura@dol.gov](mailto:Bremer.Laura@dol.gov)>; Miller, Jeremiah - SOL <[Miller.Jeremiah@dol.gov](mailto:Miller.Jeremiah@dol.gov)>; Parker, Warrington <[wparker@orrick.com](mailto:wparker@orrick.com)>; Grundy, Kayla Delgado <[kgrundy@orrick.com](mailto:kgrundy@orrick.com)>; Mantoan, Kathryn G. <[kmantoan@orrick.com](mailto:kmantoan@orrick.com)>; Siniscalco, Gary R. <[grsiniscalco@orrick.com](mailto:grsiniscalco@orrick.com)>; Kaddah, Jacqueline D. <[jkaddah@orrick.com](mailto:jkaddah@orrick.com)>  
**Subject:** RE: OFCCP v Oracle - request for meet and confer call tomorrow

Erin,

The purpose of giving a 12-day extension was to give the parties adequate time to thoroughly meet and confer over this issue as opposed to one party quickly running to the Court without this adequate meet and confer. We are currently evaluating your correspondence in this matter and we will get back to you today.

Thanks,

Norm

Norman E. Garcia  
Senior Trial Attorney  
United States Department of Labor  
90 7th Street, Rm. 3-700; SF, CA 94103 Telephone number: (415) 625-7747 Facsimile number: (415) 625-7772

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**From:** Connell, Erin M. <[econnell@orrick.com](mailto:econnell@orrick.com)>  
**Sent:** Wednesday, February 20, 2019 5:40 PM  
**To:** Garcia, Norman - SOL <[Garcia.Norman@DOL.GOV](mailto:Garcia.Norman@DOL.GOV)>  
**Cc:** Bremer, Laura - SOL <[Bremer.Laura@dol.gov](mailto:Bremer.Laura@dol.gov)>; Miller, Jeremiah - SOL <[Miller.Jeremiah@dol.gov](mailto:Miller.Jeremiah@dol.gov)>; Parker, Warrington <[wparker@orrick.com](mailto:wparker@orrick.com)>; Grundy, Kayla Delgado <[kgrundy@orrick.com](mailto:kgrundy@orrick.com)>; Mantoan, Kathryn G. <[kmantoan@orrick.com](mailto:kmantoan@orrick.com)>; Siniscalco, Gary R. <[grsiniscalco@orrick.com](mailto:grsiniscalco@orrick.com)>; Kaddah, Jacqueline D. <[jkaddah@orrick.com](mailto:jkaddah@orrick.com)>  
**Subject:** RE: OFCCP v Oracle - request for meet and confer call tomorrow

Norm,  
Thanks for confirming the extension. To confirm regarding tomorrow, are you available for a call?  
Erin

---

**From:** Garcia, Norman - SOL <[Garcia.Norman@DOL.GOV](mailto:Garcia.Norman@DOL.GOV)>  
**Sent:** Wednesday, February 20, 2019 5:31 PM  
**To:** Connell, Erin M. <[econnell@orrick.com](mailto:econnell@orrick.com)>  
**Cc:** Bremer, Laura - SOL <[Bremer.Laura@dol.gov](mailto:Bremer.Laura@dol.gov)>; Miller, Jeremiah - SOL <[Miller.Jeremiah@dol.gov](mailto:Miller.Jeremiah@dol.gov)>; Parker, Warrington <[wparker@orrick.com](mailto:wparker@orrick.com)>; Grundy, Kayla Delgado <[kgrundy@orrick.com](mailto:kgrundy@orrick.com)>; Mantoan, Kathryn G. <[kmantoan@orrick.com](mailto:kmantoan@orrick.com)>; Siniscalco, Gary R. <[grsiniscalco@orrick.com](mailto:grsiniscalco@orrick.com)>; Kaddah, Jacqueline D. <[jkaddah@orrick.com](mailto:jkaddah@orrick.com)>  
**Subject:** RE: OFCCP v Oracle - request for meet and confer call tomorrow

Erin,  
  
I would like to get back to you tomorrow regarding your letter. We can extend the production deadline beyond March 8 to March 20 so that we can meet and confer on this issue. I will notify Jim tomorrow of the extension.

Thanks,

Norm

Norman E. Garcia  
Senior Trial Attorney  
United States Department of Labor  
90 7th Street, Rm. 3-700; SF, CA 94103 Telephone number: (415) 625-7747 Facsimile number: (415) 625-7772

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**From:** Connell, Erin M. <[econnell@orrick.com](mailto:econnell@orrick.com)>  
**Sent:** Wednesday, February 20, 2019 4:18 PM  
**To:** Garcia, Norman - SOL <[Garcia.Norman@DOL.GOV](mailto:Garcia.Norman@DOL.GOV)>  
**Cc:** Bremer, Laura - SOL <[Bremer.Laura@dol.gov](mailto:Bremer.Laura@dol.gov)>; Miller, Jeremiah - SOL <[Miller.Jeremiah@dol.gov](mailto:Miller.Jeremiah@dol.gov)>; Parker, Warrington <[wparker@orrick.com](mailto:wparker@orrick.com)>; Grundy, Kayla Delgado <[kgrundy@orrick.com](mailto:kgrundy@orrick.com)>; Mantoan, Kathryn G. <[kmantoan@orrick.com](mailto:kmantoan@orrick.com)>; Siniscalco, Gary R. <[grsiniscalco@orrick.com](mailto:grsiniscalco@orrick.com)>; Kaddah, Jacqueline D. <[jkaddah@orrick.com](mailto:jkaddah@orrick.com)>  
**Subject:** OFCCP v Oracle - request for meet and confer call tomorrow

Norm,

Per Judge Clark's scheduling order, I'm writing to request a telephone call tomorrow to meet and confer regarding a motion to quash OFCCP's subpoena to Rong Jewett. As you know, I sent you a letter yesterday confirming our position that the subpoena is invalid, and asked you to confirm by close of business yesterday that you would withdraw the subpoena. I did not hear from you. In the event we cannot resolve this issue through the meet and confer process, and in light of the subpoena's March 8 deadline for production, we intend to file our motion this week, and will ask the Court to rule on it on shortened time. Alternatively, if you agree to extend the subpoena's production deadline, there will be no need for shortened time on the motion.

Please let me know when you are available tomorrow for a call.

Thanks,  
Erin

**Erin M. Connell**  
Partner

Orrick  
San Francisco   
T +1-415-773-5969  
M +1-415-305-8008  
econnell@orrick.com



Employment Blog

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# **EXHIBIT C**

---

**From:** Garcia, Norman - SOL <[Garcia.Norman@DOL.GOV](mailto:Garcia.Norman@DOL.GOV)>

**Sent:** Tuesday, April 2, 2019 4:51 PM

**To:** Giansello, John <[jgiansello@orrick.com](mailto:jgiansello@orrick.com)>

**Cc:** Siniscalco, Gary R. <[grsiniscalco@orrick.com](mailto:grsiniscalco@orrick.com)>; James, Jessica R. L. <[Jessica.james@orrick.com](mailto:Jessica.james@orrick.com)>; Kaddah, Jacqueline D. <[jkaddah@orrick.com](mailto:jkaddah@orrick.com)>; Miller, Jeremiah - SOL <[Miller.Jeremiah@dol.gov](mailto:Miller.Jeremiah@dol.gov)>; Bremer, Laura - SOL <[Bremer.Laura@dol.gov](mailto:Bremer.Laura@dol.gov)>; Richardson, Cedrick P - SOL <[Richardson.Cedrick.P@DOL.gov](mailto:Richardson.Cedrick.P@DOL.gov)>; Song, Charles C - SOL <[Song.Charles.C@dol.gov](mailto:Song.Charles.C@dol.gov)>; Daquiz, Abigail - SOL <[Daquiz.Abigail@dol.gov](mailto:Daquiz.Abigail@dol.gov)>; Heath, Jacob M. <[jheath@orrick.com](mailto:jheath@orrick.com)>; Parker, Warrington <[wparker@orrick.com](mailto:wparker@orrick.com)>; Connell, Erin M. <[econnell@orrick.com](mailto:econnell@orrick.com)>; Kaddah, Jacqueline D. <[jkaddah@orrick.com](mailto:jkaddah@orrick.com)>

**Subject:** OFCCP response to Oracle Jewett e-mail sent today

John,

Thank you for agreeing to provide the unredacted *Jewett* PMK transcripts and four of the *Jewett* non-PMK transcripts by Friday. Please identify who was deposed in the four non-PMK transcripts you will be providing us and who was deposed in the *Jewett* non-PMK transcripts that you still refuse to produce.

Your claim that “it is far too late in this proceeding” to search for documents is a disingenuous claim given that the *Jewett* Plaintiffs were willing to produce the documents requested and would have but for Oracle’s interference. Furthermore, even though the parties initially addressed this matter in February 2019, Oracle did not provide a substantive response until March 25, 2019. In fact, even though we scheduled a specific conference call on March 22, 2019, days in advance of this call in response to OFCCP’s March 12, 2019, meet and confer letter to address the *Jewett* RFPs, Oracle was not prepared to seriously discuss the matter on that date and only broached possibilities, as opposed to an actual compromise offer, for one of the three RFPs. Then, when Oracle does engage in serious discussions, it puts onerous conditions on its production of highly relevant *Jewett* PMK depositions that OFCCP was entitled to that further delayed the production.

Oracle’s dilatory tactics are especially onerous when Oracle justifies its unwillingness to schedule just a conference call to meet and confer on the issues presented 11 days before on March 22, 2019, because “we are busy with other activities responsive to OFCCP’s demands.” Then, as Oracle did here, Oracle will likely claim that it is “far too late in the proceeding” to produce the documents that OFCCP has been trying to secure with more than five attempts to simply convene a conference call to discuss. Moreover, it is bad faith to repeatedly commit to scheduling a call by a date certain and then not keeping these commitments.

It is also disingenuous for you to lump both RFPs 167 & 168 into the same “scavenger hunt” meritless excuse. RFP 168 simply requests the *Jewett* discovery requests, responses and the meet and confer communications thereto. One does not have to conduct an alleged “scavenger hunt” to find and produce those documents. Oracle’s meritless excuse is even more noteworthy because it already likely has the responsive documents in electronic form. Yet, it still refuses to produce them.

Lastly, it appears that the parties have fully met and conferred on these requests and we will act accordingly.

Norm Garcia

Norman E. Garcia  
Senior Trial Attorney  
United States Department of Labor  
90 7th Street, Rm. 3-700; SF, CA 94103 Telephone number: (415) 625-7747 Facsimile number: (415) 625-7772

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**From:** Giansello, John <[jgiansello@orrick.com](mailto:jgiansello@orrick.com)>  
**Sent:** Tuesday, April 2, 2019 2:38 PM  
**To:** Garcia, Norman - SOL <[Garcia.Norman@DOL.GOV](mailto:Garcia.Norman@DOL.GOV)>  
**Cc:** Siniscalco, Gary R. <[grsiniscalco@orrick.com](mailto:grsiniscalco@orrick.com)>; James, Jessica R. L. <[Jessica.james@orrick.com](mailto:Jessica.james@orrick.com)>; Kaddah, Jacqueline D. <[jkaddah@orrick.com](mailto:jkaddah@orrick.com)>; Miller, Jeremiah - SOL <[Miller.Jeremiah@dol.gov](mailto:Miller.Jeremiah@dol.gov)>; Bremer, Laura - SOL <[Bremer.Laura@dol.gov](mailto:Bremer.Laura@dol.gov)>; Richardson, Cedrick P - SOL <[Richardson.Cedrick.P@DOL.gov](mailto:Richardson.Cedrick.P@DOL.gov)>; Song, Charles C - SOL <[Song.Charles.C@dol.gov](mailto:Song.Charles.C@dol.gov)>; Daquiz, Abigail - SOL <[Daquiz.Abigail@dol.gov](mailto:Daquiz.Abigail@dol.gov)>; Heath, Jacob M. <[jheath@orrick.com](mailto:jheath@orrick.com)>; Parker, Warrington <[wparker@orrick.com](mailto:wparker@orrick.com)>; Connell, Erin M. <[econnell@orrick.com](mailto:econnell@orrick.com)>; Riddell, J.R. <[jriddell@orrick.com](mailto:jriddell@orrick.com)>; Horton, Nicholas J. <[nhorton@orrick.com](mailto:nhorton@orrick.com)>; Stanley, James <[jamesstanley@orrick.com](mailto:jamesstanley@orrick.com)>; Kaddah, Jacqueline D. <[jkaddah@orrick.com](mailto:jkaddah@orrick.com)>  
**Subject:** RE: OFCCP letter regarding Jewett RFPs

Mr. Garcia:

I respond briefly to the attached letter and to your email(s) of last Friday, concerning the *Jewett* discovery issues.

First, I take exception to your unnecessary aspersions in your second email last Friday about our supposed “failure” to produce *Jewett* transcripts. We have not “failed” to do anything. We have serious concerns about OFCCP’s access to the *Jewett* materials, and it is our right to raise those concerns and attempt to ensure that your access to those materials is proper and properly conducted. As for the scope of any depositions you may seek to take of the four PMK witnesses, we trust that any such issues can be resolved expeditiously if you will give us advance notice prior to serving notices of deposition, and in the meet-and-confer process required prior to filing a motion for a protective order.

Second, although we do not concede that they are relevant to the issues in this proceeding, we are producing the four unredacted PMK deposition transcripts and exhibits from the *Jewett* litigation. We are not able to produce them by noon tomorrow. The exhibits are voluminous, and we have been encountering some logistical difficulties in preparing these materials for production. At present, we expect to be able to produce all of them to you by Friday.

Second, as for non-PMK deposition transcripts, we are willing to produce the transcripts of four depositions that relate to HQCA. Otherwise, our position has not changed. We appreciate your obtaining consent to your access to additional transcripts from *Jewett* counsel, but we continue to object that such documents are not relevant to the issues in this litigation, let alone “highly relevant,” as you contend. In addition, *Jewett* counsel’s apparent waiver of any confidentiality interest does not and cannot satisfy our confidentiality concerns about personal privacy and competitively sensitive matters, given the different standards that apply as a result of FOIA exposure in this case.

Third, we cannot agree to your proposal for RFPs Nos. 167 and 168. As I mentioned previously, we are producing material from the *Jewett* litigation that we believe may have some arguable relevance to this proceeding. Some of that material was produced to you last Friday, and I would recommend that you review it before pursuing these requests further. Beyond that, the *Jewett* litigation has been a massive, sprawling enterprise that is not congruent on the issues with this case, and, even if we were willing to concede relevance in part – which we are not – it is far too late in this proceeding to indulge in a scavenger hunt picking through

the enormous document corpus of the *Jewett* litigation to find a few additional things that might have some proximate bearing on the very different issues in this case.

Finally, we did not wait to provide a substantive response on these matters until March 25. That was when responses to your RFPs were due, and we complied with our objections with respect thereto.

John Giansello

---

**From:** Garcia, Norman - SOL <[Garcia.Norman@DOL.GOV](mailto:Garcia.Norman@DOL.GOV)>

**Sent:** Monday, April 1, 2019 8:08 PM

**To:** Giansello, John <[jgiansello@orrick.com](mailto:jgiansello@orrick.com)>

**Cc:** Siniscalco, Gary R. <[grsiniscalco@orrick.com](mailto:grsiniscalco@orrick.com)>; James, Jessica R. L. <[Jessica.james@orrick.com](mailto:Jessica.james@orrick.com)>; Kaddah, Jacqueline D. <[jkaddah@orrick.com](mailto:jkaddah@orrick.com)>; Miller, Jeremiah - SOL <[Miller.Jeremiah@dol.gov](mailto:Miller.Jeremiah@dol.gov)>; Bremer, Laura - SOL <[Bremer.Laura@dol.gov](mailto:Bremer.Laura@dol.gov)>; Richardson, Cedrick P - SOL <[Richardson.Cedrick.P@DOL.gov](mailto:Richardson.Cedrick.P@DOL.gov)>; Song, Charles C - SOL <[Song.Charles.C@dol.gov](mailto:Song.Charles.C@dol.gov)>; Daquiz, Abigail - SOL <[Daquiz.Abigail@dol.gov](mailto:Daquiz.Abigail@dol.gov)>; Heath, Jacob M. <[jheath@orrick.com](mailto:jheath@orrick.com)>; Parker, Warrington <[wparker@orrick.com](mailto:wparker@orrick.com)>; Connell, Erin M. <[econnell@orrick.com](mailto:econnell@orrick.com)>; Riddell, J.R. <[jriddell@orrick.com](mailto:jriddell@orrick.com)>; Horton, Nicholas J. <[nhorton@orrick.com](mailto:nhorton@orrick.com)>; Stanley, James <[jamesstanley@orrick.com](mailto:jamesstanley@orrick.com)>; Kaddah, Jacqueline D. <[jkaddah@orrick.com](mailto:jkaddah@orrick.com)>

**Subject:** OFCCP letter regarding Jewett RFPs

John,

Since we have not heard anything from Oracle today regarding the *Jewett* RFPs, attached is letter on this subject.

Thanks,

Norm

Norman E. Garcia

Senior Trial Attorney

United States Department of Labor

90 7th Street, Rm. 3-700; SF, CA 94103 Telephone number: (415) 625-7747 Facsimile number: (415) 625-7772

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**From:** Garcia, Norman - SOL

**Sent:** Friday, March 29, 2019 1:38 PM

**To:** Giansello, John <[jgiansello@orrick.com](mailto:jgiansello@orrick.com)>

**Cc:** Siniscalco, Gary R. <[grsiniscalco@orrick.com](mailto:grsiniscalco@orrick.com)>; James, Jessica R. L. <[Jessica.james@orrick.com](mailto:Jessica.james@orrick.com)>; Kaddah, Jacqueline D. <[jkaddah@orrick.com](mailto:jkaddah@orrick.com)>; Miller, Jeremiah - SOL <[Miller.Jeremiah@dol.gov](mailto:Miller.Jeremiah@dol.gov)>; Bremer, Laura - SOL <[Bremer.Laura@dol.gov](mailto:Bremer.Laura@dol.gov)>; Richardson, Cedrick P - SOL <[Richardson.Cedrick.P@DOL.gov](mailto:Richardson.Cedrick.P@DOL.gov)>; Song, Charles C - SOL <[Song.Charles.C@dol.gov](mailto:Song.Charles.C@dol.gov)>; Daquiz, Abigail - SOL <[Daquiz.Abigail@dol.gov](mailto:Daquiz.Abigail@dol.gov)>; Heath, Jacob M. <[jheath@orrick.com](mailto:jheath@orrick.com)>; Parker, Warrington <[wparker@orrick.com](mailto:wparker@orrick.com)>; Connell, Erin M. <[econnell@orrick.com](mailto:econnell@orrick.com)>; Riddell, J.R. <[jriddell@orrick.com](mailto:jriddell@orrick.com)>; Horton, Nicholas J. <[nhorton@orrick.com](mailto:nhorton@orrick.com)>; Stanley, James <[jamesstanley@orrick.com](mailto:jamesstanley@orrick.com)>; Kaddah, Jacqueline D. <[jkaddah@orrick.com](mailto:jkaddah@orrick.com)>

**Subject:** RE: OFCCP's response to Oracle's conditional offer for Jewett PMK deposition transcripts

John,

We agree that we can resolve the dispute over Oracle's failure to produce the PMK depositions taken in Jewett by Oracle producing the unredacted deposition transcripts, notices of those depositions, and exhibits by noon on Wednesday of next week. Our understanding is that Judge Clark is "leav[ing] Judge Larsen's Protective Order in place, with a slight revision to the Pre-Hearing Order." Order Addressing Protective Order and Order Modifying Pre-Hearing Order (Mar. 22, 2019). Accordingly, Oracle may designate excerpts of the transcripts as Confidential pursuant to the Protective Order, if appropriate.

We will also agree to give prior notice to Oracle before noticing PMK depositions on the same topics in the notice of depositions for those depositions and will meet and confer with Oracle to attempt to resolve disputes. This assumes of course that we receive them before we serve our 30(b)(6) notices. However, we do not agree to prior notice as to anything that may have been touched upon in the deposition transcripts to include topics not covered in the deposition notices because the witnesses were not testifying in their capacity as PMK witnesses for non-noticed topics. We take this position because we believe that doing otherwise is unworkable and will lead to further disputes. Of course, we intend to cooperate with Oracle, in any event, in seeking mutually convenient deposition dates, which provides the opportunity to meet and confer regarding any matters Oracle believes warrant a protective order.

Lastly, given the schedule in this case and your unwillingness to seek a protective order within five days of notice, we will need to serve any notice promptly if the parties cannot quickly resolve their differences through the meet and confer process.

Please advise if this is acceptable to you.

Thanks,

Norm

Norman E. Garcia  
Senior Trial Attorney  
United States Department of Labor  
90 7th Street, Rm. 3-700; SF, CA 94103 Telephone number: (415) 625-7747 Facsimile number: (415) 625-7772

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**From:** Giansello, John <[jgiansello@orrick.com](mailto:jgiansello@orrick.com)>

**Sent:** Friday, March 29, 2019 10:28 AM

**To:** Garcia, Norman - SOL <[Garcia.Norman@DOL.GOV](mailto:Garcia.Norman@DOL.GOV)>

**Cc:** Siniscalco, Gary R. <[grsiniscalco@orrick.com](mailto:grsiniscalco@orrick.com)>; James, Jessica R. L. <[Jessica.james@orrick.com](mailto:Jessica.james@orrick.com)>; Kaddah, Jacqueline D. <[jkaddah@orrick.com](mailto:jkaddah@orrick.com)>; Miller, Jeremiah - SOL <[Miller.Jeremiah@dol.gov](mailto:Miller.Jeremiah@dol.gov)>; Bremer, Laura - SOL

<[Bremer.Laura@dol.gov](mailto:Bremer.Laura@dol.gov)>; Richardson, Cedrick P - SOL <[Richardson.Cedrick.P@DOL.gov](mailto:Richardson.Cedrick.P@DOL.gov)>; Song, Charles C - SOL

<[Song.Charles.C@dol.gov](mailto:Song.Charles.C@dol.gov)>; Daquiz, Abigail - SOL <[Daquiz.Abigail@dol.gov](mailto:Daquiz.Abigail@dol.gov)>; Heath, Jacob M. <[jheath@orrick.com](mailto:jheath@orrick.com)>;

Parker, Warrington <[wparker@orrick.com](mailto:wparker@orrick.com)>; Connell, Erin M. <[econnell@orrick.com](mailto:econnell@orrick.com)>; Riddell, J.R.

<[jriddell@orrick.com](mailto:jriddell@orrick.com)>; Horton, Nicholas J. <[nhorton@orrick.com](mailto:nhorton@orrick.com)>; Stanley, James <[jamesstanley@orrick.com](mailto:jamesstanley@orrick.com)>; Kaddah, Jacqueline D. <[jkaddah@orrick.com](mailto:jkaddah@orrick.com)>

**Subject:** RE: OFCCP's response to Oracle's conditional offer for Jewett PMK deposition transcripts

Mr. Garcia:

I respond to your comments below, concerning the *Jewett* PMK depositions.

First, as to scope, yes, our intention is to include the deposition topics contained with the deposition notices for those PMK depositions, but also topics actually covered in those depositions and anything that may range

outside the matters for which those witnesses were designated. The topics covered by the depositions are reflected in the transcripts themselves, and in colloquy between counsel that appears in the transcripts.

We do intend to produce the deposition transcripts and the exhibits to those depositions. The deposition notices are included in the exhibits in each case. I advise you that these depositions were taken as confidential in the *Jewett* litigation, and subject to the protective order in that case. We therefore deem the transcripts and their exhibits, if produced to you, subject to the protective order in effect in this litigation, as modified by Judge Clark in his order of March 22, 2019, as to which there are some matters remaining to be worked out between the parties.

We will not be producing the transcripts or exhibits today. I seem to recall that, when you first raised the issue of deposition transcripts directly, you asked that they be produced by some time in April. These shifting, imperious and arbitrary deadlines are not helpful to the resolution of this or any other dispute in this litigation, particularly when they arrive at almost 10 PM my time the night before. Assuming we are in agreement on the particulars of producing these transcripts and exhibits, I anticipate we will be able to produce them next week.

The request that we agree to file a motion for a protective order within five days of service of any deposition notice for these witnesses is unworkable. We are required to meet and confer prior to filing such a motion. That is why we request your agreement to inform us of your intent to serve a notice of deposition before you do so, in order to afford the parties an adequate opportunity to resolve any differences or misunderstandings in an orderly manner. Also, your proposed short-fuse requirement is unnecessary, in that, given the positions these witnesses occupy in the Company and the schedules of counsel on both sides, finding deposition dates and times for each of them will inevitably require discussion and flexibility.

Finally, of course, if we file a motion for a protective order, you have all rights afforded to you by the applicable rules and the scheduling order in this case with respect thereto.

John Giansello

---

**From:** Garcia, Norman - SOL <[Garcia.Norman@DOL.GOV](mailto:Garcia.Norman@DOL.GOV)>

**Sent:** Thursday, March 28, 2019 9:39 PM

**To:** Giansello, John <[jgiansello@orrick.com](mailto:jgiansello@orrick.com)>

**Cc:** Siniscalco, Gary R. <[grsiniscalco@orrick.com](mailto:grsiniscalco@orrick.com)>; James, Jessica R. L. <[Jessica.james@orrick.com](mailto:Jessica.james@orrick.com)>; Kaddah, Jacqueline D. <[jkaddah@orrick.com](mailto:jkaddah@orrick.com)>; Miller, Jeremiah - SOL <[Miller.Jeremiah@dol.gov](mailto:Miller.Jeremiah@dol.gov)>; Bremer, Laura - SOL <[Bremer.Laura@dol.gov](mailto:Bremer.Laura@dol.gov)>; Richardson, Cedrick P - SOL <[Richardson.Cedrick.P@DOL.gov](mailto:Richardson.Cedrick.P@DOL.gov)>; Song, Charles C - SOL <[Song.Charles.C@dol.gov](mailto:Song.Charles.C@dol.gov)>; Daquiz, Abigail - SOL <[Daquiz.Abigail@dol.gov](mailto:Daquiz.Abigail@dol.gov)>; Heath, Jacob M. <[jheath@orrick.com](mailto:jheath@orrick.com)>; Parker, Warrington <[wparker@orrick.com](mailto:wparker@orrick.com)>; Connell, Erin M. <[econnell@orrick.com](mailto:econnell@orrick.com)>; Riddell, J.R. <[jriddell@orrick.com](mailto:jriddell@orrick.com)>; Horton, Nicholas J. <[nhorton@orrick.com](mailto:nhorton@orrick.com)>; Stanley, James <[jamesstanley@orrick.com](mailto:jamesstanley@orrick.com)>; Kaddah, Jacqueline D. <[jkaddah@orrick.com](mailto:jkaddah@orrick.com)>

**Subject:** RE: OFCCP's response to Oracle's conditional offer for Jewett PMK deposition transcripts

**Importance:** High

John,

Thank you for the e-mail. We will only be responding at this time to your PMK deposition transcript proposal.

We need to confirm some points in your e-mail below.

- You state that Oracle will produce PMK transcripts subject to "our reservation of our right to seek protective orders as to the scope of any depositions of those witnesses you may seek to obtain, and to your agreement that you will, in each case, inform us of your intent to do so prior

to service of a deposition notice.” We interpret your statement of “the scope of any depositions of those witnesses you may seek to obtain” to mean the deposition topics contained within the deposition notices for these PMK depositions. If Oracle seeks prior notice of intent to serve deposition notices on these topics, Oracle will need to immediately provide us with the deposition topics, so we know what they are.

- We want to confirm that you will be producing the deposition transcripts, their notices and any exhibits covered in the depositions as part of your proposal.
- Assuming we understand the scope of Oracle's proposal, we would request that you provide electronic copies of the aforementioned PMK documents by the end of the day Friday, March 29, 2019.
- It was unclear when Oracle would file a protective order in response to our prior notice of our intent to depose. To not hold up the taking of any deposition, we would request that Oracle, if it should want to file a protective order, file it within five days of the notice.
- Of course, this agreement would include not only a reservation of rights for Oracle to bring a motion for a protective order, which it already has the right to do so, but a likewise reservation of rights for OFCCP to oppose such a protective order motion.

Please let us know immediately if we understand your proposal, and if Oracle will agree to electronically produce the documents requested above by the end of the day tomorrow, agree that it will bring protective orders regarding the PMK depositions within five days of notice that OFCCP seeks such depositions, and agree to the reservation of rights by both parties.

Thanks,

Norm

Norman E. Garcia  
Senior Trial Attorney  
United States Department of Labor  
90 7th Street, Rm. 3-700; SF, CA 94103 Telephone number: (415) 625-7747 Facsimile number: (415) 625-7772

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---

**From:** Giansello, John <[jgiansello@orrick.com](mailto:jgiansello@orrick.com)>  
**Sent:** Thursday, March 28, 2019 4:18 PM  
**To:** Garcia, Norman - SOL <[Garcia.Norman@DOL.GOV](mailto:Garcia.Norman@DOL.GOV)>  
**Cc:** Siniscalco, Gary R. <[grsiniscalco@orrick.com](mailto:grsiniscalco@orrick.com)>; James, Jessica R. L. <[Jessica.james@orrick.com](mailto:Jessica.james@orrick.com)>; Kaddah, Jacqueline D. <[jkaddah@orrick.com](mailto:jkaddah@orrick.com)>; Miller, Jeremiah - SOL <[Miller.Jeremiah@dol.gov](mailto:Miller.Jeremiah@dol.gov)>; Bremer, Laura - SOL <[Bremer.Laura@dol.gov](mailto:Bremer.Laura@dol.gov)>; Richardson, Cedrick P - SOL <[Richardson.Cedrick.P@DOL.gov](mailto:Richardson.Cedrick.P@DOL.gov)>; Song, Charles C - SOL <[Song.Charles.C@dol.gov](mailto:Song.Charles.C@dol.gov)>; Daquiz, Abigail - SOL <[Daquiz.Abigail@dol.gov](mailto:Daquiz.Abigail@dol.gov)>; Heath, Jacob M. <[jheath@orrick.com](mailto:jheath@orrick.com)>; Parker, Warrington <[wparker@orrick.com](mailto:wparker@orrick.com)>; Connell, Erin M. <[econnell@orrick.com](mailto:econnell@orrick.com)>; Riddell, J.R. <[jriddell@orrick.com](mailto:jriddell@orrick.com)>; Horton, Nicholas J. <[nhorton@orrick.com](mailto:nhorton@orrick.com)>; Stanley, James <[jamesstanley@orrick.com](mailto:jamesstanley@orrick.com)>; Kaddah, Jacqueline D. <[jkaddah@orrick.com](mailto:jkaddah@orrick.com)>  
**Subject:** RE: OFCCP's response to Oracle's conditional offer for Jewett PMK deposition transcripts

Mr. Garcia:

We respond as follows to your email of March 26, 2019 (below), concerning RFPs Nos. 166, 167 and 168, and our prior discussions and exchanges concerning RFP No. 24:

As for transcripts of depositions taken in the *Jewett* litigation, we are willing to produce the transcripts of the depositions of the four Oracle PMK witnesses who have already been identified to you by position and title. Our willingness to do so, however, is subject to our reservation of our right to seek protective orders as to the scope of any depositions of those witnesses you may seek to obtain, and to your agreement that you will, in each case, inform us of your intent to do so prior to service of a deposition notice.

As for the other depositions taken in the *Jewett* litigation, we do not believe they are relevant to the issues in the OFCCP litigation against Oracle, and their production would implicate serious issues and problems arising from the production in the *Jewett* litigation of private personal information of individuals and of Oracle's competitively sensitive and otherwise confidential information. Therefore, we decline to produce them.

As for RFPs Nos. 167 and 168, as written, they ask us indiscriminately to provide OFCCP with what would be a complete dump of everything exchanged between the parties to the *Jewett* litigation. We decline to do so. We do note that we have produced and are producing material from the *Jewett* litigation that is relevant to the issues in this litigation.

Finally, with respect to your proposed procedure for dealing with RFP No. 24, we reject it. It is a much too cumbersome and protracted mechanism for a problem that can be addressed much more simply. In that regard, we are in the process of re-reviewing the Larry Lynn emails from the earlier-identified sample period, and we will produce anything additional that we believe is responsive. If OFCCP wishes, it can propose search terms when it reviews the additional material – or before if it is inclined to do so.

John Giansello

---

**From:** Garcia, Norman - SOL <[Garcia.Norman@DOL.GOV](mailto:Garcia.Norman@DOL.GOV)>

**Sent:** Tuesday, March 26, 2019 1:12 PM

**To:** Giansello, John <[jgiansello@orrick.com](mailto:jgiansello@orrick.com)>

**Cc:** Siniscalco, Gary R. <[grsiniscalco@orrick.com](mailto:grsiniscalco@orrick.com)>; James, Jessica R. L. <[Jessica.james@orrick.com](mailto:Jessica.james@orrick.com)>; Kaddah, Jacqueline D. <[jkaddah@orrick.com](mailto:jkaddah@orrick.com)>; Miller, Jeremiah - SOL <[Miller.Jeremiah@dol.gov](mailto:Miller.Jeremiah@dol.gov)>; Bremer, Laura - SOL

<[Bremer.Laura@dol.gov](mailto:Bremer.Laura@dol.gov)>; Richardson, Cedrick P - SOL <[Richardson.Cedrick.P@DOL.gov](mailto:Richardson.Cedrick.P@DOL.gov)>; Song, Charles C - SOL

<[Song.Charles.C@dol.gov](mailto:Song.Charles.C@dol.gov)>; Daquiz, Abigail - SOL <[Daquiz.Abigail@dol.gov](mailto:Daquiz.Abigail@dol.gov)>; Heath, Jacob M. <[jheath@orrick.com](mailto:jheath@orrick.com)>;

Parker, Warrington <[wparker@orrick.com](mailto:wparker@orrick.com)>; Connell, Erin M. <[econnell@orrick.com](mailto:econnell@orrick.com)>

**Subject:** OFCCP's response to Oracle's conditional offer for Jewitt PMK deposition transcripts

John,

Thank you for the deposition response.

From the titles you mentioned, all of the PMK depositions you listed seem highly relevant to this case. There is no legal basis to withhold them. As stated previously, after we review them, we may determine that it is unnecessary to depose some of the witnesses, or may choose to limit our questioning. Thus, providing the depositions will likely lead to efficiencies for both parties.

Therefore, we request again that you provide the highly relevant PMK transcripts, without seeking to impose limitations on us.

In terms of the non-PMK transcripts, those are relevant too because they, inter alia, likely cover Oracle's compensation practices in California which were the same throughout the state to include its Redwood Shores Headquarters. The privacy concerns are a non-issue because of the protective order for this case. Thus, there is also no legal basis to withhold them. We request again that you also provide these relevant transcripts.

If you don't agree to produce these deposition transcripts, we will bring a motion to compel.

As stated in yesterday's letter, please let us know by noon on Wednesday, March 27, 2019, if Oracle wishes to change its positions on the deposition transcripts and what Oracle will do in response to RFPs 167-68.

Lastly, please advise if Oracle will accept OFCCP's compromise offer for RFP 24 as stated in OFCCP's letter dated March 21, 2019.

Thanks,

Norm

Norman E. Garcia  
Senior Trial Attorney  
United States Department of Labor  
90 7th Street, Rm. 3-700; SF, CA 94103 Telephone number: (415) 625-7747 Facsimile number: (415) 625-7772

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**From:** Giansello, John <[jgiansello@orrick.com](mailto:jgiansello@orrick.com)>  
**Sent:** Monday, March 25, 2019 4:44 PM  
**To:** Garcia, Norman - SOL <[Garcia.Norman@DOL.GOV](mailto:Garcia.Norman@DOL.GOV)>  
**Cc:** Siniscalco, Gary R. <[grsiniscalco@orrick.com](mailto:grsiniscalco@orrick.com)>; James, Jessica R. L. <[Jessica.james@orrick.com](mailto:Jessica.james@orrick.com)>; Kaddah, Jacqueline D. <[jkaddah@orrick.com](mailto:jkaddah@orrick.com)>; Miller, Jeremiah - SOL <[Miller.Jeremiah@dol.gov](mailto:Miller.Jeremiah@dol.gov)>; Bremer, Laura - SOL <[Bremer.Laura@dol.gov](mailto:Bremer.Laura@dol.gov)>; Richardson, Cedrick P - SOL <[Richardson.Cedrick.P@DOL.gov](mailto:Richardson.Cedrick.P@DOL.gov)>; Song, Charles C - SOL <[Song.Charles.C@dol.gov](mailto:Song.Charles.C@dol.gov)>; Daquiz, Abigail - SOL <[Daquiz.Abigail@dol.gov](mailto:Daquiz.Abigail@dol.gov)>; Heath, Jacob M. <[jheath@orrick.com](mailto:jheath@orrick.com)>; Parker, Warrington <[wparker@orrick.com](mailto:wparker@orrick.com)>; Connell, Erin M. <[econnell@orrick.com](mailto:econnell@orrick.com)>  
**Subject:** RE: Memorializing the March 22, 2019, conference call for the Jewett and privilege log letters

Mr. Garcia:

Without responding to your attached letter (which I have not yet had the opportunity to read), we respond as promised in our discussion Friday evening concerning the depositions taken in the *Jewett* litigation:

The Oracle witnesses deposed in the *Jewett* litigation were all PMK witnesses, and their titles were the Vice President of Human Resources, the Director of Talent Advisory, the Senior Director of US Compensation, and the Senior Director of Global Compensation. We are prepared to produce the transcripts of these depositions to you provided that you agree that you will not serve notices for PMK depositions covering the topics covered in these depositions, and that the PMK testimony from *Jewett* will be, to the extent relevant, the PMK testimony in this case on those topics.

We are not willing to produce transcripts of other witnesses deposed in the *Jewett* litigation. We believe they are irrelevant to the issues in this proceeding and also raise significant issues of personal privacy.

John Giansello

---

**From:** Garcia, Norman - SOL <[Garcia.Norman@DOL.GOV](mailto:Garcia.Norman@DOL.GOV)>  
**Sent:** Monday, March 25, 2019 6:35 PM  
**To:** Giansello, John <[jgiansello@orrick.com](mailto:jgiansello@orrick.com)>  
**Cc:** Siniscalco, Gary R. <[grsiniscalco@orrick.com](mailto:grsiniscalco@orrick.com)>; James, Jessica R. L. <[Jessica.james@orrick.com](mailto:Jessica.james@orrick.com)>; Kaddah, Jacqueline D. <[jkaddah@orrick.com](mailto:jkaddah@orrick.com)>; Miller, Jeremiah - SOL <[Miller.Jeremiah@dol.gov](mailto:Miller.Jeremiah@dol.gov)>; Bremer, Laura - SOL

<[Bremer.Laura@dol.gov](mailto:Bremer.Laura@dol.gov)>; Richardson, Cedrick P - SOL <[Richardson.Cedrick.P@DOL.gov](mailto:Richardson.Cedrick.P@DOL.gov)>; Song, Charles C - SOL <[Song.Charles.C@dol.gov](mailto:Song.Charles.C@dol.gov)>; Daquiz, Abigail - SOL <[Daquiz.Abigail@dol.gov](mailto:Daquiz.Abigail@dol.gov)>; Heath, Jacob M. <[jheath@orrick.com](mailto:jheath@orrick.com)>; Parker, Warrington <[wparker@orrick.com](mailto:wparker@orrick.com)>; Connell, Erin M. <[econnell@orrick.com](mailto:econnell@orrick.com)>  
**Subject:** Memorializing the March 22, 2019, conference call for the Jewitt and privilege log letters

John,

Attached is OFCCP's letter memorializing our meet and confer communications on March 22, 2019, as well as adding a few items when noted.

Also, on this past Friday, while we discussed the visa compromise offer that OFCCP made in its March 21, 2019, letter, we did not discuss the compromise offer that OFCCP made in this letter for RFP 24. Please advise if Oracle will accept OFCCP's compromise offer.

Lastly, in the second paragraph of this letter we are asking Oracle to identify by noon on Wednesday, March 27, 2019, if it will be producing the documents requested in RFPs 166-168 not later than April 8, 2019, for the reasons stated in the letter. Chief among them is that Oracle could not identify what documents, if any, that it will produce when for these RFPs and that the potential PMK transcript offer was not different from what Ms. Connell stated a month before on February 22, 2019, in an e-mail.

Mr. Song will be sending you separate correspondence for the meet and confer communications on March 22, 2019, that involved his March 14, 2019, meet and confer letter.

Thanks,

Norm

Norman E. Garcia  
Senior Trial Attorney  
United States Department of Labor  
90 7th Street, Rm. 3-700; SF, CA 94103 Telephone number: (415) 625-7747 Facsimile number: (415) 625-7772

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**From:** Garcia, Norman - SOL  
**Sent:** Thursday, March 21, 2019 3:38 PM  
**To:** Giansello, John <[jgiansello@orrick.com](mailto:jgiansello@orrick.com)>  
**Cc:** Siniscalco, Gary R. <[grsiniscalco@orrick.com](mailto:grsiniscalco@orrick.com)>; James, Jessica R. L. <[Jessica.james@orrick.com](mailto:Jessica.james@orrick.com)>; Kaddah, Jacqueline D. <[jkaddah@orrick.com](mailto:jkaddah@orrick.com)>; Miller, Jeremiah - SOL <[Miller.Jeremiah@dol.gov](mailto:Miller.Jeremiah@dol.gov)>; Bremer, Laura - SOL <[Bremer.Laura@dol.gov](mailto:Bremer.Laura@dol.gov)>; Richardson, Cedrick P - SOL <[Richardson.Cedrick.P@DOL.gov](mailto:Richardson.Cedrick.P@DOL.gov)>; Song, Charles C - SOL <[Song.Charles.C@dol.gov](mailto:Song.Charles.C@dol.gov)>; Daquiz, Abigail - SOL <[Daquiz.Abigail@dol.gov](mailto:Daquiz.Abigail@dol.gov)>; Heath, Jacob M. <[jheath@orrick.com](mailto:jheath@orrick.com)>; Parker, Warrington <[wparker@orrick.com](mailto:wparker@orrick.com)>; Connell, Erin M. <[econnell@orrick.com](mailto:econnell@orrick.com)>  
**Subject:** RE: Meet and Confer Letter re Oracle's privilege log and production

John,

Attached is our response to your letter dated March 18, 2019, regarding your alleged memorialization of our March 15, 2019, conference call. We have also identified about another 20 blank documents that Oracle produced that are in addition to those identified in the letter to Erin. The BSNs of these documents are identified below.

Talk to you tomorrow regarding my letters dated March 12th and 15th and Charles Song's letter dated March 14, 2019.

Thanks,

Norm

ORACLE\_HQCA\_0000148329  
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ORACLE\_HQCA\_0000186609  
ORACLE\_HQCA\_0000186610  
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ORACLE\_HQCA\_0000208788  
ORACLE\_HQCA\_0000208659  
ORACLE\_HQCA\_0000211989  
ORACLE\_HQCA\_0000211987  
ORACLE\_HQCA\_0000211988  
ORACLE\_HQCA\_0000211990  
ORACLE\_HQCA\_0000211991  
ORACLE\_HQCA\_0000213244

Norman E. Garcia  
Senior Trial Attorney  
United States Department of Labor  
90 7th Street, Rm. 3-700; SF, CA 94103 Telephone number: (415) 625-7747 Facsimile number: (415) 625-7772

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---

**From:** Connell, Erin M. <[econnell@orrick.com](mailto:econnell@orrick.com)>  
**Sent:** Wednesday, March 20, 2019 10:21 AM  
**To:** Garcia, Norman - SOL <[Garcia.Norman@DOL.GOV](mailto:Garcia.Norman@DOL.GOV)>  
**Cc:** Siniscalco, Gary R. <[grsiniscalco@orrick.com](mailto:grsiniscalco@orrick.com)>; James, Jessica R. L. <[Jessica.james@orrick.com](mailto:Jessica.james@orrick.com)>; Kaddah, Jacqueline D. <[jkaddah@orrick.com](mailto:jkaddah@orrick.com)>; Miller, Jeremiah - SOL <[Miller.Jeremiah@dol.gov](mailto:Miller.Jeremiah@dol.gov)>; Bremer, Laura - SOL <[Bremer.Laura@dol.gov](mailto:Bremer.Laura@dol.gov)>; Richardson, Cedrick P - SOL <[Richardson.Cedrick.P@DOL.gov](mailto:Richardson.Cedrick.P@DOL.gov)>; Song, Charles C - SOL <[Song.Charles.C@dol.gov](mailto:Song.Charles.C@dol.gov)>; Daquiz, Abigail - SOL <[Daquiz.Abigail@dol.gov](mailto:Daquiz.Abigail@dol.gov)>; Heath, Jacob M. <[jheath@orrick.com](mailto:jheath@orrick.com)>; Giansello, John <[jgiansello@orrick.com](mailto:jgiansello@orrick.com)>; Parker, Warrington <[wparker@orrick.com](mailto:wparker@orrick.com)>  
**Subject:** RE: Meet and Confer Letter re Oracle's privilege log and production

Hi Norm,

I'm re-sending one more time as I inadvertently did not add Warrington.

Thanks,  
Erin

---

**From:** Connell, Erin M.  
**Sent:** Wednesday, March 20, 2019 10:20 AM

**To:** 'Garcia, Norman - SOL' <[Garcia.Norman@DOL.GOV](mailto:Garcia.Norman@DOL.GOV)>

**Cc:** Siniscalco, Gary R. <[grsiniscalco@orrick.com](mailto:grsiniscalco@orrick.com)>; James, Jessica R. L. <[Jessica.james@orrick.com](mailto:Jessica.james@orrick.com)>; Kaddah, Jacqueline D. <[jkaddah@orrick.com](mailto:jkaddah@orrick.com)>; Miller, Jeremiah - SOL <[Miller.Jeremiah@dol.gov](mailto:Miller.Jeremiah@dol.gov)>; Bremer, Laura - SOL <[Bremer.Laura@dol.gov](mailto:Bremer.Laura@dol.gov)>; Richardson, Cedrick P - SOL <[Richardson.Cedrick.P@DOL.gov](mailto:Richardson.Cedrick.P@DOL.gov)>; Song, Charles C - SOL <[Song.Charles.C@dol.gov](mailto:Song.Charles.C@dol.gov)>; Daquiz, Abigail - SOL <[Daquiz.Abigail@dol.gov](mailto:Daquiz.Abigail@dol.gov)>; Heath, Jacob M. <[jheath@orrick.com](mailto:jheath@orrick.com)>; Giansello, John <[jgiansello@orrick.com](mailto:jgiansello@orrick.com)>

**Subject:** RE: Meet and Confer Letter re Oracle's privilege log and production

Hi Norm,

I have been out of the office (and out of the country) for the past several days, as my out-of-office message confirmed. In any event, please coordinate with John and Jake (copied here) directly on your request for a meet and confer call this week.

Also, please let Warrington know when you are available to meet and confer call with him, per his request on March 19.

Finally, can you please include Warrington, Jake and John on discovery correspondence going forward? I have added them here.

Thanks,  
Erin

---

**From:** Garcia, Norman - SOL <[Garcia.Norman@DOL.GOV](mailto:Garcia.Norman@DOL.GOV)>

**Sent:** Wednesday, March 20, 2019 9:25 AM

**To:** Connell, Erin M. <[econnell@orrick.com](mailto:econnell@orrick.com)>

**Cc:** Siniscalco, Gary R. <[grsiniscalco@orrick.com](mailto:grsiniscalco@orrick.com)>; James, Jessica R. L. <[Jessica.james@orrick.com](mailto:Jessica.james@orrick.com)>; Kaddah, Jacqueline D. <[jkaddah@orrick.com](mailto:jkaddah@orrick.com)>; Miller, Jeremiah - SOL <[Miller.Jeremiah@dol.gov](mailto:Miller.Jeremiah@dol.gov)>; Bremer, Laura - SOL <[Bremer.Laura@dol.gov](mailto:Bremer.Laura@dol.gov)>; Richardson, Cedrick P - SOL <[Richardson.Cedrick.P@DOL.gov](mailto:Richardson.Cedrick.P@DOL.gov)>; Song, Charles C - SOL <[Song.Charles.C@dol.gov](mailto:Song.Charles.C@dol.gov)>; Daquiz, Abigail - SOL <[Daquiz.Abigail@dol.gov](mailto:Daquiz.Abigail@dol.gov)>

**Subject:** RE: Meet and Confer Letter re Oracle's privilege log and production

**Importance:** High

Erin,

I am following up on the meeting and confer letters that I sent on March 12, 2019, concerning the Jewitt RFPs and on March 15, 2019, concerning issues with Oracle's privilege log, non-referenced redactions, blank pages and empty native file folders. While I requested a meeting this week in both, I have heard nothing back from you. When are you available this Thursday, March 21, 2019, to discuss?

Thanks,

Norm

Norman E. Garcia  
Senior Trial Attorney  
United States Department of Labor  
90 7th Street, Rm. 3-700; SF, CA 94103 Telephone number: (415) 625-7747 Facsimile number: (415) 625-7772

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**From:** Garcia, Norman - SOL  
**Sent:** Friday, March 15, 2019 5:05 PM  
**To:** [econnell@orrick.com](mailto:econnell@orrick.com)  
**Cc:** [grsiscalco@orrick.com](mailto:grsiscalco@orrick.com); [jessica.james@orrick.com](mailto:jessica.james@orrick.com); [jkaddah@orrick.com](mailto:jkaddah@orrick.com); Miller, Jeremiah - SOL <[Miller.Jeremiah@dol.gov](mailto:Miller.Jeremiah@dol.gov)>; Bremer, Laura - SOL <[Bremer.Laura@dol.gov](mailto:Bremer.Laura@dol.gov)>; Richardson, Cedrick P - SOL <[Richardson.Cedrick.P@DOL.gov](mailto:Richardson.Cedrick.P@DOL.gov)>  
**Subject:** Meet and Confer Letter re Oracle's privilege log and production

Erin,

Attached is a meet and confer letter about Oracle's privilege log and production.

Thanks,

Norm

Norman E. Garcia  
Senior Trial Attorney  
United States Department of Labor  
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# **EXHIBIT D**



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**John D. Giansello**

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April 5, 2019

VIA E-mail: (Garcia.Norman@dol.gov; Bremer.Laura@dol.gov)

Norman E. Garcia, Esq.  
Senior Trial Attorney  
United States Department of Labor  
90 Seventh Street, Room 3-700  
San Francisco, CA 94103

**Re: OFCCP v. Oracle America, Inc.  
OALJ Case No. 2017-OFC-00006; OFCCP No. R001192699**

Dear Mr. Garcia:

In furtherance of my prior response to your April 1, 2019 letter, today Oracle is producing load files that include the four unredacted transcripts and exhibits from the Persons Most Knowledgeable (PMKs) depositions in the *Jewett* litigation. The PMK materials include transcripts and exhibits from Anje Dodson (produced at ORACLE\_HQCA\_0000398389 to ORACLE\_HQCA\_0000399189), Kristina Karstensson Edwards (produced here at ORACLE\_HQCA\_0000399190 to ORACLE\_HQCA\_0000399378), Chad Wayne Kidder (produced at ORACLE\_HQCA\_0000399379 to ORACLE\_HQCA\_0000399630), and Kate Waggoner (produced here at ORACLE\_HQCA\_0000399631 to ORACLE\_HQCA\_0000401021). As I stated in my previous letter, we do not concede that this production is relevant to the issues in this proceeding, and Oracle reserves its rights in that regard.

Furthermore, we are producing these materials in accordance with our e-discovery protocols and they are marked "Confidential" in their entirety due to system limitations that do not facilitate confidential designations by page or line numbers. However, through this letter we narrow our designations as reflected in the attached chart. These materials are only being produced subject to our understanding that you will observe each of the designations in accordance with the protective order in effect in this litigation.

Very truly yours,

A handwritten signature in black ink, appearing to read "John Giansello".

John Giansello

cc: Jeremiah Miller, Esq. (via email to [Miller.Jeremiah@dol.gov](mailto:Miller.Jeremiah@dol.gov))  
Charles C. Song, Esq. (via email to [Song.Charles.C@dol.gov](mailto:Song.Charles.C@dol.gov))

# **EXHIBIT E**

**U.S. Department of Labor**

Office of the Solicitor  
350 S. Figueroa Street, Suite 370  
Los Angeles, CA 90071-1202



Reply to:  
Charles Song  
(213) 894-5365

April 19, 2019

**VIA ELECTRONIC MAIL**

J.R. Riddell  
ORRICK, HERRINGTON & SUTCLIFFE LLP  
400 Capitol Mall, Suite 3000  
Sacramento, CA 95814

**Re: OFCCP v. Oracle America, Inc., OALJ Case No. 2017-OFC-00006**

Mr. Riddell:

This letter is to memorialize our meet and confer discussions on April 18 and 19, 2019, regarding Oracle's objections and responses to OFCCP's Amended 30(b)(6) Notice of Deposition. In general, Oracle stood by its objections for every request, and the parties were unable to resolve numerous topics. Aside from the topic-specific discussions outlined below, the parties met and conferred about the following general topics:

First, OFCCP objected to Oracle's repeated use of the qualifier "generally" to describe what its 30(b)(6) witnesses would testify about. The parties agreed that regardless of Oracle's use of this word, Oracle will comply with its obligation to prepare and produce 30(b)(6) witnesses who will be prepared to testify about information known or reasonably available to Oracle.

Second, the parties disagreed about the role of the *Jewett* deposition transcripts in this litigation. Oracle repeatedly delayed OFCCP's efforts to acquire the *Jewett* transcripts even after OFCCP offered to wait to serve its 30(b)(6) notice. Given Oracle's past and continuing obstructionist behavior in this litigation, it cannot complain that OFCCP refused to wait even longer to serve its notice. In any event, OFCCP is entitled to its own depositions in this action and will not agree to modify its notice to remove topics that may have been discussed in other, according to Oracle, irrelevant litigation to which OFCCP was not a party. However, OFCCP is, of course, still reviewing the *Jewett* deposition transcripts received a few days ago with an eye to limiting duplicative questioning.

Third, the parties were unable to agree on the temporal scope of topics concerning compensation. OFCCP's position is that we are entitled to inquire about facts up to the date of the deposition, whereas Oracle claims that it should be limited to January 18, 2019. Given that Oracle promised to reconsider its position, please let us know by April 23, 2019 whether Oracle will agree to OFCCP's time period.

J.R. Riddell  
April 19, 2019

The parties further discussed issues related to specific topics:

**Topic 1:** OFCCP agreed to limit the period from January 1, 2013 to January 18, 2019 for purposes of testimony regarding this topic. OFCCP expressed concern that Oracle was narrowing the topic to exclude testimony about “identifying, screening, and interviewing COLLEGE RECRUITS, [and] matching COLLEGE RECRUITS to PT1 positions at HQCA.” Oracle clarified that it will produce a witness to testify about those issues as well.

**Topic 2:** OFCCP agreed to limit the period from January 1, 2013 to January 18, 2019 for purposes of testimony regarding this topic. Again, Oracle clarified that it will produce a witness to testify about all subtopics included.

**Topic 3:** OFCCP agreed to limit the period from January 1, 2013 to January 18, 2019 for purposes of testimony regarding this topic. Oracle will produce a witness to testify about this topic.

**Topics 4-5:** Oracle clarified that despite its objection to definition 7 (“transfer employees”), it will produce a witness to testify about compensation for transfers in the Product Development, Support, and Information Technology job functions at HQCA. Oracle, however, refused to allow testimony on the remaining subtopics, including its process and training for recruiting, hiring, and assigning transfers. Oracle claimed that such issues are overbroad and irrelevant. Further, the parties disagreed about the temporal scope for the topic. *See supra* pg. 1.

**Topic 6:** Oracle agreed to produce a witness to testify about OFCCP’s document and data requests and Oracle’s response to those requests. This includes testimony about Oracle’s response to requests for which they ultimately did not produce documents or data.

**Topics 7-8:** Oracle refused to produce a witness to testify about these topics. Oracle claimed that it is not possible to prepare even multiple witnesses to testify about these topics. Instead, Oracle offered to answer technical questions in writing. OFCCP noted that Oracle has previously told OFCCP to request this information in depositions during meet and confer discussions.

OFCCP offered to accept testimony on only the four spreadsheets listed in its notice and that Oracle continue to answer questions about other data. Oracle rejected OFCCP’s offer based on its unsupported and unexplained undue burden objection. Oracle also claimed that some of the testimony that OFCCP seeks is protected by the work product doctrine, and that OFCCP should be satisfied with the information it obtained during pre-discovery interviews. OFCCP explained that it cannot rely on those interviews because they were not on the record, under oath, and Oracle instructed its witnesses not to answer multiple times, impeding OFCCP from developing a full understanding of the issues in question.

**Topic 9:** Oracle refused to commit to producing a witness for this topic. Again, Oracle claims that OFCCP already obtained enough information during its interview of Lisa Ripley. Oracle asked

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if OFCCP would be willing to travel to Denver for the deposition, but OFCCP noted that it has the legal right to take the deposition in California. Oracle agreed to reconsider its position. Please let us know by April 23, 2019 whether Oracle will agree to produce a witness for this topic.

**Topic 10:** The parties agreed to continue discussions about stipulating to authentication of documents. OFCCP reserved its right to take a 30(b)(6) deposition on this topic if the parties cannot agree on the terms of a stipulation in a timely manner.

**Topic 11:** The parties could not reach an agreement on this topic. Oracle refuses to produce someone to testify, because Kate Waggoner discussed the topic during her OFCCP interview and because it claims that the testimony would be duplicative of her testimony in the *Jewett* depositions.

**Topic 12:** In its response to this topic, Oracle offered testimony on “policies, practices, and procedures regarding the determination of initial compensation and compensation changes for employees in the Product Development, Support, and Information Technology job functions at HQCA.” However, this topic seeks testimony on the assignment of workers to products in those job functions and the impact of those assignments on compensation.

On one hand, Oracle claimed that there is no “assignment” of workers. At the same time, however, Oracle belatedly objected that Kate Waggoner had already testified about this topic during OFCCP interviews. Oracle also claimed that there may be responsive testimony in the *Jewett* deposition transcripts.

Ultimately, Oracle agreed to produce a witness only for the compensation part of this topic. Oracle agreed to reconsider whether it will produce a witness for the remainder of the topic, including worker assignment. Please let us know by April 23, 2019 whether Oracle will agree to produce a witness to testify about the entire topic.

**Topic 13-16:** OFCCP explained the bases for these topics, including that the lawsuit involves recordkeeping violations, that Oracle has raised undue burden objections in discovery multiple times, and that Oracle itself has told OFCCP to ask about recordkeeping in depositions. *See, e.g.*, OFCCP Letter to Oracle Re April 8, 2019 Meet and Confer, at 3. Still, Oracle refused to produce a witness to testify about these topics.

**Topic 17-28:** OFCCP explained that it does not consider these topics to be part of a “deficiency” claim. In fact, the language of these topics tracks what Judge Clark has already agreed that OFCCP can litigate. Oracle disagreed and stated that it believes these topics are actually contrary to Judge Clark’s orders. Oracle refused to produce a witness to testify about these topics.

**Topic 29, 31-32:** Oracle agreed to produce a witness to testify about these topics. The parties, however, disagreed about the time period relevant for this topic. OFCCP explained that it is entitled

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to explore whether Oracle is currently in compliance with regulations. The parties did not reach an agreement on this time period dispute.

**Topic 30:** Oracle refused to produce a witness for this topic. Again, Oracle claims that OFCCP already obtained all of the information it needs through pre-discovery interviews.

**Scheduling Depositions:** OFCCP made its fourth request for Malory Cohn's availability for deposition. Oracle agreed to inquire about Cohn's availability, but refused to state when it would be able to provide such dates. OFCCP reminded Oracle that it noticed Ms. Cohn's deposition on March 29, 2019, and that counsel stated he would promptly confer with Ms. Cohn when she returned from leave the week of April 8, 2019. To date, three weeks after our notice, Oracle has yet to ask Ms. Cohn for her availability.

Oracle requested that OFCCP take the testimony of Ms. Waggoner on 30(b)(6) topics 4, 5, 11, 12, and 28 on the same or consecutive days to her individual deposition on May 1, 2019, in Denver. OFCCP has considered Oracle's request but, unfortunately, will not be able to accommodate Oracle's request.

Finally, for the topics Oracle has agreed to produce witnesses for, please designate witnesses and provide us their availability for depositions. Thank you very much.

Sincerely,

/s/ Charles Song

Jeremiah E. Miller, Counsel  
Charles C. Song, Senior Trial Attorney  
Jessica M. Flores, Trial Attorney  
M.J. Cristopher Santos, Trial Attorney  
U.S. Department of Labor  
Office of the Solicitor

# **EXHIBIT F**



April 22, 2019

*Via E-Mail*

Charles Song  
Office of the Solicitor  
U.S. Department of Labor  
350 South Figueroa Street, Suite 370  
Los Angeles, CA 90071

Re: *OFCCP v. Oracle, Inc., et al.*, Case No. 2017-OFC-00006

Dear Mr. Song:

I write to respond to your letter of April 19, 2019, labeled “Memorialization Letter”, which purports to memorialize our April 18 and 19 meet and confer calls, and to correct the misrepresentations and omissions therein. Your letter repeatedly either misstates Oracle’s positions or omits them entirely in an apparent effort to construct an inaccurate record. Moreover, while you portray Oracle as uncompromising in its positions, you fail to memorialize that OFCCP was unwilling to discuss any meaningful compromise to its topics, largely because your team still has not reviewed the Jewett PMK deposition transcripts, and to the extent any review has taken place the deposition taking attorneys have failed to coordinate with the team of attorneys who engaged in these meet and confer discussions.

At this point, I write to correct the most glaring and gross mischaracterizations set forth in your letter. First, OFCCP cannot impose an arbitrary deadline (following a holiday weekend, no less) demanding that Oracle reconsider its positions and provide a written response within two business days of your Friday afternoon demand, particularly where OFCCP has and continues to drag its feet with respect to Oracle’s 30(b)(6) deposition notice. As explained to you during our first call, I am on vacation this week. While I have taken the time to respond to your Good Friday after hours correspondence, and will continue to coordinate with my team and Oracle regarding the issues discussed during our call, I am not and will not be in a position to respond to your unilateral demand. Instead, as I said during our call, I will work to get back to you regarding those issues and respond as soon as I am in a position to do so.

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### **Oracle's 30(b)(6) Notice**

Furthermore, OFCCP's unwillingness to work with Oracle to reduce the burden on individual witnesses and to save both sides time and expense is particularly troubling in light of OFCCP's position with respect to Oracle's 30(b)(6) deposition notice. Specifically, OFCCP has indicated that it will seek a protective order to prevent Oracle from taking 30(b)(6) depositions if Oracle insists on further responses to its second set of interrogatories. It is impossible to reconcile OFCCP's aggressive refusal to narrow its own 30(b)(6) topics in light of Oracle's good faith efforts to provide information through other means on the one hand, with its simultaneous refusal to produce witnesses in response to Oracle's 30(b)(6) notice. Notwithstanding the discussion of individual topics and issues below, if OFCCP cannot align its diametrically opposed positions, Oracle will have no choice but to involve the court before any 30(b)(6) depositions go forward.

### **Narrowing of Topics Based on Production of *Jewett* Deposition Transcripts**

Your description of OFCCP's position on limiting or removing topics duplicative of sworn testimony Oracle already provided in the *Jewett* PMK deposition transcripts is grossly misleading—and suggests OFCCP has generously offered to limit the questions it will ask of Oracle's 30(b)(6) designees. For that reason, I am compelled to make an accurate record demonstrating OFCCP is now backtracking and wants Oracle to prepare witnesses on all 32 topics, and subtopics, even though the preparation may be unnecessary because OFCCP may decide not to ask questions in light of Oracle's *Jewett* PMK testimony. As you know, after having to spend time and resources addressing the invalid subpoena that OFCCP served on *Jewett* counsel despite having no authority to do so, Oracle agreed to produce transcripts of depositions taken in the *Jewett* matter based on OFCCP's indication that it would review those transcripts and limit or remove topics that were redundant of the prior depositions. However, now that it has those transcripts in hand, OFCCP completely refuses to modify or limit its topics to remove unnecessary and redundant subject matter. Clearly, having gotten what it wanted, OFCCP decided to renege on its prior statements.

In a March 26, 2019, email to John Giansello, Norman Garcia told Oracle that “[a]s stated previously, after we review [the *Jewett* transcripts], we may determine that it is unnecessary to depose some of the witnesses, or may choose to limit our questioning. Thus, providing the depositions will likely lead to efficiencies for both parties.” In a March 28, 2019, email from Mr. Giansello to Mr. Garcia, Oracle then committed to producing the deposition transcripts by the end of the following

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week (April 5, 2019). Mr. Garcia's March 29, 2019, email in response acknowledged Oracle's commitment, and further stated that OFCCP "will also agree to give prior notice to Oracle before noticing PMK depositions on the same topics in the notice of depositions for [the *Jewett*] depositions and will meet and confer with Oracle to attempt to resolve disputes," while couching that promise with the caveat that OFCCP receive the transcripts before filing its notice. Notwithstanding Mr. Garcia's attempt in that email to impose an arbitrary deadline of April 3, Oracle produced the *Jewett* transcripts, as promised, by the deadline discussed between both sides – i.e., on April 5.

Despite knowing that Oracle had agreed to produce the *Jewett* transcripts by April 5, and despite indicating that it would review those transcripts in order to determine whether it could narrow its topics (and potentially avoid deposing some witnesses), and despite promising to give prior notice before noticing any 30(b)(6) depositions on the same topics, OFCCP served its 30(b)(6) notice on April 5, without any prior notice, and mere hours before receiving the promised transcripts. Needless to say, this timing suggests that OFCCP sought to serve its notice *before* receiving the transcripts it had promised to review so that it could renege on its commitment.

In an attempt to place the blame for OFCCP's change of heart on Oracle, OFCCP repeatedly stated during the meet and confer that if only OFCCP had received the *Jewett* deposition transcripts before it served its 30(b)(6) notice, it would have evaluated the testimony to determine if it could more narrowly tailor its 30(b)(6) topics. However, despite having now had those transcripts for two weeks (not a "few days", as your letter suggests), OFCCP indicated during the meet and confer that it is now unwilling to consider limiting any of its repetitive topics based on the content of those transcripts. Instead, OFCCP's position is that it will review the transcripts "with an eye to limiting duplicative questioning," but that Oracle must still prepare witnesses for all of the requested topics, even where those topics were thoroughly covered and explained in the *Jewett* testimony. Such a promise is illusory at best and, of course, does nothing to lessen the burden on witnesses, who will have to be prepared on all of the redundant subject matter included in OFCCP's 30(b)(6) topics.

It is unclear how OFCCP can reconcile its position that it *would* have reviewed the transcripts and limited the scope of its 30(b)(6) notice if it had received the transcripts before serving its notice with the fact that it has yet to complete its review of said transcripts two weeks after receiving them. Moreover, there is no reason why, as part of the ongoing meet and confer process, OFCCP cannot now review the *Jewett* transcripts and work with Oracle to eliminate unnecessarily duplicative Topics and subject matter.

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As described, Oracle has made good faith efforts to provide OFCCP with information that would allow OFCCP to limit or remove certain Topics, thereby saving both sides time and expense and reducing the burden on witnesses. OFCCP's attempt to characterize these efforts as "obstructionist behavior" is ironic indeed, considering it is OFCCP that has reneged on its statements and now refuses to complete its review of the testimony and resume discussions about how the Topics could be narrowed or eliminated. OFCCP has had the *Jewett* transcripts in its possession for two weeks, and has previously committed to reviewing those transcripts with the goal of making the Parties' depositions more efficient and less burdensome. OFCCP's stated reason for refusing to do so – that it served its deposition notice on the same day, but slightly before, receiving the transcripts – does not hold water. We ask that OFCCP complete its review of the *Jewett* transcripts and work with Oracle to limit OFCCP's 30(b)(6) topics to avoid unnecessary repetition and to reduce the burden on witnesses who have already had to sit for deposition on the same topics.

#### **Time Period at Issue**

During our call, we discussed the appropriate time period to be applied to the topics listed in OFCCP's 30(b)(6) deposition notice. While we agreed that topics 1, 2, and 3 were limited to the period from January 1, 2013 to January 18, 2019, OFCCP stated that its position was that the other topics should cover the period from January 1, 2013, through the date of the deposition as the notice states. Your letter omits Oracle's reasoning for suggesting a January 18 cutoff for all Topics. Namely, because the parties have agreed to a cutoff date of January 18, 2019, for all documentary and electronic discovery, we do not think it would be appropriate to extend the scope of the 30(b)(6) depositions beyond that date. Among other concerns, this could lead to difficulties wherein a witness might potentially have to review and/or be asked about documents at deposition that were not produced to OFCCP because they post-dated January 18, 2019. In order to avoid any such issues, we think it best to limit the time period at issue in these depositions so that it matches the clean cut-off date for documentary and electronic evidence agreed to by the parties. We did not reach an agreement on this point but Oracle agreed to revisit it, while OFCCP refused to reconsider its position.



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### **Topics 1 Through 3**

While we are largely in agreement with respect to Topics 1 through 3, I want to clarify that, as I stated on our call, Oracle cannot produce a witness to testify as to the “matching” of college recruits (referenced in Topic 1) because Oracle does not “match” or “assign” employees to specific positions. Rather, college recruits self-select. Aside from that issue, Oracle agreed to produce a witness to testify as to Topics 1 through 3 as discussed.

### **Topics 4 and 5**

As we discussed on our call, Topics 4 and 5 reference issues related to hiring and to compensation for transfer employees. Because there are no longer any hiring/recruiting claims related to transfer employees at issue in this case, Oracle noted this in its objection while offering to produce a witness to testify as to the remaining compensation-based issues. We discussed this reasoning specifically on our call, and the parties came to an agreement that Oracle would produce a witness on the compensation issues. Yet your letter decides to present this agreement as “Oracle...refus[ing] to allow testimony on the remaining [hiring-related] subtopics.” This misportrayal of an agreement between the parties is indicative of OFCCP’s continued refusal to meet and confer in good faith.

### **Topics 7 and 8**

In similar fashion, your letter completely misstates my response to OFCCP’s counter-proposal that Oracle produce a witness to testify as to the four spreadsheets listed in Topic 7 while answering other technical questions about the data in writing. To be clear, Oracle did not reject that offer and I told you I would need to look at the spreadsheets and consult with my team. Indeed, that coordination began after our Thursday call. I stated on the call that we would consider OFCCP’s offer, while also cautioning that even just the four listed spreadsheets cover a wide range of information given all the subtopics and details OFCCP seeks here. While we of course appreciate any offer of compromise, the fact remains that even just the four identified spreadsheets are the product of work by multiple different groups. Nevertheless, we will consider what can be done along the lines of your proposal and get back to you.

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Furthermore, your statement that Oracle's objection that producing a witness or witnesses to testify as to almost every aspect of its massive data production would be impractical and unduly burdensome is "unsupported and unexplained" borders on willful blindness. As we discussed on our call (and as Oracle has made clear to OFCCP time and again), Oracle's data production is massive, and consists of multiple large files, hundreds of fields, and millions of individual entries. The identification, pulling, aggregation, cross-checking, and production of that data required incredible amounts of time and effort by many individuals. Moreover, any given data field may have been created by one individual or group, filled by another, and pulled by yet another. As a result, there is no single individual, or even group of individuals, who could testify as to all of the data issues requested in Topics 7 and 8 for all of the data produced in real-time. Not only is it disingenuous to suggest that Oracle has provided no support for its objection to the burdensome nature of these Topics, that burden should, if nothing else, be self-evident from the huge amount of data OFCCP now has in its possession.

### **Topic 9**

While your letter correctly states that Oracle would consider its position regarding re-producing Lisa Ripley, you omit OFCCP's statement that it would consider whether it could travel to Denver to take this deposition. Oracle will consider your request that it produce Ms. Ripley yet again and get back to you. However, consistent with your commitment to consider traveling to Denver, to minimize the burden on the witness where Oracle flew her out her the last time around, that commitment needs to be memorialized as well. We will wait to hear from you.

### **Topic 11**

Your letter again misstates Oracle's position with regard to Topic 11. Specifically, Oracle did not "refuse to produce someone to testify." As described above, Oracle's position is that OFCCP needs to review the transcripts of depositions in the *Jewett* matter and determine whether the topic can be narrowed so that Oracle's witness does not have to testify on duplicative subject matter. Moreover, I stated on our April 19 call that we recognized that, at minimum, sub-topics 11(e) and 11(f) constituted new areas and that we would produce a witness – likely Kate Waggoner – to testify as to those issues. How you can take that affirmative statement and then memorialize that Oracle has refused to produce a witness is puzzling at best. Moreover, I mentioned Kate Waggoner could



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likely be designated to testify on the portions of Topic 11 for which Oracle agrees to produce a witness following meet and confer (and OFCCP's review of the Jewett PMK testimony).

### **Topic 12**

Your letter also misstates Oracle's position and statements during the meet and confer call relating to Topic 12. As I explained on our call, Topic 12 asks for Oracle's "policies, practices, and procedures in assigning of workers..." Our objection to this Topic is based on the fact that Oracle does not "assign" workers to particular jobs. Rather, individuals apply to specific job openings and, if they are hired, are hired into that specific job. As such, there are no policies, practices, or procedures covering the "assigning of workers" to specific products. However, because the Topic also refers to compensation, Oracle offered to produce a witness who could testify as to compensation and compensation changes in the identified job functions. Moreover, and as memorialized above, Mr. Garcia acknowledged that OFCCP would give prior notice to Oracle before noticing 30(b)(6) depositions on the same topics covered in Jewett PMK depositions and that it would meet and confer to resolve disputes in that regard. That, of course, did not happen.

Contrary to your letter, Oracle did not "claim[] that there is no 'assignment' of workers," and, "[a]t the same time . . . belatedly object that Kate Waggoner had already testified about this topic." Rather, I stated during the call that Kate Waggoner had already testified as to separate compensation topics (not the assignment topic that is the focus of Topic 12). There is no belated objection at issue here or anywhere else with respect to any objections based on Jewett PMK testimony. *See, e.g.*, Oracle's Objections, General Objection 7.

Oracle will consider producing a witness to cover "the remainder of the topic," but, as explained during our call, OFCCP needs to review the Jewett transcripts and assess how and where the topic/subtopics can be narrowed. Both sides should discuss how to proceed on this topic once your review is complete. As a result, we cannot commit to meeting your arbitrary deadline.

### **Topics 13 Through 16**

Your letter, which purports to memorialize the Parties' discussions during the meet and confer, omits Oracle's basis for standing on its objections to these topics. As I stated during the call, Topics 13 through 16 seek a witness to testify about Oracle's (and by proxy, Orrick's) underlying

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practices for responding to OFCCP's discovery requests. How a party and its counsel respond to discovery is clearly not relevant to the actual claims at issue in this case and necessarily implicates privileged information. Moreover, your inapposite reference to a letter discussing unrelated discovery requests does not somehow transform Oracle/Orrick's handling of discovery into a proper deposition topic.

### **Topics 17 Through 27**

Your letter, which again purports to memorialize the Parties' discussions, fails to fully state Oracle's explanation of its basis for standing on its objections to these topics. Judge Clark made clear in his March 13 Order that OFCCP's Revised Second Amended Complaint would not be read to extend to "a substantive analysis of the [AAP] developed and maintained by Oracle." OFCCP's permitted claim concerns whether Oracle gave OFCCP information in response to its requests or not. As I stated during our meet and confer, the language of Topics 17 through 27 clearly attempts to reach a substantive review. The topics noticed delve into the way the AAP was structured, its components, and how Oracle ran its Affirmative Action Program. This is precisely the attempted expansion of issues that Oracle feared when it objected to OFCCP's Second Amended Complaint and these topics appears to be an end run around the clear intent of Judge Clark's ruling.

### **Topic 28**

Although your letter lumps Topic 28 in with topics relating to Oracle's Affirmative Action Program, Topic 28 itself asks for a witness to testify about "policies, practices, and procedures related to how [Oracle] decide[s] job placement, project assignment, and compensation for new hires." As Oracle has stated, it does not "place" or "assign" individual employees into specific jobs. However, to the extent Topic 28 includes an inquiry into "compensation for new hires", Oracle has offered to produce a witness to testify regarding the "determination of initial compensation for new hires," in the relevant job functions.

### **Topic 30**

Your letter again fails to accurately memorialize our conversations. Oracle did not refuse to produce a witness here. Rather, I explained Oracle produced three PMK witnesses in Jewett and explained you should review those transcripts because I failed to see what else you could possibly

Charles Song  
April 22, 2019  
Page 9

want or need that had not already been provided through these three witnesses' testimony. You agreed to look at the transcripts and get back to us. Tellingly, however, even before your team took the time to review these three transcripts, you indicated it was unlikely OFCCP would end up narrowing the topics.

### **Scheduling Depositions**

With regard to Mallory Cohn, while you make much of the amount of time since you noticed Ms. Cohn's deposition and that "Oracle has yet to ask Ms. Cohn for her availability," your letter omits my explanation that Ms. Cohn was on maternity leave and that I've told you this multiple times. Oracle's desire not to intrude on a new mother's maternity leave is, of course, a perfectly valid reason for the delay in setting a date for her deposition – which is no doubt why your letter fails to mention it. As I stated during the meet and confer, now that Ms. Cohn has returned to work, Oracle will work with her to determine her availability and we will get back to you within a reasonable time. However, you also agreed (yet you failed to memorialize this) that you would confer with whoever is going to take her deposition about combining her individual deposition with 30(b)(6) testimony regarding College Recruiting (if we designate her to testify on those topics).

More generally, your letter rejects, without explanation, Oracle's request that OFCCP combine, where possible, the depositions of individuals and 30(b)(6) designees where the topics and deponent overlap. This request applied not only to Kate Waggoner, who you identify, but to any instance where OFCCP has individually noticed a witness that may also be a 30(b)(6) designee (for instance, Shauna Holman-Harries and Mallory Cohn). Moreover, your letter omits any meaningful discussion of Oracle's request. Where OFCCP plans to individually depose witnesses who may also be designated as a 30(b)(6) witness, it would be more efficient and less burdensome to combine those depositions on the same day or at least to take them on back-to-back days. This is particularly true where OFCCP is likely to depose individual witnesses on subjects overlapping with its 30(b)(6) topics. Indeed, as I explained during our calls, it is hard to fathom what else you would want to depose Ms. Waggoner (who resides near Denver) about other than compensation (and you already have her 30(b)(6) interview responses and two days of her Jewett PMK testimony); Ms. Cohn about anything other than College Recruiting; or Ms. Holman-Harries (who resides near Phoenix) about anything other than the audit. It is unclear why OFCCP would reject this request out of hand when it would do much to lessen the burden on witnesses (for some of whom travel can be difficult due to family obligations) and to reduce the expense to the Parties. To the extent Oracle produces these

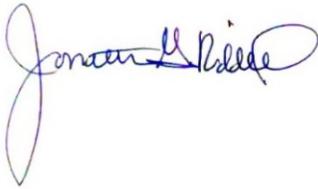
Charles Song  
April 22, 2019  
Page 10

witnesses, it intends to prepare and produce them only once. If OFCCP is unwilling to work with Oracle to schedule depositions in a reasonable, logical fashion, Oracle will have no choice but to postpone depositions until these issues are resolved and/or to raise them with Judge Clark.

Finally, Oracle will continue to work to identify witnesses and determine their availability for those Topics on which it is producing a witness, but cannot commit to do so by your arbitrary deadline.

\* \* \*

Very truly yours,



J.R. Riddell

# **EXHIBIT G**

---

**From:** Miller, Jeremiah - SOL <[Miller.Jeremiah@dol.gov](mailto:Miller.Jeremiah@dol.gov)>  
**Sent:** Monday, April 22, 2019 3:37 PM  
**To:** Riddell, J.R. <[jriddell@orrick.com](mailto:jriddell@orrick.com)>  
**Cc:** Siniscalco, Gary R. <[grsiniscalco@orrick.com](mailto:grsiniscalco@orrick.com)>; Connell, Erin M. <[econnell@orrick.com](mailto:econnell@orrick.com)>; Parker, Warrington <[wparker@orrick.com](mailto:wparker@orrick.com)>; Mantoan, Kathryn G. <[kmantoan@orrick.com](mailto:kmantoan@orrick.com)>; Grundy, Kayla Delgado <[kgrundy@orrick.com](mailto:kgrundy@orrick.com)>; Kaddah, Jacqueline D. <[jkaddah@orrick.com](mailto:jkaddah@orrick.com)>; Bremer, Laura - SOL <[Bremer.Laura@dol.gov](mailto:Bremer.Laura@dol.gov)>; Garcia, Norman - SOL <[Garcia.Norman@DOL.GOV](mailto:Garcia.Norman@DOL.GOV)>; Daquiz, Abigail - SOL <[Daquiz.Abigail@dol.gov](mailto:Daquiz.Abigail@dol.gov)>; Song, Charles C - SOL <[Song.Charles.C@dol.gov](mailto:Song.Charles.C@dol.gov)>  
**Subject:** RE: OFCCP v. Oracle, Case No. 2017-OFC-00006

Hi JR,

With respect to Ms. Waggoner's deposition, I just wanted to close the loop.

It appears from your letter that Oracle is not planning to produce Ms. Waggoner for her deposition on May 1<sup>st</sup>. I understand that Oracle is taking this position because OFCCP is unable to accommodate your request to schedule a portion of the 30(b)(6) deposition for May 2<sup>nd</sup>.

If my understanding is incorrect, please let me know immediately.

Thanks,  
Jeremiah

Jeremiah Miller  
Counsel for Civil Rights  
telephone: 206-757-6757; fax: 206-757-6761

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---

**From:** Kaddah, Jacqueline D. <[jkaddah@orrick.com](mailto:jkaddah@orrick.com)>  
**Sent:** Monday, April 22, 2019 12:53 PM  
**To:** Bremer, Laura - SOL <[Bremer.Laura@dol.gov](mailto:Bremer.Laura@dol.gov)>; Miller, Jeremiah - SOL <[Miller.Jeremiah@dol.gov](mailto:Miller.Jeremiah@dol.gov)>; Garcia, Norman - SOL <[Garcia.Norman@DOL.GOV](mailto:Garcia.Norman@DOL.GOV)>; Pilotin, Marc A - SOL <[Pilotin.Marc.A@DOL.GOV](mailto:Pilotin.Marc.A@DOL.GOV)>; Daquiz, Abigail - SOL <[Daquiz.Abigail@dol.gov](mailto:Daquiz.Abigail@dol.gov)>; Song, Charles C - SOL <[Song.Charles.C@dol.gov](mailto:Song.Charles.C@dol.gov)>  
**Cc:** Siniscalco, Gary R. <[grsiniscalco@orrick.com](mailto:grsiniscalco@orrick.com)>; Connell, Erin M. <[econnell@orrick.com](mailto:econnell@orrick.com)>; Parker, Warrington <[wparker@orrick.com](mailto:wparker@orrick.com)>; Mantoan, Kathryn G. <[kmantoan@orrick.com](mailto:kmantoan@orrick.com)>; Grundy, Kayla Delgado <[kgrundy@orrick.com](mailto:kgrundy@orrick.com)>; Riddell, J.R. <[jriddell@orrick.com](mailto:jriddell@orrick.com)>  
**Subject:** OFCCP v. Oracle, Case No. 2017-OFC-00006

Dear Counsel:

Please see attached correspondence.

**Jacqueline D. Kaddah**  
Senior Paralegal

Orrick  
The Orrick Building  
405 Howard Street  
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# **EXHIBIT H**

---

**From:** "Bremer, Laura - SOL" <[Bremer.Laura@dol.gov](mailto:Bremer.Laura@dol.gov)>

**Date:** April 26, 2019 at 09:38:43 PDT

**To:** "Miller, Jeremiah - SOL" <[Miller.Jeremiah@dol.gov](mailto:Miller.Jeremiah@dol.gov)>, "Connell, Erin M." <[econnell@orrick.com](mailto:econnell@orrick.com)>

**Cc:** "Siniscalco, Gary R." <[grsiniscalco@orrick.com](mailto:grsiniscalco@orrick.com)>, "Parker, Warrington" <[wparker@orrick.com](mailto:wparker@orrick.com)>, "Riddell, J.R." <[jriddell@orrick.com](mailto:jriddell@orrick.com)>, "Garcia, Norman - SOL" <[Garcia.Norman@DOL.GOV](mailto:Garcia.Norman@DOL.GOV)>, "Song, Charles C - SOL" <[Song.Charles.C@dol.gov](mailto:Song.Charles.C@dol.gov)>

**Subject:** RE: Kate Waggoner deposition on May 1st.

Erin,

Following up on Jeremiah's email, we would like to postpone Lynn Carrelli's deposition. We can also take the Mallory Cohn deposition off calendar, since the hiring case has been resolved. Finally, we are confirming Shauna Holman Harries' deposition for May 8 in Phoenix.

Laura C. Bremer  
Senior Trial Attorney  
Office of the Solicitor  
U.S. Department of Labor  
90 7<sup>th</sup> Street, Suite 3-700  
San Francisco, California 94103  
(415) 625-7757

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---

**From:** Miller, Jeremiah - SOL <[Miller.Jeremiah@dol.gov](mailto:Miller.Jeremiah@dol.gov)>

**Sent:** Tuesday, April 23, 2019 3:52 PM

**To:** Connell, Erin M. <[econnell@orrick.com](mailto:econnell@orrick.com)>

**Cc:** Siniscalco, Gary R. <[grsiniscalco@orrick.com](mailto:grsiniscalco@orrick.com)>; Parker, Warrington <[wparker@orrick.com](mailto:wparker@orrick.com)>; Riddell, J.R. <[jriddell@orrick.com](mailto:jriddell@orrick.com)>; Garcia, Norman - SOL <[Garcia.Norman@DOL.GOV](mailto:Garcia.Norman@DOL.GOV)>; Bremer, Laura - SOL <[Bremer.Laura@dol.gov](mailto:Bremer.Laura@dol.gov)>

**Subject:** RE: Kate Waggoner deposition on May 1st.

Hi Erin,

We still plan on taking Ms. Waggoner's personal deposition on May 1<sup>st</sup> in Denver. There are still many issues to be resolved with respect to the 30(b)(6) deposition we noticed, and, as I said, we aren't able to accommodate your request to conduct a portion of the 30(b)(6) deposition next week.

We do have a disagreement about whether additional deposition time for Ms. Waggoner would be appropriate, but it may be that that dispute won't have to be resolved. We assume that Oracle will comply with its obligations under Rule 30 to produce deponents, but again, that is an issue that can be resolved later, if necessary.

Thanks for getting back to me,  
Jeremiah

Jeremiah Miller  
Counsel for Civil Rights  
telephone: 206-757-6757; fax: 206-757-6761

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**From:** Connell, Erin M. <[econnell@orrick.com](mailto:econnell@orrick.com)>  
**Sent:** Tuesday, April 23, 2019 2:04 PM  
**To:** Miller, Jeremiah - SOL <[Miller.Jeremiah@dol.gov](mailto:Miller.Jeremiah@dol.gov)>  
**Cc:** Siniscalco, Gary R. <[grsiniscalco@orrick.com](mailto:grsiniscalco@orrick.com)>; Parker, Warrington <[wparker@orrick.com](mailto:wparker@orrick.com)>; Riddell, J.R. <[jriddell@orrick.com](mailto:jriddell@orrick.com)>; Garcia, Norman - SOL <[Garcia.Norman@DOL.GOV](mailto:Garcia.Norman@DOL.GOV)>; Bremer, Laura - SOL <[Bremer.Laura@dol.gov](mailto:Bremer.Laura@dol.gov)>  
**Subject:** RE: Kate Waggoner deposition on May 1st.

Hi Jeremiah,

Your understanding of JR's letter is incorrect. Rather, with respect to Ms. Waggoner specifically (but all of our witnesses), our hope and intent is that OFCCP will consider combining the 30(b)(6) and individual depositions into a single day or consecutive days to lessen the inconvenience and burden on the witnesses, who obviously play very important roles at Oracle and are busy people. Specifically with respect to Ms. Waggoner, as you know, she's already been deposed over the course of two days in the *Jewett* case on compensation-related PMK topics that overlap with the PMK topics OFCCP has served here. We also find it very hard to believe there will not be significant overlap between her personal deposition testimony and any PMK testimony she might give on compensation-related topics. Also, as you know, we have produced the *Jewett* transcripts to you, and have asked that you consider whether we can simply adopt her testimony from *Jewett* in this case to avoid having to depose her again on the same topics.

Typically in litigation of the scope and magnitude, the parties work together to come up with a mutually agreeable deposition schedule that respects the witnesses' time and work commitments, and is also most efficient for the parties. Typically, personal depositions and PMK depositions are combined for this reason. It is also usually the case that the parties exchange documents and then proceed with depositions – the deposition calendar in this case contemplates that order, as data and docs are due before the cut-off date for depositions.

JR's letter does not say that we are not planning to produce Ms. Waggoner on May 1, but we are very much hoping that in light of Oracle's efforts to produce information that would allow for the narrowing of her deposition topics, OFCCP would be willing to revisit the scheduling issue upon completing its review of the *Jewett* transcripts. Particularly because you know we are still producing compensation-related data and documents, because your team hadn't reviewed the *Jewett* transcripts at the time you served your deposition notice for Ms. Waggoner, and because you hadn't served the PMK notice at the time you noticed Ms. Waggoner's deposition, we think it makes sense to try and find a time when we can do it all at once after completing the meet and confer process on the PMK issues.

If OFCCP is not willing to do that, however, we will still make Ms. Waggoner available for her personal deposition on May 1. But as we've explained previously, we are not bringing her back for a

second day of personal depo – so if OFCCP chooses to depose her now, when it knows compensation-related documents and data still are being produced, that is OFFCP's choice. Additionally, if OFCCP's questioning of Ms. Waggoner is redundant of the questioning in *Jewett* and covers the same compensation-related topics contained in OFCCP's PMK notice, we will take that into consideration when determining the PMK topics for which we will voluntarily agree to produce a witness.

Please let us know if OFFCP still intends to go forward on May 1. We're ready to go on that date, but reserve our rights as articulated in this email and in JR's prior correspondence.

Thanks,  
Erin

---

**From:** Miller, Jeremiah - SOL <[Miller.Jeremiah@dol.gov](mailto:Miller.Jeremiah@dol.gov)>  
**Sent:** Tuesday, April 23, 2019 1:32 PM  
**To:** Connell, Erin M. <[econnell@orrick.com](mailto:econnell@orrick.com)>  
**Cc:** Siniscalco, Gary R. <[grsiniscalco@orrick.com](mailto:grsiniscalco@orrick.com)>; Parker, Warrington <[wparker@orrick.com](mailto:wparker@orrick.com)>; Riddell, J.R. <[jriddell@orrick.com](mailto:jriddell@orrick.com)>; Garcia, Norman - SOL <[Garcia.Norman@DOL.GOV](mailto:Garcia.Norman@DOL.GOV)>; Bremer, Laura - SOL <[Bremer.Laura@dol.gov](mailto:Bremer.Laura@dol.gov)>  
**Subject:** Kate Waggoner deposition on May 1st.

Hi Erin,

You may have seen that I reached out to JR about Kate Waggoner's deposition next week. My team tells me that JR is on vacation this week; can you (or someone on your team) let me know whether or not you plan to produce Ms. Waggoner for deposition next week in her individual capacity? My understanding is that Oracle does not want to produce Ms. Waggoner because we are unable to accommodate the request to have some portion of our 30(b)(6) held on May 2<sup>nd</sup>. I am looking for confirmation so I can make appropriate arrangements (e.g. cancelling travel, court reporters, etc.) to avoid incurring fees.

Thank you,  
Jeremiah

Jeremiah Miller  
Counsel for Civil Rights  
U.S. Department of Labor, Office of the Solicitor  
300 Fifth Avenue, Suite 1120  
Seattle, WA 98104  
telephone: 206-757-6757  
fax: 206-757-6761

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# **EXHIBIT I**

**U.S. Department of Labor**

Office of the Solicitor  
350 S. Figueroa Street, Suite 370  
Los Angeles, CA 90071-1202



Reply via phone or in writing to:  
M.J. Christopher Santos (213-894-0201) &  
Charles Song (213-894-5365)

May 2, 2019

**VIA ELECTRONIC MAIL**

Erin M. Connell  
ORRICK, HERRINGTON & SUTCLIFFE LLP  
405 Howard Street  
San Francisco, CA 94105

J.R. Riddell  
ORRICK, HERRINGTON & SUTCLIFFE LLP  
400 Capitol Mall, Suite 3000  
Sacramento, CA 95814

**Re: OFCCP v. Oracle America, Inc., OALJ Case No. 2017-OFC-00006**

Ms. Connell and Mr. Riddell:

I write to follow up on a few outstanding discovery issues.

**OFCCP'S 30(b)(6) NOTICE**

***Jewett Depositions***

We reviewed the *Jewett* deposition transcripts you produced and, while we do not intend to be duplicative, we cannot agree to forfeit or limit our right to inquire into and follow up on the topics discussed during those depositions. As you know, OFCCP is not a party to that case, did not participate in those depositions, and private counsel took those depositions without coordination with OFCCP. OFCCP would be severely prejudiced if unable to make its own decisions on which questions to ask and how, which exhibits to question witnesses about and how, and whether to seek clarification or elaboration from witnesses on specific answers. *See, e.g., Am. Airlines, Inc. v. Travelport Ltd.*, No. 4:11-CV-244-Y, 2012 WL 12884824, at \*2 (N.D. Tex. Sept. 19, 2012) (refusing to limit deposition testimony even where the same parties involved in separate cases). Further, it appears that the parties in the private litigation narrowed the topics during meet and confer discussions at which, again, OFCCP was not involved. *See, e.g., ORACLE\_HQCA\_0000400597*. It is thus unreasonable and prejudicial for OFCCP to limit its questioning based on an incomplete understanding of the scope of the topics discussed during those separate depositions. Given these concerns and the public importance of this case, it is improper for Oracle to attempt to limit OFCCP's discovery rights based on the discovery strategy and choices of a separate, unrelated private party in a different case.

Erin M. Connell, J.R. Riddell  
May 2, 2019

### ***Temporal Scope***

In its April 22, 2019 letter, Oracle confirmed that it would reconsider its position on whether 30(b)(6) deposition testimony (for all topics except 1-3) encompasses the period from January 1, 2013 to the present. *See, e.g., EEOC v. Autozone, Inc.*, 258 F.Supp.2d 822, 831 (W.D. Tenn. 2003) (“Courts typically will permit discovery in employment discrimination cases to cover a reasonable number of years before and after the alleged discrimination.” (internal citations omitted)). As Oracle has not notified OFCCP that its position has changed, it appears Oracle will not agree that 30(b)(6) deposition testimony will encompass the period from January 1, 2013 to the present. If Oracle has changed its position, please notify us by May 8, 2019.

### ***Topics 7 and 8***

In its April 22, 2019 letter, Oracle agreed to consider OFCCP’s offer to limit deposition testimony to the four spreadsheets listed in OFCCP’s notice provided Oracle continues to answer data questions in writing and agree that OFCCP may rely on those written representations at hearing. As Oracle has failed to respond to OFCCP’s offer to limit these topics, it appears Oracle will not agree to OFCCP’s offer to compromise. If this is incorrect, please advise us by May 8, 2019.

### ***Topic 9***

OFCCP cannot agree to commit additional, limited resources to depose Oracle’s witness (Lisa Ripley) in Denver, CO when she could have been deposed earlier and Oracle is required by law to produce her in San Francisco, CA. Again, OFCCP previously agreed to interview Ms. Ripley informally because Oracle objected to a deposition under oath at that earlier stage in litigation. Oracle cannot complain about additional costs and burden now, when it knew well that its objections prior to and during Ms. Ripley’s interview—such as instructing her not to answer certain questions—would necessitate future testimony under oath. Accordingly, please confirm by May 8, 2019 whether Oracle will produce Lisa Ripley for deposition under oath about topic 9.

## **OUTSTANDING REQUESTS FOR PRODUCTION**

### ***RFP 46 (Joyce Westerdahl)***

In the meet and confer on August 7, 2017, Oracle agreed to OFCCP’s August 4, 2017 proposal to limit RFP 46, but counter-proposed producing Ms. Westerdahl’s emails from a sample period as an initial set, without prejudice to OFCCP requesting additional emails at a later date. In its August 7, 2017 letter, Oracle confirmed:

Erin M. Connell, J.R. Riddell  
May 2, 2019

[A]ny agreement by OFCCP to limit Oracle's initial search of Ms. Westerdahl's emails to the January 1, 2013, to June 30, 2014 time period would be without prejudice to OFCCP's ability to later argue that a similar review of her emails for the longer time period is appropriate, based on OFCCP's review of the initial set of emails produced.

After OFCCP agreed to limit Oracle's initial search without the use of search terms to the sample period, Oracle produced 68 emails. After reviewing these emails, OFCCP does not believe search terms are necessary and requests Ms. Westerdahl's remaining emails be produced without the use of search terms. Please advise us of the date Oracle can produce these emails or when you can meet and confer on this matter by May 8, 2019.

***RFP 67 (Internal Complaints)***

In OFCCP's letter dated August 4, 2017, it acknowledged Oracle's proposal to produce:

[I]nternal complaints regarding race discrimination in the PT1 job group and race or gender discrimination in the Product Development, IT, and Support lines of business in the form of (1) demand letters and complaints made through Oracle's ethics hotline and (2) written complaints received by HR managers responsible for the three relevant lines of business and the PT1 job group at HQCA.

In the same letter, OFCCP counter-proposed that Oracle add "documents reflecting verbal complaints made to HR managers identified in Oracle's proposal." After reviewing OFCCP's request, you agreed to modify the proposal to include a "reasonably diligent search for and production of documents reflecting such verbal complaints." You further stated this was "subject to those documents being 'relevant' in terms of the scope" proposed in your letter dated August 3, 2017.

To date, Oracle has produced only limited external and internal complaints and no complaints from the hotline. OFCCP would like to meet and confer about this request to determine if there are outstanding documents that Oracle has not produced. Please advise us of your availability to meet and confer on this matter by May 8, 2019.

**DEPOSITION SCHEDULING**

In its April 22, 2019 letter, Oracle agreed to identify certain 30(b)(6) witnesses, their availability, and the topics for which it is producing those witnesses. OFCCP also noticed the deposition of Joyce Westerdahl on April 26, 2019 and asked to reschedule the deposition of Lynne Carrelli. OFCCP has yet to receive the availability for depositions of the 30(b)(6) witnesses, Ms. Westerdahl, or Ms. Carrelli. As the close of discovery is rapidly approaching, please provide their

Erin M. Connell, J.R. Riddell  
May 2, 2019

availability for depositions this week.

Sincerely,

/s/ M.J. Cristopher Santos

Jeremiah E. Miller, Counsel  
Charles C. Song, Senior Trial Attorney  
Jessica M. Flores, Trial Attorney  
M.J. Cristopher Santos, Trial Attorney  
U.S. Department of Labor  
Office of the Solicitor

# **EXHIBIT J**



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**J.R. Riddell**

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May 8, 2019

*Via E-Mail*

Charles Song  
M.J. Cristopher Santos  
Office of the Solicitor  
U.S. Department of Labor  
350 South Figueroa Street, Suite 370  
Los Angeles, CA 90071

Re: *OFCCP v. Oracle, Inc., et al.*, Case No. 2017-OFC-00006

Dear Messrs. Song and Santos:

I write in response to the various discovery matters addressed in your correspondence dated May 2 and May 6, 2019. I also note upfront that the May 2 letter from Mr. Santos contains numerous mischaracterizations and inaccurate factual statements regarding the parties' meet and confer communications to date, several of which are demonstrably inaccurate simply by referencing the parties' prior written communications. Nevertheless, I address the issues you raise, and correct some of those inaccuracies below.

### **OFCCP's 30(b)(6) Notice**

Your May 2 letter makes clear that, contrary to my April 22, 2019 request that OFCCP review the *Jewett* transcripts and work with Oracle to limit OFCCP's 30(b)(6) topics to reduce the burden on the witness and parties, OFCCP will not work with Oracle to reach any sort of accommodation or agreement. And it appears that OFCCP will maintain its position despite having the benefit of the *Jewett* transcripts and yet another day of deposition testimony with Kate Waggoner. OFCCP's unwillingness to use the *Jewett* testimony to narrow or refine a single one of its noticed topics—despite representing to the Court in its recently filed motion to compel that *Jewett* transcripts will streamline discovery, create efficiencies, and potentially result in stipulations regarding testimony so that witnesses do not need to be deposed again (MPA iso Pltfs. Mn. to Compel, pp. 1-3), is completely unreasonable.

You rely on *American Airlines, Inc. v. Travelport Ltd.*, No. 4:11-CV-244-Y, 2012 WL 12884824, at \*2 (N.D. Tex. Sept. 19, 2012) to argue that OFCCP would be prejudiced if it were unable to make its own decisions about how and “whether to seek clarification or elaboration from certain



Charles Song  
May 8, 2019  
Page 2

witnesses.” See May 2, 2019 Letter, p. 1. However, that unpublished order from the Northern District of Texas is entirely distinguishable from the facts here. Crucially, in that case the parties were not involved in discussions about using prior testimony to create efficiencies in the litigation, unlike the circumstances here. Moreover, contrary to your assertion, Oracle has not attempted to limit OFCCP’s discovery rights, nor has it asked OFCCP to completely refrain from asking about topics that were explored and addressed in *Jewett*. Instead, Oracle has asked that OFCCP account for the testimony that already exists and evaluate what areas of follow up are needed and which areas have been adequately addressed. Indeed, it was OFCCP that offered it would review the *Jewett* transcripts for the purpose of limiting the topics and that it would then work with Oracle to “attempt to resolve disputes” in that regard. (See cites in my April 22 Letter.) Your May 2 correspondence does not “attempt to resolve disputes”, but instead takes an all or nothing position. In no instance does OFCCP acknowledge that Ms. Waggoner’s three days of testimony is sufficient to address certain topics or subtropics, nor do you address which of these areas still merit further “clarification or elaboration.” Furthermore, your letter does not address my summary regarding the parties’ written understanding about the use of the transcripts to help facilitate more efficient discovery, nor does it explain why OFCCP has changed course and is now taking such an absolutist position.

It is altogether troubling that OFCCP is unwilling to work toward compromise on any discovery—irrespective of the burden imposed or the timeframes within which the parties have to work. Oracle took the Solicitor’s Office at its word that it would look at those materials in good faith and determine how to create efficiencies and narrow the areas on which it was asking Oracle to produce a witness. In the absence of such an understanding the production of those transcripts would likely have found its way to Judge Clark for a decision on a motion to compel.

To help resolve the scope of any disputes we have over the 30(b)(6) topics, we renew our request one final time that OFCCP identify areas where it desires further clarification or elaboration for the following topics and corresponding subtopics upon which Oracle already testified: 11 (compensation), 12 (assignments and compensation), 28 (compensation determinations for new hires), 30 (prior pay). Similarly, we ask that OFCCP consider the testimony being provided by Ms. Holman-Harries on May 8, 2019, to refine and clarify which portions of topic 6 OFCCP seeks further clarification or elaboration. With that information we can focus our witnesses and ensure

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Oracle complies with obligations to produce witnesses who are properly prepared. If you are unwilling to do so, please advise us in writing.

### **Temporal Scope**

I explained Oracle's position on temporal scope in my April 22 letter. Oracle agreed to reconsider its position, but OFCCP refused to reconsider its position regarding whether the period of covered testimony would be consistent with the documentary and electronic discovery time frames agreed on by the parties (*i.e.*, January 18, 2019 cutoff). To resolve this issue, where Oracle agrees to produce 30(b)(6) designees, it will prepare the witnesses to testify as a 30(b)(6) witness through January 18, 2019, as Oracle cannot reasonably commit to preparing witnesses to testify on Oracle's behalf after that date without documents with which to prepare the witnesses. If, however, OFCCP confirms that any such agreement is mutual, Oracle will permit questioning of the witness on the 30(b)(6) topic(s) in their personal capacity through the "present" (meaning the date of the witnesses' testimony). However, Oracle's willingness to do so is expressly conditioned on OFCCP's agreement that it will not use the witnesses' testimony to seek production of documents beyond the agreed upon January 18, 2019 cutoff.<sup>1</sup>

### **Topics 7 and 8**

Topics 7 and 8 are extremely broad requests to produce witnesses to explain myriad matters related to the methods Oracle used to export data in discovery, validation of such data, and so on. Your proposal includes producing a witness to discuss at least two spreadsheets (College Recruiting) that are no longer relevant, having been resolved through the Consent Findings and Order.<sup>2</sup> The remaining two spreadsheets concern location codes and cost centers which would more easily lend themselves to answers by letter and would not seem appropriate to have someone testify about – especially methodologies employed to respond to discovery. I reiterate Oracle's willingness to answer technical questions about the data in writing – a method routinely employed in data-related litigation due to the difficulty in preparing a witness to anticipate and speak to myriad different

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<sup>1</sup> I note that your letters repeatedly suggest you have waited for Oracle to provide you with an update or response and so you assume Oracle's position based on the lack of any response. Not so; Oracle did not delay meeting and conferring. To the contrary, we worked over the holiday weekend to respond to your April 19 letter, resulting in my 10-page fulsome response on April 22. That letter asked OFCCP to respond regarding multiple issues that would inform any further meet and confer. Any delays were occasioned by the time it took OFCCP to prepare a three-page response.

<sup>2</sup> Similarly, considering the Consent Order, College Recruiting Topics 1 through 3 are no longer relevant.

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issues related to data. OFCCP has failed to explain why it would be more appropriate and effective to have a witness attempt to speak to spreadsheets – especially where Oracle is willing to stipulate regarding explanatory statements made in its proposed written responses. Such a process lends itself to ensuring OFCCP is provided with sound and accurate responses that Oracle can research to ensure the accuracy of a response. It also avoids having to force a witness to attempt a virtually impossible memorization process as to technical data-related issues that almost certainly will result in answers of “I don’t know,” or “I would have to research that and get back to you.” Surely there is no need to surprise the witness with questions, so it is difficult to appreciate how OFCCP could possibly suffer any prejudice proceeding with written questions and technical responses. If OFCCP is unwilling, please explain the reasons and how OFCCP believes it would be prejudiced if we proceeded in such a fashion.

### **Topic 9**

Your correspondence wrongly implies Oracle refused to produce Lisa Ripley for deposition in this case. That is completely inaccurate. Although Mr. Santos was not working on this case at that point in time (nor was Mr. Song, for that matter), I was, and I was the point person for Oracle on the meet and confer process regarding the early interviews of Oracle witnesses. I can assure you that it was OFCCP that suggested interviews – not Oracle, as your letter inaccurately states. Notwithstanding our objections to the relevance of testimony regarding “policies and practices regarding document retention and/or destruction and computer-based record-keeping”, we agree, you could have deposed Ms. Ripley in 2017 when we produced her in San Francisco. Additionally, you still have not provided us with a meaningful explanation regarding the relevance of such testimony to OFCCP’s claim. Please provide such an explanation to aid us in evaluating your request to produce a witness on this topic.

### **RFP 46**

Your April 2 correspondence asks Oracle to review and produce Ms. Westerdahl’s emails without the use of search terms. I refer you to Oracle’s April 30, 2019 objections to the request that Oracle produce those documents at her deposition, and incorporate those objections by reference here. Furthermore, Oracle rejects OFCCP’s belated request to produce documents without the use of search terms. First of all, the request is untimely – OFCCP cannot engage in purported “meet and confer” regarding RFP 46 a mere 10 days before the close of document production by



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demanding production of all responsive documents without the use of search terms. Secondly, this belated demand for production of documents without the use of search terms, simply because OFCCP “does not believe search terms are necessary”, is wholly inconsistent with the parties’ 2017 agreement – that agreement certainly did not contemplate any meeting and conferring about search terms to be used would take place days before the production deadline, nor did it contemplate OFCCP taking the position that search terms were not needed simply based upon OFCCP’s unexplained belief.

#### **RFP 67 (Internal Complaints)**

As noted above, the deadline for producing documents is May 13. Oracle is actively engaged in collecting and reviewing documents for responsiveness and will produce the remaining documents it agreed to produce on or before the deadline.

#### **Deposition Scheduling**

Your May 2 letter states Oracle agreed to identify certain 30(b)(6) witnesses, their availability and the topics for which it is producing those witnesses. However, your letter ignores that my April 22 letter solicited responses from OFCCP that would inform witness preparation and scheduling on Oracle’s end; so we could not identify which witnesses we would prepare on which topics and convey availability until we heard back from you. We have been waiting for your response for quite some time. Of course, certain topics are no longer relevant in light of the Consent Findings Order (e.g., Topics 1 to 3), and we were waiting to hear if you were going to narrow certain topics/subtopics based on your review of the Jewett transcripts and your May 1 deposition of Ms. Waggoner. Beyond that, you are deposing Ms. Holman-Harries today and that should also result in your ability to refine the scope of Topic 6. Scheduling was, in large part, dependent upon your positions and attempting to come to reasonable positions regarding the noticed topics. We want to work with you to understand OFCCP’s final positions on these issues and will then work to determine next steps in terms of resolving areas of dispute, identify the topics/subtopics on which



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Oracle agrees to produce witnesses, and schedule the dates on which Oracle will produce such witnesses.<sup>3</sup>

As for Ms. Carrelli, you incorrectly claim that you asked us to reschedule her deposition. Ms. Bremer's April 26 emails stated, "Following up on Jeremiah's email, we would like to postpone Lynn Carrelli's deposition." Accordingly, particularly because you took her deposition off calendar *before* deposing Kate Waggoner (who also works in compensation), we believed you were determining if you still believed there was a need to depose Ms. Carrelli given the wealth of testimony you have from Ms. Waggoner (and other Oracle witnesses in the *Jewett* case regarding compensation issues), and would let us know if you do wanted to reschedule. Until your May 2 letter, we were waiting to hear from you. Having now apparently confirmed you do still wish to depose Ms. Carrelli, we confirmed she is available on May 24. For Ms. Westerdahl, subject to our the previously served objections, we can confirm her availability on May 30 or May 31 in Orange County.

We are quite cognizant of the rapidly approaching deadlines related to discovery, with our immediate priorities focused on completing document production within the next week and data discovery by the end of the month, but discovery does not close until July 3, 2019. We will work to schedule any remaining depositions promptly, but given the massive discovery burden OFCCP is imposing on Oracle, OFCCP cannot fire demand after demand and expect Oracle to respond as if it has no other discovery obligations at play.

### **OFCCP's Requests for Admission, Set Two**

Your May 6 correspondence asks if Oracle will stipulate to or is willing to discuss stipulating to the authenticity and admissibility of the documents identified in OFCCP's Second Set of RFAs. As I mentioned before, as long as OFCCP is also willing to stipulate to authenticity of certain documents, Oracle is also willing to stipulate to authenticity and admissibility, subject to reviewing the actual documents. We are in agreement that this is a sensible approach. Consistent with our need to review the documents you identify in the RFAs, I renew my request that you provide us with a download link for the 180 documents at issue. That will facilitate our ability to let you know

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<sup>3</sup> We note the parties' respective 30(b)(6) notices request the other party provide the names and employment positions of the individuals being designated to testify at least 5 business days before any deposition. Given that there is no rule on point, we suggest the parties mutually agree to provide such information two business days before any deposition.



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if we foresee any issues for certain documents. I don't anticipate any issues, but we need to review them nonetheless. In the meantime, and to facilitate our review of the documents and a meet and confer discussion, we ask that you also grant us a two-week extension for responding to the RFAs. It seems we can likely dispose of the RFAs by reaching a stipulated agreement, and so we would like to stand down and focus on review of the documents and advise you of our position for each document. Again, I do not anticipate any issues, but we need the extension and the documents.

### **OFCCP's RFPs Relevant Only to Its Hiring Claims**

In your May 6 correspondence, you acknowledge in principle that Oracle is no longer required to produce documents that are only relevant to OFCCP's hiring claims. But then, you attempt to impose an obligation on Oracle to continue producing documents responsive to all of OFCCP's requests until OFCCP indicates which RFPs are not at issue. Not only are these positions irreconcilable, they are contrary to the position OFCCP is taking in response to Oracle's requests to OFCCP regarding hiring. They also run contrary to Oracle's legal obligation to produce discovery relevant to claims or defenses at issue in this litigation, and ignore the May 13 deadline for producing documents responsive to written discovery. As for the example you discuss – resumes – Oracle has produced, and will continue to produce, resumes consistent with its prior commitments and that are relevant to the compensation class (*i.e.*, individuals who worked at HQCA in the Product Development, IT and Support job functions from January 1, 2013 to January 18, 2019). In other words, we are not limiting our production of those materials because of the Consent Findings Order, but we are taking the position that discovery requests relevant *solely* to Oracle's recruiting and hiring practices by its college recruiting program are no longer relevant or proportional to the needs of the case and do not agree with your position that Oracle must continue to produce documents relevant to all claims, even those resolved, pending some further meet and confer.

### **30-Day Extension**

Your offer of a seven-day extension to produced documents in response to RFP Set 7, as opposed to Oracle's request for a 30-day extension, is based on your belief that the shorter time ought to be sufficient because Oracle's discovery obligations will be reduced by the resolution of the hiring claims. Of course, that is wholly inconsistent with your position that Oracle must produce all documents unless and until OFCCP tells us it agrees certain RFPs are no longer relevant (as discussed above). Setting aside OFCCP's unreasonable and inconsistent positions, we will work



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toward producing documents, if any, within the seven-day extension period, but reserve the right to produce documents later if that becomes necessary given your arbitrary decision to give us less time than we requested – even though Oracle gave you a longer extension to propound these RFPs.

We are available to discuss these issues on May 10 or May 13; please advise regarding your availability.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jonathan Riddell". The signature is stylized and cursive.

J.R. Riddell

# **EXHIBIT K**

**U.S. Department of Labor**

Office of the Solicitor  
350 S. Figueroa Street, Suite 370  
Los Angeles, CA 90071-1202



Reply to:  
Charles Song  
(213) 894-5365

May 10, 2019

**VIA ELECTRONIC MAIL**

J.R. Riddell  
ORRICK, HERRINGTON & SUTCLIFFE LLP  
400 Capitol Mall, Suite 3000  
Sacramento, CA 95814

**Re: OFCCP v. Oracle America, Inc., OALJ Case No. 2017-OFC-00006**

Mr. Riddell:

I write to partially respond to your correspondence dated May 8, 2019. The remaining issues raised in your letter will be addressed at our meet and confer on May 13, 2019.

**Temporal Scope**

Your proposal that OFCCP agree to question witnesses on behalf Oracle in their personal capacity is nonsensical. OFCCP will not agree to this proposal and it appears we have reached an impasse.

**Topics 7 and 8**

In our letter dated May 2, 2019, OFCCP proposed to limit deposition testimony on this Topic to the four spreadsheets listed in OFCCP's notice provided Oracle continues to answer data questions in writing and agrees that OFCCP can rely on Oracle's written responses to OFCCP's during litigation and at the hearing. Your letter appears to propose that these Topics be addressed in writing and that "Oracle is willing to stipulate regarding explanatory statements made in its proposed written responses" but does not discuss details of the stipulation. We would like to discuss Oracle's and OFCCP's proposals further at the meet and confer.

**Topic 9**

In an apparent effort to further delay the depositions, your letter belatedly requests the relevance of this Topic when the relevance of this Topic was explained to you during our meet and confers three weeks ago. Tellingly, your April 22, 2019, letter memorializing the meet and confers does not mention a single word about relevancy and merely inquires about OFCCP's willingness to travel to Denver. Although it has already been explained to you, we will repeat that Oracle's document retention and destruction of documents Oracle is required to create and maintain as a

J.R. Riddell  
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federal contractor is obviously directly relevant to Oracle's recordkeeping violations.

### **Deposition Scheduling**

In yet another effort to delay discovery, your May 8, 2019, letter disingenuously states “[w]e have been waiting for your response for quite some time.” However, your statement is clearly contradicted by your own words in your letter of April 22, 2019: “Finally, Oracle will continue to work to identify witnesses and determine their availability for those Topics on which it is producing a witness, but cannot commit to do so by your arbitrary deadline.” Notably, it mentions nothing about waiting for responses to schedule depositions on Topics you agreed to produce witnesses for on April 18 and 19. Accordingly, please keep your word and provide the availability for these witnesses as it has been three weeks since our meet and confers and you have yet to provide a single date.

As it appears abundantly clear Oracle will not comply with its obligation to produce witnesses pursuant to OFCCP's 30(b)(6) notice without Court intervention and OFCCP cannot afford any further delays in simply scheduling Oracle's deposition, OFCCP will proceed with its motion to compel 30(b)(6) testimony.

Sincerely,

/s/ Charles Song

Jeremiah E. Miller, Counsel  
Charles C. Song, Senior Trial Attorney  
Jessica M. Flores, Trial Attorney  
M.J. Cristopher Santos, Trial Attorney  
U.S. Department of Labor  
Office of the Solicitor

# **EXHIBIT L**



March 6, 2019

**VIA ELECTRONIC MAIL ONLY**

Kathryn G. Mantoan  
ORRICK HERRINGTON & SUTCLIFFE LLP  
405 Howard Street  
San Francisco, CA 94105  
kmantoan@orrick.com

Re: *OFCCP v. Oracle America, Inc.*, Case No. 2017-OFC-00006,  
Data Requests

Dear Katie,

This letter responds to your February 27, 2019 letter to me regarding data production.

**Supplementation of Previously-Produced Data Files**

On February 14, 2019, in an effort to compromise on discovery, and ensure that Oracle supplemented previously-produced data to OFCCP as quickly as possible, OFCCP sent Oracle a spreadsheet showing data that it was willing to forgo at this time. Nevertheless, with respect to the hiring data, Oracle is undertaking an additional burden to revise the scripts to narrow its production. In other words, it will be more efficient and less burdensome to supplement the data for the same populations of applicants and hires as Oracle produced previously. Changing its scripts and the data it produces will also place a higher burden on OFCCP and its experts to understand the new filters on the data, and changes to the data set. It will lead to more correspondence and other discovery, including depositions, regarding the data. Creating additional burdens on both the parties, and delaying Oracle's supplementation of the hiring data is unwarranted, and at odds with procedural rules regarding discovery.

Moreover, the pool of applicants and hires for which Oracle previously produced data remains relevant, both because the proposed Second Amended Complaint has not yet been filed, and because OFCCP explicitly reserves the right to amend the complaint to allege hiring discrimination on behalf of experienced hires. Oracle's approach throughout the compliance review and this litigation has been to narrow its responses so much that it excludes relevant information. There are instances where data entries are inconsistent; to take an example from the experienced hires, some applicants who transferred from Oracle affiliates in other countries are designated "New Hires" in the data, while others are "International Transfer." Thus, excluding a particular type of hire may inadvertently exclude people who actually should be included in the pool. Further, all (or virtually all) the experienced hires into the PT1 job group from 2017 through 2019 are also employees in the compensation pool. Thus, the applicant and hiring data of these employees is relevant to the compensation case. OFCCP does not agree with the

limitations Oracle is unilaterally making to its supplementation of the hiring data. OFCCP requests that if Oracle continues to take the position that it can narrow the data, Oracle should identify which data files for which it intends to rewrite the scripts prior to supplementation, and how it intends to filter the data and narrow the pool of data. From Oracle's response, it does not appear that Oracle is taking the position that it will not supplement some of the hiring data files on the ground that they are no longer relevant. However, if OFCCP's understanding is incorrect, please identify any hiring files that OFCCP requested be supplemented, but that Oracle does not intend to supplement.

OFCCP also notes that with regard to the hiring data Oracle only agrees to "supplement the data fields requested by OFCCP related to its hiring claims with *available data, if any.*" What is "available data?" If Oracle is taking the position that some of the data or files that OFCCP requested be supplemented are not "available," please identify them. Please identify any hiring files that Oracle does not intend to supplement, so that the parties can meet and confer.

Finally, if Oracle has new databases that contain the types of data that Oracle produced previously, Oracle is obligated to supplement its data production from these sources. If there are new sources of data, please identify them, so that we can adequately meet and confer.

With respect to the compensation data, Oracle also includes the qualification that it will only provide "*readily available updated data, if any.*" Again, please explain this qualification. If there are compensation files that OFCCP identified for supplementation that Oracle does not intend to supplement, or data that is not "readily available," please identify it. If Oracle has new databases storing the compensation data that Oracle previously produced, Oracle will need to supplement its data production from such databases. If there are any such new databases, please identify them.

### **Educational Data and Experience of Oracle Employees in Compensation Class**

Your letter indicates that Oracle would investigate whether data is available for the compensation population that corresponds to the following tabs provided for the hiring population in PT1\_HQCA\_IREC\_MAIN.xlsx: (1) APL\_EMPLOYMENT\_HISTORY, (2) APL\_QUALIFICATIONS, and (3) APPLICANT\_PROFILES. Please confirm that you will be producing this data for the compensation population. If Oracle does not plan to produce such data, let us know immediately, and provide a justification for not producing such highly relevant data.

If Oracle has additional educational data available for any of Oracle's for whom Oracle produces compensation data or for anyone for whom it produces data for the hiring case, OFCCP requests that Oracle produce it. If no further data showing such employees' education or experience is available, please confirm that Oracle has conducted a reasonably diligent search and no further data is available.

### **Compa-ratios**

In my February 15, 2019 letter, I explained why the data showing the compa-ratios of employees transferred to HQCA from Oracle's affiliates abroad is highly relevant. Oracle has admitted that compa-ratios are relevant to the compensation case and have produced data

regarding compa-ratios. We understand that Oracle has access to this information and it would have been reviewed by managers setting pay when the employee transferred to the U.S. Although compa-ratio data is both highly relevant and available, Oracle wrote scripts to exclude the data from its production. This was improper. It may be easiest to simply produce the historical compa-ratios of all Oracle employees, whether they were employed by an Oracle affiliate abroad or in the United States. At a minimum, we request each employee's last compa-ratio at an Oracle affiliate before transfer to the Support, Product Development, and Info Tech Job Functions at HQCA. For the iRec data, for example, that would include employees listed in the HQCA\_iRec\_MAIN.xlsx file having a HIRE\_TYPE of International Transfer in Column AR, or employees for which a salary in a denomination other than US dollars is listed in the CANDIDATE\_CURRENT\_SALARY\_ATV (Column BC).

### **Temporal Scope of the Data**

Although OFCCP is entitled to data through the date that Oracle produces such information, or at least the date that it gathers the information, it is willing to accede to Oracle's proposed end date of January 18, 2019 for the data. Of course, if the schedule of the case changes significantly, OFCCP reserves the right to further supplement the data.

With respect to the start date for the data, Oracle's response to OFCCP's request for historical data misconstrues the request. OFCCP is not requesting this data to bring "actionable claims" in this matter on behalf of employees who were only employed at HQCA prior to 2013. Rather, OFCCP seeks historical data of such employees to compare to the historical data of Oracle employees that OFCCP already produced. Oracle has already produced historical data for its employees going back to 1985, acknowledging that such historical data is relevant to an analysis of compensation. To render the analysis more complete, and to fully analyze the data, including the impact of starting pay, OFCCP requests compensation data for Oracle employees in HQCA who worked in the same job functions as the employees in the compensation class (in other words, the class members' comparators). Such data is relevant to OFCCP's statistical analysis of the compensation data. This is the reason we requested data for all employees at HQCA in Product Development, Support, and Information Tech extending back to 1985.

Oracle does not claim that producing historical data would be burdensome. In fact, my understanding is that it is easier to write a script to extract data for all employees from 1985 through 2019 than to write a script that will exclude a portion of those employees (those who were employed at HQCA prior to 2013). Nevertheless, OFCCP is willing to compromise on the amount of historical data it will accept. OFCCP suggests that as Oracle revises its scripts to supplement its compensation data through 2019, that it also seek historical data for Oracle employees at HQCA in Product Development, Support, and Information Tech job functions for the 10 years prior to 2013 (in other words, 2002). To clarify, Oracle would be supplementing the compensation data it provides forward and backward, providing the same types of data for employees in the Product Development, Support, and Information Tech job functions who were employed at HQCA from 2002-2013 (including the same type of historical data that Oracle already produced for employees from 2013-2016). It should be relatively easy to rewrite the scripts to obtain this additional data.

We look forward to talking to you further about these issues.

Sincerely,

A handwritten signature in blue ink that reads "Laura C. Bremer". The signature is fluid and cursive, with a long horizontal stroke at the end.

Laura C. Bremer