

JANET M. HEROLD
Regional Solicitor
JEREMIAH E. MILLER
Counsel for Civil Rights
LAURA C. BREMER
Senior Trial Attorney
Office of the Solicitor
UNITED STATES DEPARTMENT OF LABOR
90 7th Street, Suite 3-700
San Francisco, CA 94103
Tel: (415) 625-7757
Fax: (415) 625-7772
Email: bremer.laura@dol.gov

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Office of Administrative Law Judges
San Francisco, Ca

Attorneys for OFCCP

**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'S MOTION REQUESTING BRIEFING REGARDING ORACLE'S
NEWLY PRODUCED PRIVILEGE LOG IDENTIFYING COMPENSATION
ANALYSES AND RELATED DOCUMENTS**

On August 28, 2019, Oracle produced an 81-page privilege log in response to this Court's Order to Submit Privilege Log. Order to Submit Privilege Log (Aug. 14, 2019). In the Court's order, the Court instructed the parties that no further briefing would be permitted.

In briefly reviewing this newly produced log, OFCCP sees that it raises a number of issues that were not addressed by OFCCP's previous briefing. For example, OFCCP notes that

many of the documents listed here are not within the date range that was in Oracle's prior "categorical" log, and contains lists of authors or recipients not identified in Oracle's previous "categorical" log. As such, the new log introduces a host of new documents and actors for consideration, none of which Oracle appears to identify in this new log.¹

As the Court is well aware, the extensive range of documents Oracle attempts to withhold on the basis of this privilege log go to the very core of the claims at issue in this case, as they bear directly on what Oracle knew about the discriminatory impact of its compensation policies, when it knew it, and what steps, if any, it took to alter its policies to ensure compliance with its obligations as a federal contractor.² In light of these circumstances, OFCCP seeks leave to file a short brief, addressing the facts and legal issues raised by Oracle's new privilege log which could not have been raised by OFCCP's previous briefing (as this information was still unknown to OFCCP when OFCCP filed its motion to compel and reply brief in support of its motion), and regarding the appropriateness of *in camera* review of documents Oracle has now identified.

DATED: August 29, 2019

Respectfully submitted,

KATE O'SCANNLAIN
Solicitor of Labor

JANET M. HEROLD
Regional Solicitor

JEREMIAH MILLER
Civil Rights Counsel

BY:



Laura C. Bremer
Attorneys for Plaintiff OFCCP

¹ Declaration of Laura C. Bremer in Support of OFCCP's Motion Requesting Briefing Regarding Oracle's Newly Produced Privilege Log Identifying Compensation Analyses and Related Documents, ¶ 2.

² *See, e.g.*, OFCCP's Position Statement in Response to Order Directing OFCCP to State Position with Respect to Oracle Managers (filed Aug. 22, 2019); Plaintiff's Reply Memorandum of Points and Authorities in Support of Motion to Compel Oracle's Compensation Analyses, pp. 4-5 (filed July 12, 2019).