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Office of Administrative Law Judges
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June 7, 2019

Hand-Delivery

Administrative Law Judge Richard M. Clark
Office of Administrative Law Judges
U.S. Department of Labor
90 7th Street, Suite 4-800
San Francisco, CA 94103-1516

Re: *OFCCP v. Oracle; OALJ Case No. 2017-OFC-00006*
OFCCP's "Request for Immediate Hearing"

Your Honor:

We write in response to OFCCP's June 5, 2019 "Request for Immediate Hearing."

The issues raised in OFCCP's letter are already the subject of OFCCP's pending Motion for a Protective Order or in the Alternative Leave to Amend the Complaint, filed on May 25, 2019. Oracle is filing today its opposition to that motion. OFCCP's letter purports to raise alarm because, according to OFCCP, Oracle's interviews in connection with this case are more pressing than its interviews in the pending *Jewett* action. Yet the arguments OFCCP makes are the same. And, as explained in Oracle's opposition, OFCCP's motion (and now, letter) is meritless both legally and factually. Oracle is permitted to contact its employees to understand OFCCP's claims and prepare a defense. *See, e.g., E.E.O.C. v. SVT, LLC*, 297 F.R.D. 336, 342 (N.D. Ind. 2014) (permitting employer's communications with unrepresented employees because not allowing such discovery would impair the employer's ability to investigate the plaintiff's claims).

Moreover, Oracle is not "demanding" its employees participate in interviews. To the contrary, Oracle specifically advises the employees at issue that any interview is completely voluntary and they can end the interview at any time. Oracle explains to its employees that OFCCP is bringing claims alleging that female, Asian, and Black employees have been underpaid, that Oracle's counsel represents the company and not the employee, and that any information the employee provides may be used to assist in the company's defense. OFCCP's letter, like its motion, contains no evidence supporting its allegations of misconduct.

Oracle is also filing today its reply in support of its May 17, 2019 Motion to Correct OFCCP's Misleading Communications. That brief further explains that it is not Oracle who is engaging in improper communications with its employees. Instead, OFCCP is the party who sent a misleading communication to Oracle's employees. Additionally, OFCCP's assertion of an attorney-client or common interest privilege with Oracle's employees (as well as its assertion it represents their amorphous "interests") is meritless.

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With respect to OFCCP's request for a hearing, Oracle does not oppose that request if the Court would find it useful.

Very truly yours,

Erin M. Connell

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