U.S. Department of Labor

Office of Federal Contract Compliance Programs
Pacific Regional Office
90 – Seventh Street, Suite 18-300
San Francisco, CA 94103

EXHIBIT 128
Oracle Designee
8/1/19
Ashley Soevyn CSR# 12019

VIA ELECTRONIC MAIL
AND CERTIFIED MAIL
(RETURN RECEIPT REQUESTED)

April 15, 2015

Mr. Gary R. Siniscalco
Orrick, Herrington & Sutcliffe LLP
405 Howard Street
San Francisco, CA 94105-2669

Re: Compliance Evaluation of Oracle, Redwood Shores, CA

Dear Mr. Siniscalco:

On March 31, 2015, the U.S. Department of Labor, Office of Federal Contract Compliance Programs (OFCCP), received your letter wherein Oracle objected to OFCCP's requests for information relevant to its compliance with equal employment opportunity and affirmative action regulations. 41 C.F.R. §§ 60-1.20(A), 60-1.43, 60-300.81, and 60-741.81. Specifically, your letter objects to OFCCP's standard request for information about employee complaints of discrimination, harassment or retaliation on various grounds, claiming such a standard request is "vague, ambiguous, overly broad, irrelevant, request[s] information on agency charges that is equally and in some respects more available to the OFCCP, violate[s] employees' privacy rights, contain[s] conflicting requests, and otherwise seek[s] information beyond the scope of OFCCP policy and authority."

We respectfully disagree with your objections. Requests for employee complaints are routine in employment discrimination matters, and your objections to producing them in this case are unfounded. See, *e.g., Chen-Oster, et al. v. Goldman Sachs*, 293 F.R.D. 557 (S.D.N.Y. Oct. 15, 2013)(compelling production of all internal complaints that are "conceivably related" to gender discrimination made by female employees, regardless of whether the complainant is a member of the putative class); *Babbit, et al., v. Albertson's Inc.*, et al., 1992 U.S. Dist. LEXIS 19091 (N.D.C.A. Nov. 30, 1992)(compelling production of correspondence between Albertson's and the EEOC and the DFEH relating to employment of women in Albertson's retail stores).

Further, your letter mischaracterizes OFCCP's onsite review of Oracle. Although you were not present at OFCCP's entrance conference at Oracle, you make allegations in your letter that one of the seven OFCCP officials present at the conference purportedly made "unprofessional, inaccurate and blatantly bullying comments, including a threat of possible criminal prosecution" and then request that "future interviews, if any, be done in a more appropriate, respectful, and timely fashion." However, no "unprofessional, inaccurate and blatantly bullying comments" were made during the entrance conference. Nor did anyone present at the conference, nor during the four-day onsite review, raise any similar objection. Your post-hoc interpretation of the onsite

review -- that you did not attend -- is simply not supported by the facts, as discussed further below.

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By way of background, OFCCP scheduled the onsite review jointly and directly with Oracle. On March 4, 2015, OFCCP agreed to Oracle's proposed onsite commencement date of March 24, 2015, which far exceeded the three business-days notice that is typically provided in most reviews. In that letter, OFCCP requested the following information:

> [a] listing of employees who have made discrimination, harassment or retaliation complaints or otherwise opposed any form of discrimination, harassment or retaliation at Oracle Redwood Shores (HQCA) by: name, gender, race, national origin, job title, organization, discipline, profession.

On March 20, 2015, OFCCP received the following response to the above request from Shauna Holman-Harries, Director Diversity Compliance at Oracle:

> None.

During the March 24, 2015 entrance conference, which was attended by six Oracle executives and managers as well as seven OFCCP representatives, OFCCP requested clarification of Oracle's above response. OFCCP asked that Oracle confirm again that there was not a single complaint of discrimination, harassment or retaliation at Oracle's Redwood Shores Headquarters, where over 7,000 employees work. Ms. Holman-Harries confirmed her previous response and further explained that she interpreted the request to be limited to complaints of discrimination, harassment or retaliation made *only* in 2014. She also stated that her response to our request was at the direction of Oracle's legal department. At that time, Oracle had an opportunity to correct its previous inaccurate response and after Oracle failed to do so, OFCCP shared with Oracle representatives a file-stamped copy of *Spandow v. Oracle*, a discrimination and retaliation complaint filed with the EEOC in 2013 and subsequently filed in federal court in 2014. OFCCP also noted several EEOC charges filed by Oracle employees from the Redwood Shores facility.

Oracle's inaccurate responses raised serious concerns. Title 18 U.S.C. §§ 1001, 1516 of the federal criminal code prohibits the submission of false information during an official government investigation. Oracle provided inaccurate information, even after being provided an opportunity to correct it, to OFCCP. Nonetheless, OFCCP again provided Oracle with yet another opportunity to correct its inaccurate responses.

At the entrance conference and in an effort to resolve the inaccuracies, OFCCP submitted another information request for employee complaints to Oracle, including "all internal and external complaints of discrimination, harassment or retaliation filed at Oracle Headquarters within the past three years" and reminded Oracle representatives present at the meeting about the prohibition against submitting false information during an official government investigation. In response, Oracle's Vice President of International Human Resources Elizabeth Snyder assured

OFCCP that Oracle will gather the information from its legal department and provide it to OFCCP immediately. However, OFCCP has yet to receive this information and instead, on March 31, 2015, the agency received your letter objecting to our information request and we were made aware, for the first time, that you represent Oracle.

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According to OFCCP's regulations and well established case law, Oracle must provide OFCCP information that will assist in OFCCP's compliance evaluation of Oracle's equal employment opportunity and affirmative action programs. Under 41 C.F.R. §§ 60-1.43, 60-300.81, and 60-741.81, Oracle is required to provide full access to all relevant data regarding the matter under investigation and pertinent to determining Oracle's compliance with Executive Order 11246, Section 503, and 38 U.S.C. § 4212 and their implementing regulations. Further, Oracle's denial of access to requested records significantly impedes the ongoing investigation of Oracle's compliance with the Executive Order, Section 503, and 38 U.S.C. § 4212. Therefore, OFCCP is providing Oracle yet a fourth opportunity to comply with OFCCP's previous request. Please provide the following to OFCCP by **April 24, 2015**:

> *A listing (including all related documents) of current and former employees who have made discrimination, harassment or retaliation internal complaints within Oracle and/or external complaints to state or federal government agencies or have otherwise opposed any form of discrimination, harassment or retaliation at Oracle Redwood Shores (HQCA) within the past three years by: name, employee ID, gender, race, national origin, job title.*

Finally, your letter's implication that OFCCP was unprofessional during the onsite review is not supported by the facts. OFCCP representatives acted professionally during the onsite review and throughout the audit. We have requested information necessary to assess whether Oracle has complied with its equal employment opportunity and affirmative action requirements. In your letter, you indicate that several senior executives who were interviewed felt disrespected and that their roles and efforts in affirmative action, diversity and inclusion were ignored due to the type and nature of some questions. You also indicate that OFCCP cancelled many interviews at the last minute. To clarify the record once again, OFCCP originally requested that an email notification be sent to employees on March 16, 2015 in an effort to properly coordinate an onsite interview schedule. Oracle refused this request and sent a misleading email on March 23, 2015 to less than 1% of its employees that instructed employees to schedule the interview through Oracle representatives and included language from OFCCP's FCCM, which was taken out of context, indicating that employees who elect to be interviewed should have Oracle's legal representative present. In addition, Oracle also denied OFCCP's request for four interview rooms and provided only two interview rooms, located adjacent to its Human Resources department, which were inaccessible to many employees without an Oracle corporate escort. Additionally, Oracle requested to limit the onsite review to three and a half days in order to accommodate its representatives' travel arrangements. Therefore, logistically and for efficiency, we could not contact all employees who requested to be interviewed and we are still conducting employee

interviews at this time. OFCCP does not agree with the allegations raised in your letter and since you have only been recently retained by Oracle, enclosed are the relevant correspondences so that you are accurately informed.

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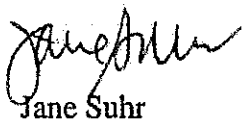
In closing, OFCCP requests your assistance and cooperation in completing this compliance evaluation of Oracle. To that end, we ask for a response to our previous request of March 4, 2015 seeking written confirmation from Oracle and its counsel that it has provided complete and accurate information for all of its data submissions to the OFCCP to date, including all relevant compensation information and factors affecting pay as submitted by Oracle.

Regional Director Janette Wipper and I would be happy to make ourselves available to discuss any remaining issues. You can reach me at suhr.jane@dol.gov or (415) 625-7800.

Sincerely,



Jane Suhr
Deputy Regional Director
Pacific Region

cc: Juana Schurman, Vice President and Associate General Counsel (Juana.Schurman@oracle.com)
Shauna Holman-Harries, Director Diversity Compliance (shauna.holman.harries@oracle.com)

Attachments: 3/4/15 Onsite Confirmation Letter
3/16/15 OFCCP's Request for Notification to Employees
3/20/15 Oracle's Response to Information Request
3/23/15 Oracle's Notification to Employees
Spandow v. Oracle complaint

U.S. Department of Labor

Office of Federal Contract
Compliance Programs
Los Angeles District Office
1640 S. Sepulveda Blvd., Suite 440
Los Angeles, CA 90025

VIA EMAIL

March 4, 2015

Shauna Holman-Harries
Director Diversity Compliance
Oracle America, Inc.

Re: On-site Evaluation for Oracle America, Inc. (HQCA), Redwood Shores, CA

Dear Ms. Holman-Harries:

Thank you for your cooperation and assistance over the past several days preparing for the on-site portion of the evaluation. It is also our desire to conduct this compliance evaluation in an efficient and effective manner. Based on our e-mail correspondence, an on-site evaluation has been scheduled to begin on Tuesday, March 24, 2015 at 9:00 a.m. The on-site evaluation will consist of the following:

1. Entrance conference with company representatives;
2. Physical inspection;
3. Examination of personnel records and files, as applicable;
4. Interviews of individual contributors and managers; and
5. Exit conference.

In order to facilitate the on-site phase of the compliance evaluation, additional data and documentation requests may follow prior to the on-site date. Additionally, please provide the following information at the commencement of the on-site evaluation:

1. A listing of employees who have taken maternity leave within the past three years by: name, gender, race, job title, discipline, organization, beginning and ending dates of leave;

2. A listing of employees who are veterans by: name, gender, race, job title, discipline, organization, type veteran, and date of hire;

3. A listing of employees who have been accommodated within the past three years for religious observances and disability by: name, gender, race, job title, discipline, organization, and date accommodation provided; and

4. A listing of employees who have made discrimination, harassment or retaliation complaints or otherwise opposed any form of discrimination, harassment or retaliation at Oracle Redwood Shores (HQCA) by: name, gender, race, national origin, job title, organization, discipline, profession.

Lastly, please confirm that Oracle has provided complete and accurate information for all of its data submissions to the OFCCP to date, including all relevant compensation information and factors affecting pay as submitted by Oracle. In order to facilitate the most efficient and effective review, we request that Oracle affirmatively state in a written response that all information submitted to date is complete and accurate.

We greatly appreciate your assistance in ensuring that the on-site evaluation is conducted in an efficient and expeditious manner. We request that you provide a conference room and five additional rooms for interviews during the on-site evaluation. Further, please provide logistical information necessary for parking and entrance to the location. We will work together over the coming weeks to develop an interview schedule once the interviews have been confirmed. Additional data and/or information may be identified and requested prior to and during the on-site evaluation. If you have any questions, please contact me at (310) 268-1467.

Sincerely,

Brian L. Mikel
Acting Assistant District Director
Los Angeles District Office

From: Atkins, Hea Jung K - OFCCP [mailto:Atkins.HeaJung@dol.gov]
Sent: Monday, March 16, 2015 4:32 PM
To: Shauna Holman Harries
Cc: Neil Bourque; Mikel, Brian L - OFCCP; Luong, Hoan - OFCCP
Subject: RE: List of OFCCP attending on-site

Hi Shauna,

The following OFCCP personnel will be onsite:

Hoan Luong, Compliance Officer
Anna Liu, Compliance Officer
Hea Jung Atkins, Greater San Francisco Bay District Director
Brian Mikel, Los Angeles Acting Assistant District Director
Robert Doles, Director of Regional Operations
Jane Suhr, Acting Deputy Regional Director
Janette Wipper, Regional Director

We appreciate the comments you and Neil raised during this morning's telephone call. We understand our shared interest in transparency and cooperation during this review.

Our investigation is not complete at this time and we are still in the process of gathering and analyzing information. Nonetheless, in response to your request, we shared the information that we have available at this time about indicators and relevant job groups at Oracle. Without having received additional information responsive to outstanding data requests, and without even an organizational chart or similar information from Oracle, job group data is the only description of the corporate structure Oracle has provided to the agency at this time.

We will provide you with a list of interviewees by Wednesday evening, which should disclose additional information to assist your preparation for the onsite. To assist in facilitating an efficient interview process of employees, we also ask that you provide the following notice to all individuals at Oracle by Friday, March 20, 2015, and cc me and Hoan Luong:

To:	All Oracle Employees
CC:	Atkins.HeaJung@dol.gov, Luong.Hoan@dol.gov
Subject:	U.S. Department of Labor Equal Employment Opportunity Audit on Site, Tuesday, March 24, 2015

Dear Oracle Employees,

On **Tuesday, March 24, 2015,** the U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) will be on site at Oracle's headquarters in San Francisco, CA. OFCCP is conducting a compliance evaluation of Oracle's employment practices to assess whether Oracle has complied with federal equal employment opportunity and nondiscrimination regulations.

OFCCP is a civil rights enforcement agency within the U.S. Department of Labor that enforces laws and regulations prohibiting federal contractors and subcontractors from discriminating in employment decisions (i.e. hiring, promotions, terminations, and compensation) on the basis of race, color, religion,

sex, sexual orientation, gender identity, national origin, veteran status, and disability status. Oracle is a federal contractor.

Oracle encourages employees to contact OFCCP. Any contact or communication with OFCCP will be kept confidential. Oracle will not subject employees to any adverse action for participating or assisting in OFCCP's compliance evaluation. If you have any information or questions and wish to contact OFCCP, you may stop by conference rooms XXX from 9am to 5pm on Tuesday, March 24th, or you may contact directly OFCCP District Director Hea Jung Atkins at 415-625-7829 or Atkins.HeaJung@dol.gov and OFCCP Compliance Officer Hoan Luong at (415)625-7835 or Luong.Hoan@dol.gov at any time.

Thank you,

_____

Thank you again for your continued cooperation.

Sincerely,
Hea Jung Atkins
District Director
Greater San Francisco/Bay District Office

From: Shauna Holman Harries [mailto:shauna.holman.harries@oracle.com]
Sent: Friday, March 20, 2015 9:30 PM
To: Mikel, Brian L - OFCCP
Cc: Neil Bourque
Subject: Oracle HQCA Onsite

Hi Brian. I am attaching information you requested in your March 4 letter as follows:

1. A listing of employees who have taken maternity leave within the past three years by: name, gender, race, job title, discipline, organization, beginning and ending dates of leave;

I am attaching the listing for 2014. We had a vendor change and our benefits department is having to look up over 15,000 employees individually. We hope to have it by the end of next week.

2. A listing of employees who are veterans by: name, gender, race, job title, discipline, organization, type veteran, and date of hire;

Please see attached.

3. A listing of employees who have been accommodated within the past three years for religious observances and disability by: name, gender, race, job title, discipline, organization, and date accommodation provided; and

We have had no religious accommodation requests in the last three years.

I am attaching files for ergonomic and workers' compensation accommodations. The other medical accommodations are attached – please see request one.

4. A listing of employees who have made discrimination, harassment or retaliation complaints or otherwise opposed any form of discrimination, harassment or retaliation at Oracle Redwood Shores (HQCA) by: name, gender, race, national origin, job title, organization, discipline, profession.

None.

----- Forwarded Message -----
From: diversity_us@oracle.com
Sent: Monday, March 23, 2015 4:51:20 PM GMT -07:00 U.S. Mountain Time (Arizona)
Subject: U.S. Dept of Labor Office of Federal Contract Compliance Request for Interview

On Tuesday, March 24, 2015 through Friday, March 27, 2015, the U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) will be on site on the 8th floor in the 500 building. Oracle is a government contractor (we sell products to various agencies of the U.S. government). OFCCP is responsible for conducting compliance evaluations at companies that are government contractors and it is currently reviewing our employment practices to assess whether Oracle has complied with its affirmative action and equal employment opportunity obligations. You can learn more about OFCCP by going to its website www.dol.gov/ofccp

OFCCP has provided us with a list of individuals, including yourself, that it would like to interview. During the interview you will be asked questions about your employment experience at Oracle by an OFCCP Compliance Officer. Pursuant to OFCCP's policy regarding employee interviews, you have a right to request that a personal representative be present with you during the interview. This may be someone of your own choosing, such as legal counsel, or someone else who is not an attorney.

If you are available this week on Tuesday afternoon between 2 - 5 p.m. PDT, this Wednesday or Thursday between 9 - 5:00 p.m. PDT, or on Friday 9 - 2:00 p.m. PDT, please contact us at diversity_us@oracle.com. Please also indicate whether you are requesting a personal representative to be present. We will forward your information to OFCCP and they will contact you directly to schedule your interview. We would be more than happy to answer questions you may have, if you would like someone to call you, please let us know in your response to this email.

You may also direct any questions you have to OFCCP District Director Hea Jung Atkins at 415-625-7829 or Atkins.HeaJung@dol.gov and OFCCP Compliance Officer Hoan Luong at (415)625-7835 or Luong.Hoan@dol.gov at any time.

CLARICE C. LIU (SBN 160555)
LIU EMPLOYMENT LAW FIRM
One Sansome Street, 35th Floor
San Francisco, CA 94104
Telephone: (415) 288-8622
Facsimile: (415) 288-8633
Email: ccl@liuemploymentlaw.com

Attorneys for Plaintiff
IAN SPANDOW

14 JAN -7 P 2:54

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

EDL

IAN SPANDOW,

Plaintiff,

v.

ORACLE AMERICA, INC., ORACLE CORPORATION, and DOES 1 through 100, inclusive,

Defendants.

CASE NO. CV 14 0095

COMPLAINT FOR EMPLOYMENT DISCRIMINATION BASED ON NATIONAL ORIGIN AND RETALIATION

DEMAND FOR JURY TRIAL

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SAN FRANCISCO, CA 94104
(415) 288-8622

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Plaintiff IAN SPANDOW alleges as follows:

NATURE OF THE ACTION

1. This action is brought by Plaintiff Ian Spandow, a Senior Regional Sales Manager at Oracle, who consistently demonstrated his excellence in achieving and surpassing numerous benchmarks and goals at the company, since he worked with Oracle in Europe and later moved to Oracle in California from Ireland. In violation of the Civil Rights Act of 1964, 42 U.S.C.§ 2000e *et seq.*, Oracle discriminated against Plaintiff based on his national origin, and terminated him abruptly upon his refusal to participate in the company's discriminatory employment practice of paying Indian employees a salary substantially below those of similarly situated Caucasian employees.

2. Plaintiff's opposition to, and refusal to participate in, Oracle's discriminatory employment practice were met with hostility by Oracle's Human Resources and management, epitomized by his supervisor's racist retort that the salary would be "good money for an Indian."

3. When Plaintiff further questioned the company's disparate compensation based on race and national origin, Oracle abruptly terminated Plaintiff within weeks, contrary to the company's routine termination procedures, without any prior warning or disciplinary actions.

PARTIES

4. Plaintiff IAN SPANDOW (hereinafter "Plaintiff") was at all times herein mentioned a resident of the County of San Francisco, and employed in the County of San Mateo, State of California in the United States of America.

5. Defendants ORACLE CORPORATION and ORACLE AMERICA, INC. (hereinafter collectively, "Defendants" or "ORACLE") are, and at all times herein mentioned were doing business in Redwood Shores with its principal place of business located at 500 Oracle Parkway, Redwood City, California 94065. ORACLE does business in the Northern District of California.

6. The true names and capacities of Defendants named herein as DOES 1-100 inclusive, whether individual, corporate, associate, or otherwise, are unknown to Plaintiff and

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therefore sues such Defendants by such fictitious names. Plaintiff is informed and believes that DOE Defendants are subject to the jurisdiction of this court. Plaintiff will amend this Complaint to show true names and capacities when they have been determined.

7. Plaintiff is informed and believe, and based on that information and belief, alleges that at all times mentioned in this Complaint, Defendants DOES 1-100 were the agents and employees and/or agents of Defendants, and in doing actions mentioned below were, unless otherwise alleged, acting within the course and scope of their authority as such agents, servants, partners and employees with the permission and the consent of Defendants.

JURISDICTION AND VENUE

8. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 in that this case arises under federal law, specifically, Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*, which grants district courts jurisdiction over actions alleging unlawful and discriminatory employment practices by employers involving race, national origin and/or discrimination and retaliation.

9. Venue is proper in the Northern District of California pursuant to Section706(f)(3) of Title VII, 42 U.S.C. § 2000e-5(f)(3), because the unlawful employment discrimination giving rise to Plaintiff's claims occurred and injury and damage to Plaintiff occurred in its jurisdictional area.

10. This Court has personal jurisdiction over ORACLE. ORACLE has conducted and does conduct business within the State of California and within this judicial district.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

11. Plaintiff Spandow has exhausted his administrative remedies. He filed *timely administrative charges of discrimination against ORACLE with the U.S. Equal* Employment Opportunity Commission (EEOC) and was issued a Notice of Right to Sue on September 26, 2013.

12. The parties further entered a tolling agreement, in light of a private mediation, for all applicable statutes of limitations to be tolled until January 9, 2014.

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STATEMENT OF THE FACTS

13. Plaintiff is an experienced senior-level manager specializing in sales methodology, coaching and leadership training.

14. In August 2005, Plaintiff joined ORACLE EMEA in Europe. After less than one year as a sales coach, he was promoted to Lead Sales Instructor due to his excellent work performance. In that capacity, Plaintiff trained over 1,000 new hires, coached hundreds of sales representatives on sales skills, provided on-the-job training and assistance on significant opportunities, and implemented new learning methods.

15. Based on his success in that position, Plaintiff was promoted in January 2008 at ORACLE EMEA as a Coaching Manager. In that vital role, Plaintiff served as a Coaching Team Manager responsible for coaching, performance management, and career development of team members. He managed and led coaching teams in Dublin, Paris, Potsdam, Prague and Dubai. In this position, Plaintiff had significant personnel management duties. He directly managed the work activities of three internationally based direct reports holding the titles of Sales Skill Coaches.

16. Plaintiff's accomplishments attained at ORACLE EMEA included the following: the Tech GB (UK) "Significant Contributor Award" for coaching in 2005; the "EMEA Innovation Award" in 2006 for development of new sales coaching tool; and the "Best Mentor" Award in 2010.

17. During his tenure at ORACLE EMEA, Plaintiff had the distinction of training more than 2,000 ORACLE staff in more than 12 countries. He was provided sterling and voluminous feedback from the staff in his training, which would substantiate the excellence of his work history.

18. Based on his outstanding accomplishments at ORACLE EMEA, Plaintiff was again

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promoted and recruited to move to the ORACLE Headquarters at Redwood Shores, California, in the United States with an L-1 Visa.

19. In the position as the Sales Manager in the area of Business Development, Plaintiff was responsible for all of ORACLE'S USA inbound inquires for 36 Representatives and Regional Managers. He led teams in Burlington, Massachusetts; Reston, Virginia; and Bangalore, India. Each of these teams achieved or significantly exceeded their targets. While managing these teams, Plaintiff also functioned as the Lead Sales Skills Instructor & Management Coach for North America.

20. At Oracle in California, Plaintiff trained over 100 Sales Managers on leadership skills, trained more than 500 new sales representatives, trained instructors on improved and new delivery skills, designed and documented a new on-boarding program, and designed and implemented a new Sales Strategy.

21. In July 2012, Plaintiff became the Senior Regional Manager in Database Sales at ORACLE where he was responsible for Database Sales in Southern California and the Rocky Mountain Region. He excelled at his work in ORACLE as demonstrated by numerous benchmarks and awards. For example, he was recognized with the "Boiling Point" Award for significant contribution to management skills in 2011. Plaintiff won the "Significant Contributor" Award for coaching reps and managers. In 2012, he achieved 170% of fiscal goal for Q1, and achieved 130% of fiscal goal for Q2.

22. Despite his outstanding achievement at ORACLE, Plaintiff experienced discriminatory and retaliatory conduct based on his national origin and after his complaint of various improper practices, including the company's discriminatory pay practices of employees based on their national origin.

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OPPOSITION TO DISCRIMINATORY CONDUCT

23. As a Senior Regional Sales Manager, Plaintiff was required to hire new sales staff as part of his job duties. In September 2012, he applied for the approval for an ORACLE staff member in India to transfer to ORACLE in California. Said employee had a successful track record within ORACLE in his approximately seven years at the company.

24. Based on employee's experience and the salary for comparable hires, Plaintiff sought approval from management for an offer to him a compensation level that was equivalent to Caucasian employees hired by ORACLE for the same position. ORACLE'S management, however, denied Plaintiff's request and ordered him to offer a substantially lower salary to the Indian employee. In fact, just weeks prior to this incident, ORACLE authorized Plaintiff to make an offer of a substantially higher salary to two other Caucasian employees for identical positions as the one to be filled by the Indian candidate.

25. Moreover, when Plaintiff asked Vice President Ryan Kelley whether all salaries had been reduced, confirmed replied that the salary structure had not changed. Accordingly, Plaintiff wrote to Human Resources Department and stated his belief that the offer of a lower salary to an Indian employee (compared to Caucasian employees) was improper, as it was prejudicial to hire employees doing exactly the same job, but pay the Indian employee approximately substantially less than the Caucasian employees. Plaintiff was chastised by ORACLE's Human Resources and his supervisor for his protest of the disparate treatment of Indian employees. Plaintiff is further informed and believes that ORACLE has engaged, and continues to engage, in a pattern of paying Indian employees wages that are substantially lower than those paid to Caucasian employees.

26. In one of the emails Mr. Spandow wrote to his supervisor Ryan Bambling on October 23, 2012:

"Hi Ryan, . . .

[P*****] is a 7 year Oracle professional who has already been in my team (Jan 2010 – Jan 2011). He knows everyone on the team, and will of course, know what they earn within days of arriving. Moreover, he has 6+ years Oracle experience ahead of them.
I can't, in good conscience, even mention $50K/$50 to him. It would be nothing short of discriminating against him based on his ethnicity/country of origin. . .

So my question to you? How or what do I have to do / write to get a reasonable (60+) offer to him?"

Email from Ian Spandow to Ryan Bambling dated October 23, 2012 (emphasis added; Employee's name redacted for privacy).

27. Mr. Spandow was met with a stern response and warned about his inquires. When Plaintiff raised his concern to his Sales Director Keith Trudeau, Plaintiff was rebuked by Mr. Trudeau, who told Plaintiff that the salary would be "good money for an Indian."

ABRUPT TERMINATION UPON COMPLAINT

28. Later, ORACLE's Human Resources manager Melissa Bogers sent an email to Plaintiff, summoning him to a meeting to discuss his email opposing the discriminatory pay practice. In that meeting, Ms. Bogers was insistent of the company position that it was fair to offer the Indian employee a lower salary than the other Caucasian employees who were just hired within the past months at a higher salary for the same position. After the meeting, Plaintiff again submitted request to management for the candidate's salary to be approved at the higher comparable level as the other employees. However, within weeks of the discussion with Ms. Bogers, Plaintiff was summarily terminated on December 5, 2012.

29. As a manager at ORACLE, Plaintiff was trained and was required by management to follow specific procedures in the termination of an employee, including providing verbal warning, written warning and/or performance improvement plan. In this case, Plaintiff was summarily terminated without any warning – within weeks of his opposition to ORACLE's employment practices.

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FIRST CLAIM FOR RELIEF

UNLAWFUL DISCRIMINATION BASED ON RETALIATION

30. Plaintiff hereby realleges and incorporates by reference as though set forth in their entirety each and every other allegation herein.

31. Defendants, through their agents, have retaliated against Plaintiff by terminating him on the basis of his having opposed unlawful practices, in violation of Title VII of the Civil Rights Act of 1964,42 U.S.C.§ 2000e-3 *et seq.* as amended.

32. At all times herein mentioned, Title VII of the Civil Rights Act of 1964,42 U.S.C.§ 2000e-3 *et seq.* as amended, was in full force and effect and was binding on ORACLE.

33. As more fully set forth in the preceding paragraphs of this Complaint, Plaintiff opposed Defendants' illegal and discriminatory practices prohibited by Title VII of the Civil Rights Act of 1964, 42 U.S.C.§ 2000e-3 *et seq.* as amended, when Plaintiff raised objections to ORACLE's management and his supervisors regarding the unfair pay practices of the discriminatory compensation structure based on race and national origin.

34. The foregoing conduct by Defendants violates Title VII of the Civil Rights Act of 1964,42 U.S.C.§ 2000e-3 *et seq.*, which provides that retaliation against employees for opposing any discriminatory practices is illegal.

35. The acts of Defendants alleged above were done maliciously and/or oppressively. Accordingly, Plaintiff is entitled to recover punitive damages against Defendants. Plaintiff has incurred and continues to incur legal expenses and attorney's fees.

36. As a proximate result of the discrimination and retaliation of Plaintiff described above, Plaintiff has suffered and will continue to suffer humiliation, embarrassment, mental anguish and severe emotional and physical distress, all to his damages in an amount to be determined at trial and according to proof.

LIU EMPLOYMENT LAW FIRM
ONE SANSOME STREET, SUITE 3500
SAN FRANCISCO, CA 94104
(415) 288-8522

SECOND CLAIM FOR RELIEF

UNLAWFUL DISCRIMINATION BASED ON NATIONAL ORIGIN

37. Plaintiff hereby realleges and incorporates by reference as though set forth in their entirety each and every other allegation herein.

38. Defendants have unlawfully discriminated against Plaintiff based on his national origin in violation of Title VII of the Civil Rights Act of 1964,42 U.S.C.§ 2000e-16 *et seq.* as amended.

39. Plaintiff is a member of a protected group based on his national origin (Ireland), working at ORACLE in the United States on an L-1 Visa.

40. Defendants treated Plaintiff less favorably than similarly situated employees who are not in the protected class and replaced him with an employee outside of his protected category in the terms of his employment.

41. Defendants have discriminated against Plaintiff in the terms and conditions of his employment on the basis of his protected group status in violation of Title VII.

42. Plaintiff is now suffering and will continue to suffer irreparable injury and monetary damages as a result of defendant's discriminatory practices unless and until the Court grants relief.

43. The foregoing conduct by Defendants violates Title VII of the Civil Rights Act of 1964,42 U.S.C.§ 2000e-16 *et seq.*, which provides that retaliation against employees for opposing any discriminatory practices is illegal.

44. The acts of Defendants alleged above were done maliciously and/or oppressively. Accordingly, Plaintiff is entitled to recover punitive damages against Defendants. Plaintiff has incurred and continues to incur legal expenses and attorney's fees.

45. As a proximate result of the discrimination and retaliation of Plaintiff described above, Plaintiff has suffered and will continue to suffer humiliation, embarrassment, mental

anguish and severe emotional and physical distress, all to his damages in an amount to be determined at trial and according to proof.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

1. For compensatory damages, including losses in wages, medical and other benefits;
2. For exemplary and punitive damages;
3. For a declaration that Defendants' conduct is unlawful;
4. For all injunctive relief necessary to bring Defendants into compliance with the aforementioned laws;
5. For an award of interest, including pre-judgment interest at the legal rate;
6. For an award of attorney's fees and costs;
7. For liquidated damages;
8. For costs of suit incurred; and
9. For such other and further relief as the Court deems appropriate.

DATED: January 7, 2014

LIU EMPLOYMENT LAW FIRM

By: _____
CLARICE C. LIU
Attorney for Plaintiff IAN SPANDOW

DEMAND FOR JURY TRIAL

Plaintiff IAN SPANDOW hereby demands a trial by jury in this action.

DATED: January 7, 2014

LIU EMPLOYMENT LAW FIRM

By: _____
CLARICE C. LIU
Attorney for Plaintiff IAN SPANDOW

LIU EMPLOYMENT LAW FIRM
ONE SANSOME STREET, SUITE 3500
SAN FRANCISCO, CA 94104
(415) 289-8622

JS 44 (Rev. 12/12) and rev (1/15/13)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS
Ian Spandow

DEFENDANTS
Oracle America, Inc., Oracle Corporation

(b) County of Residence of First Listed Plaintiff San Francisco
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant San Mateo
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Clarice C. Liu (SBN 160555)
Liu Employment Law Firm - One Sansome Street, Suite 3500
San Francisco, CA 94104; Tel. (415) 288-8622

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question *(U.S. Government Not a Party)*
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant) (For Diversity Cases Only)*

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ☐ 365 Personal Injury - Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☒ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ☐ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Retirement Income Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District *(specify)* ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*.
42 U.S.C. Section 2000e et seq.

Brief description of cause
Title VII - Employment Discrimination And Retaliation

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. **DEMAND $** CHECK YES only if demanded in complaint: **JURY DEMAND:** ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY *(See instructions)*: JUDGE _____ DOCKET NUMBER _____

DATE 1/7/2013 SIGNATURE OF ATTORNEY OF RECORD

IX. DIVISIONAL ASSIGNMENT (Civil L.R. 3-2)

(Place an "X" in One Box Only) ☑ SAN FRANCISCO/OAKLAND ☐ SAN JOSE ☐ EUREKA

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

IAN SPANDOW

Plaintiff(s)

v.

ORACLE AMERICA, INC. and
ORACLE CORPORATION

Defendant(s)

Civil Action No. CV 14 0095 EDL

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* ORACLE AMERICA, INC. and
ORACLE CORPORATION
500 Oracle Parkway, Redwood City, California 94065

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Clarice C. Liu
Liu Employment Law Firm
One Sansome Street, 35th Floor
San Francisco, CA 94104

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: 1-7-14

Simone Voltz

Signature of Clerk or Deputy Clerk