

**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

**DEFENDANT ORACLE
AMERICA, INC.'S NOTICE OF
DEPOSITION DESIGNATIONS**

Pursuant to the Court's Order, Oracle hereby submits the attached deposition designations. Oracle provided these designations to OFCCP on Tuesday. *See Attachment A.* OFCCP first identified that it had changes to these designations at noon today. *See Attachment B.* OFCCP first substantively responded to Oracle's designations, with the objections contained in Attachment B, at 2pm today. In the interest of complying with the Court's order requiring these designations be submitted by 3pm, Oracle submits the attached though it has not had the opportunity to respond to OFCCP's concerns. Oracle denies the wrongdoing alleged in OFCCP's letter dated today and reserves the right to object to any additions or changes made by OFCCP.

Respectfully submitted,

December 20, 2019

GARY R. SINISCALCO
ERIN M. CONNELL
WARRINGTON S. PARKER III

RECEIVED

DEC 20 2019

Office of Administrative Law Judges
San Francisco, Ca

/s/ Warrington S. Parker

ORRICK, HERRINGTON & SUTCLIFFE LLP
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San Francisco, CA 94105-2669
Telephone: (415) 773-5700
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Email: grsiniscalco@orrick.com
 econnell@orrick.com
 wparker@orrick.com
Attorneys for Defendant
ORACLE AMERICA, INC.

EXHIBIT A

Archived: Friday, December 20, 2019 1:47:54 PM

From: Jacqueline Kaddah

Sent: Tue, 17 Dec 2019 14:16:04

To: bremer.laura@dol.gov; eliasoph.ian@dol.gov; garcia.norman@dol.gov; song.charles.c@dol.gov; flores.jessica@dol.gov; hermosillo.mary.a@dol.gov; schultz.andrew@dol.gov

Cc: Connell, Erin M.; Siniscalco, Gary R.; Parker, Warrington; Mantoan, Kathryn G.; Grundy, Kayla Delgado; Malhan, Ryan; Fleetwood, Carl W.; Kaddah, Jacqueline D.

Subject: OFCCP v. Oracle (2017-OFC-00006) 1st group

Sensitivity: Normal

Counsel:

Please see attached deposition designations video clips - 1st group

Jacqueline D. Kaddah
Senior Paralegal
Orrick, Herrington Sutcliffe LLP
The Orrick Building
405 Howard Street
San Francisco, CA 94105-2669
Tel: (415) 773-5558
jkaddah@orrick.com

Files attached to this message

Filename	Size	Checksum (SHA256)
Video Clips-1.zip	1.92 GB	c93d919f571a3f045e1692d69cfaa8b6972fe8ea7140d8a45443d540e1c41225

Please click on the following link to download the attachments:

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Cc: Connell, Erin M.; Siniscalco, Gary R.; Parker, Warrington; Mantoan, Kathryn G.; Grundy, Kayla Delgado; Malhan, Ryan; Fleetwood, Carl W.

Subject: OFCCP v. Oracle (2017-OFC-00006) videos - 2nd group

Sensitivity: Normal

Counsel:

Please see attached deposition designations video clips - 2nd group

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Files attached to this message

Filename	Size	Checksum (SHA256)
Video Clips-2.zip	2.66 GB	c7d6a1cbe4374aceec7debc95120d107852f3f4733f119a9a4fed9ba2c7cd50c

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Cc: Connell, Erin M.; Siniscalco, Gary R.; Parker, Warrington; Mantoan, Kathryn G.; Grundy, Kayla Delgado; Malhan, Ryan; Fleetwood, Carl W.

Subject: OFCCP v. Oracle (2017-OFC-00006) video 3rd group

Sensitivity: Normal

Counsel:

Please see attached deposition designations video clips - 3rd group

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Files attached to this message

Filename	Size	Checksum (SHA256)
Video Clips-3.zip	1.66 GB	9668671e080caafa63ed6a62d2a2703f89d8071b8162b3426cef62a09d1758b7

Please click on the following link to download the attachments:

<https://files.orrick.com/message/b8i5q1N1zrOGNfTqSHkRkp>

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Cc: Connell, Erin M.; Parker, Warrington; Siniscalco, Gary R.; Mantoan, Kathryn G.; Grundy, Kayla Delgado; Malhan, Ryan; Fleetwood, Carl W.; Kaddah, Jacqueline D.

Subject: OFCCP v. Oracle (2017-OFC-00006) video 4th group

Sensitivity: Normal

Counsel:

Please see attached deposition designations video clips - 4th group

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Files attached to this message

Filename	Size	Checksum (SHA256)
Video Clips-4.zip	1.54 GB	f11e8e6bc0673ca9c53b00f690b64800edfc283fda36c8628ac0b25deca7a0b6

Please click on the following link to download the attachments:

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Archived: Friday, December 20, 2019 1:48:09 PM
From: Kaddah, Jacqueline D.
Sent: Tue, 17 Dec 2019 15:46:09
To: Oracle/HQCA-OALJ_OHS
Subject: FW: OFCCP v. Oracle (2017-OFC-00006) 5th group
Sensitivity: Normal

From: Jacqueline Kaddah <files@orrick.com>
Sent: Tuesday, December 17, 2019 12:38 PM
To: bremer.laura@dol.gov; eliasoph.ian@dol.gov; garcia.norman@dol.gov; song.charles.c@dol.gov; flores.jessica@dol.gov; hermosillo.mary.a@dol.gov; schultz.andrew@dol.gov
Subject: OFCCP v. Oracle (2017-OFC-00006) 5th group

Counsel:
Please see attached deposition designations video clips - 5th group.

Please be advised that due to technical issues with the videos as provided by the court reporter for the Baxter and Loaiza depositions, the following designations are not included in the video clips:

Baxter
238:2 - 238:8
238:23 - 239:25

Loaiza
321:20-325:5

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Files attached to this message

Filename	Size	Checksum (SHA256)
Video Clips-5.zip	1.6 GB	827c720c14df80e5ab04e11be2e768d06e29a0d5f548283b433d35a77ed3cbf1

Please click on the following link to download the attachments: <https://files.orrick.com/message/RLuikriXAGLyjfooPLpYce>

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From: Jacqueline Kaddah

Sent: Tue, 17 Dec 2019 19:24:41

To: bremer.laura@dol.gov; eliasoph.ian@dol.gov; garcia.norman@dol.gov; song.charles.c@dol.gov; flores.jessica@dol.gov; hermosillo.mary.a@dol.gov; schultz.andrew@dol.gov

Cc: Connell, Erin M.; Siniscalco, Gary R.; Parker, Warrington; Mantoan, Kathryn G.; Grundy, Kayla Delgado; Malhan, Ryan; Fleetwood, Carl W.; Kaddah, Jacqueline D.

Subject: OFCCP v. Oracle (2017-OFC-00006) 6th group

Sensitivity: Normal

Counsel:

Please see attached deposition designation video clips.

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Files attached to this message

Filename	Size	Checksum (SHA256)
Suhr Jane 062619.zip	232 MB	1265a56c5dd6568c2ae46ad45bb42b32f65ad5355df2a4ed99941058077ac7a7

Please click on the following link to download the attachments:

<https://files.orrick.com/message/YjOSzNQzlpGqZp2c8hJn03>

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From: Kaddah, Jacqueline D.

Sent: Tue, 17 Dec 2019 13:51:59

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Cc: Connell, Erin M.; Siniscalco, Gary R.; Parker, Warrington; Mantoan, Kathryn G.; Grundy, Kayla Delgado; Giansello, John; Malhan, Ryan; Fleetwood, Carl W.

Subject: OFCCP v. Oracle (2017-OFC-00006) (Email 2)

Sensitivity: Normal

Attachments:

HEA JUNG ATKINS - Depo Designations and Counter Designations 4155-4306-5376 v.pdf [redacted] Ian Loiza - 6.14.19 Depo Designations and Counter Designations 4150-7802-3201 v.pdf [redacted] MICHAEL BRUNETTI - Depo Designations and Counter Designations 4156-1017-4240 v.pdf [redacted] EAN RATLIFF - Depo Designations and Counter Designations 4156-4372-8672 v.pdf [redacted] HIRONG ANDY LEU - Depo Designations and Counter Designations 4130-3690-6273 v.pdf [redacted] Amerlane Baxter - 7.3.19 Depo Designations and Counter Designations 4152-1224-0929 v.pdf [redacted]

From: Kaddah, Jacqueline D. <jkaddah@orrick.com>

Sent: Tuesday, December 17, 2019 11:49 AM

To: bremer.laura@dol.gov; eliasoph.ian@dol.gov; garcia.norman@dol.gov; song.charles.c@dol.gov; flores.jessica@dol.gov; hermosillo.mary.a@dol.gov; schultz.andrew@dol.gov

Cc: Connell, Erin M. <econnell@orrick.com>; Siniscalco, Gary R. <grsiniscalco@orrick.com>; Parker, Warrington <wparker@orrick.com>; Mantoan, Kathryn G. <kmantoan@orrick.com>; Grundy, Kayla Delgado <kgrundy@orrick.com>; Giansello, John <jgiansello@orrick.com>; Malhan, Ryan <rmalhan@orrick.com>; Fleetwood, Carl W. <cfleetwood@orrick.com>

Subject: RE: OFCCP v. Oracle (2017-OFC-00006) (Email 1)

Counsel:

Please see attached deposition designations. Videos will be sent via a FTP link

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Archived: Friday, December 20, 2019 1:48:21 PM

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Cc: Connell, Erin M.; Simiscalco, Gary R.; Parker, Warrington; Mantoan, Kathryn G.; Grundy, Kayla Delgado; Giansello, John; Malhan, Ryan; Fleetwood, Carl W.

Subject: RE: OFCCP v. Oracle (2017-OFC-00006) (Email 1)

Sensitivity: Normal

Attachments:

Chad Kidder - 10.23.19 Depo Designations and Counter Designations.pdf
Kije Dodson - 7.17.18 Jewett Depo Designations and Counter Designations.pdf
JANE SUHR - 30 (b)(6) Depo Designations and Counter Designation.pdf
Jane Suhr_2019.06.26_Depo Designations and Counter Designations.pdf
Boyce Westerdahl - 5.30.19 Depo Designations and Counter Designations.pdf

Counsel:

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Archived: Friday, December 20, 2019 1:48:25 PM

From: Kaddah, Jacqueline D.

Sent: Tue, 17 Dec 2019 13:59:22

To: bremer.laura@dol.gov; eliasoph.ian@dol.gov; garcia.norman@dol.gov; song.charles.c@dol.gov; flores.jessica@dol.gov; hermosillo.mary.a@dol.gov; schultz.andrew@dol.gov

Cc: Connell, Erin M.; Siniscalco, Gary R.; Parker, Warrington; Mantoan, Kathryn G.; Grundy, Kayla Delgado; Giansello, John; Malhan, Ryan; Fleetwood, Carl W.

Subject: RE: OFCCP v. Oracle (2017-OFC-00006) (Email 3)

Sensitivity: Normal

Attachments:

Shauna Holman-Harries - 8.1.19 30(b)(6) Depo Designations and Counter Designations.pdf
Shauna Holman-Harries - 5.8.19 Depo Designations and Counter Designations.pdf
Madhavi Cheruvu - 6.11.19 Depo Designations and Counter Designations.pdf
Aamerlane Baxter - 7.3.19 Depo Designations and Counter Designations.pdf

From: Kaddah, Jacqueline D. <jkaddah@orrick.com>

Sent: Tuesday, December 17, 2019 11:52 AM

To: bremer.laura@dol.gov; eliasoph.ian@dol.gov; garcia.norman@dol.gov; song.charles.c@dol.gov; flores.jessica@dol.gov; hermosillo.mary.a@dol.gov; schultz.andrew@dol.gov

Cc: Connell, Erin M. <econnell@orrick.com>; Siniscalco, Gary R. <grsiniscalco@orrick.com>; Parker, Warrington <wparker@orrick.com>; Mantoan, Kathryn G. <kmantoan@orrick.com>; Grundy, Kayla Delgado <kgrundy@orrick.com>; Giansello, John <jgiansello@orrick.com>; Malhan, Ryan <rmalhan@orrick.com>; Fleetwood, Carl W. <cfleetwood@orrick.com>

Subject: OFCCP v. Oracle (2017-OFC-00006) (Email 2)

From: Kaddah, Jacqueline D. <jkaddah@orrick.com>

Sent: Tuesday, December 17, 2019 11:49 AM

To: bremer.laura@dol.gov; eliasoph.ian@dol.gov; garcia.norman@dol.gov; song.charles.c@dol.gov; flores.jessica@dol.gov; hermosillo.mary.a@dol.gov; schultz.andrew@dol.gov

Cc: Connell, Erin M. <econnell@orrick.com>; Siniscalco, Gary R. <grsiniscalco@orrick.com>; Parker, Warrington <wparker@orrick.com>; Mantoan, Kathryn G. <kmantoan@orrick.com>; Grundy, Kayla Delgado <kgrundy@orrick.com>; Giansello, John <jgiansello@orrick.com>; Malhan, Ryan <rmalhan@orrick.com>; Fleetwood, Carl W. <cfleetwood@orrick.com>

Subject: RE: OFCCP v. Oracle (2017-OFC-00006) (Email 1)

Counsel:

Please see attached deposition designations. Videos will be sent via a FTP link

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Archived: Friday, December 20, 2019 1:48:29 PM

From: Kaddah, Jacqueline D.

Sent: Tue, 17 Dec 2019 14:03:17

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Cc: Connell, Erin M.; Siniscalco, Gary R.; Parker, Warrington; Mantoan, Kathryn G.; Grundy, Kayla Delgado; Giansello, John; Malhan, Ryan; Fleetwood, Carl W.

Subject: RE: OFCCP v. Oracle (2017-OFC-00006) (Email 4)

Sensitivity: Normal

Attachments:

Kate Waggoner - 7.19.19 Depo Designations and Counter Designations.pdf Kate Waggoner - 5.1.19 Depo Designations and Counter Designations.pdf Kate Waggoner - 7.26.18 Depo Designations and Counter Designations.pdf

From: Kaddah, Jacqueline D. <jkaddah@orrick.com>

Sent: Tuesday, December 17, 2019 11:59 AM

To: bremer.laura@dol.gov; eliasoph.ian@dol.gov; garcia.norman@dol.gov; song.charles.c@dol.gov; flores.jessica@dol.gov; hermosillo.mary.a@dol.gov; schultz.andrew@dol.gov

Cc: Connell, Erin M. <econnell@orrick.com>; Siniscalco, Gary R. <grsiniscalco@orrick.com>; Parker, Warrington <wparker@orrick.com>; Mantoan, Kathryn G. <kmantoan@orrick.com>; Grundy, Kayla Delgado <kgrundy@orrick.com>; Giansello, John <jgiansello@orrick.com>; Malhan, Ryan <rmalhan@orrick.com>; Fleetwood, Carl W. <cfleetwood@orrick.com>

Subject: RE: OFCCP v. Oracle (2017-OFC-00006) (Email 3)

From: Kaddah, Jacqueline D. <jkaddah@orrick.com>

Sent: Tuesday, December 17, 2019 11:52 AM

To: bremer.laura@dol.gov; eliasoph.ian@dol.gov; garcia.norman@dol.gov; song.charles.c@dol.gov; flores.jessica@dol.gov; hermosillo.mary.a@dol.gov; schultz.andrew@dol.gov

Cc: Connell, Erin M. <econnell@orrick.com>; Siniscalco, Gary R. <grsiniscalco@orrick.com>; Parker, Warrington <wparker@orrick.com>; Mantoan, Kathryn G. <kmantoan@orrick.com>; Grundy, Kayla Delgado <kgrundy@orrick.com>; Giansello, John <jgiansello@orrick.com>; Malhan, Ryan <rmalhan@orrick.com>; Fleetwood, Carl W. <cfleetwood@orrick.com>

Subject: OFCCP v. Oracle (2017-OFC-00006) (Email 2)

From: Kaddah, Jacqueline D. <jkaddah@orrick.com>

Sent: Tuesday, December 17, 2019 11:49 AM

To: bremer.laura@dol.gov; eliasoph.ian@dol.gov; garcia.norman@dol.gov; song.charles.c@dol.gov; flores.jessica@dol.gov; hermosillo.mary.a@dol.gov; schultz.andrew@dol.gov

Cc: Connell, Erin M. <econnell@orrick.com>; Siniscalco, Gary R. <grsiniscalco@orrick.com>; Parker, Warrington <wparker@orrick.com>; Mantoan, Kathryn G. <kmantoan@orrick.com>; Grundy, Kayla Delgado <kgrundy@orrick.com>; Giansello, John <jgiansello@orrick.com>; Malhan, Ryan <rmalhan@orrick.com>; Fleetwood, Carl W. <cfleetwood@orrick.com>

Subject: RE: OFCCP v. Oracle (2017-OFC-00006) (Email 1)

Counsel:

Please see attached deposition designations. Videos will be sent via a FTP link

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EXHIBIT B

Archived: Friday, December 20, 2019 1:47:49 PM

From: Grundy, Kayla Delgado

To: Garcia, Norman - SOL

Cc: Bremer, Laura - SOL; Eliasoph, Ian - SOL; Song, Charles C - SOL; Flores, Jessica - SOL SAN; Hermosillo, Mary A - SOL SEA; Schultz, Andrew - SOL; Connell, Erin M.; Parker, Warrington; Siniscalco, Gary R.; Mantoan, Kathryn G.; Kaddah, Jacqueline D.; Fleetwood, Carl W.; Stanley, James

Subject: Re: OFCCP v Oracle; today's filings

Sensitivity: Normal

Hi Norm,

We disagree that you received anything late. We provided both the designations and videos as we indicated we would to both OFCCP and the Court. Given the time, it would be helpful if you responded on a rolling basis. We will not be able to implement any changes prior to the court's 3pm deadline if we do not receive a response soon.

Thanks,
Kayla

On Dec 20, 2019, at 12:06 PM, Garcia, Norman - SOL <Garcia.Norman@dol.gov> wrote:

\u-257 ?
Kayla

We are dealing with the lateness of the production to us and the many errors and issues that we need to address. We will not be able to meet your noon deadline. We hope to have our response to you shortly.

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: Grundy, Kayla Delgado <kgrundy@orrick.com>

Sent: Friday, December 20, 2019 8:50 AM

To: Bremer, Laura - SOL <Bremer.Laura@dol.gov>; Garcia, Norman - SOL <Garcia.Norman@DOL.GOV>; Eliasoph, Ian - SOL <Eliasoph.Ian@dol.gov>; Song, Charles C - SOL <Song.Charles.C@dol.gov>; Flores, Jessica - SOL SAN <Flores.Jessica@dol.gov>; Hermosillo, Mary A - SOL SEA <Hermosillo.Mary.A@dol.gov>; Schultz, Andrew - SOL <Schultz.Andrew@dol.gov>

Cc: Connell, Erin M. <econnell@orrick.com>; Parker, Warrington <wparker@orrick.com>; Siniscalco, Gary R. <grsiniscalco@orrick.com>; Mantoan, Kathryn G. <kmantoan@orrick.com>; Kaddah, Jacqueline D. <jkaddah@orrick.com>; Fleetwood, Carl W. <cfleetwood@orrick.com>; Stanley, James <jamesstanley@orrick.com>

Subject: OFCCP v Oracle; today's filings

Counsel,

I'm following up on the two sets of filings due to the Court today -the joint status report and the deposition

designations. Could you let me know when we can expect to hear back from you on both?

The designations are due to the Court by 3pm, so to the extent you have any concerns about them, we would need to know by noon so that we can make those adjustments. If there are any that you have reviewed and signed off on, please let us know so we can finalize those.

Jim Stanley sent Oracle's portion of the joint status report yesterday. Please let me know when we can expect to receive OFCCP's portion. We request that you send it no later than 1pm.

Thank you,
Kayla

Kayla Delgado Grundy
Attorney at Law

[<image001.jpg>](#)

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[San Francisco](#)
T 415-773-5537
kgrundy@orrick.com

[<image005.png>](#)

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From: Garcia, Norman - SOL <Garcia.Norman@DOL.GOV>
Sent: Friday, December 20, 2019 2:01 PM
To: Grundy, Kayla Delgado
Cc: Bremer, Laura - SOL; Eliasoph, Ian - SOL; Song, Charles C - SOL; Flores, Jessica - SOL SAN; Hermosillo, Mary A - SOL SEA; Schultz, Andrew - SOL; Connell, Erin M.; Parker, Warrington; Siniscalco, Gary R.; Mantoan, Kathryn G.; Kaddah, Jacqueline D.; Fleetwood, Carl W.; Stanley, James
Subject: RE: OFCCP v Oracle; today's filings
Attachments: 2019-12-20 OFCCP tlr to Parker re designations.pdf

Kayla,

Oracle provided them 12 days after the Court ordered it to provide them such that we did not receive the last submission until after 5:00 p.m. on December 17, 2019, to review. Stating that you provided them on December 17, 2019, as stated to the Court ignores the fact that Oracle took 12 days to provide them and that it previously stated on December 16, 2019, that it would provide them "fairly quickly" after OFCCP responded. While Oracle requests a rolling basis now, Oracle did not provide the documents on a rolling basis to OFCCP and provided nine e-mails of documents during mid to late afternoon on December 17, 2019.

Attached is a letter identifying OFCCP's issues with Oracle's modifications of the transcripts and the videos to comport with the parties' designations.

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: Grundy, Kayla Delgado <kgrundy@orrick.com>
Sent: Friday, December 20, 2019 12:25 PM
To: Garcia, Norman - SOL <Garcia.Norman@DOL.GOV>
Cc: Bremer, Laura - SOL <Bremer.Laura@dol.gov>; Eliasoph, Ian - SOL <Eliasoph.Ian@dol.gov>; Song, Charles C - SOL <Song.Charles.C@dol.gov>; Flores, Jessica - SOL SAN <Flores.Jessica@dol.gov>; Hermosillo, Mary A - SOL SEA <Hermosillo.Mary.A@dol.gov>; Schultz, Andrew - SOL <Schultz.Andrew@dol.gov>; Connell, Erin M. <econnell@orrick.com>; Parker, Warrington <wparker@orrick.com>; Siniscalco, Gary R. <grsiniscalco@orrick.com>; Mantoan, Kathryn G. <kmantoan@orrick.com>; Kaddah, Jacqueline D. <jkaddah@orrick.com>; Fleetwood, Carl W. <cfleetwood@orrick.com>; Stanley, James <jamesstanley@orrick.com>
Subject: Re: OFCCP v Oracle; today's filings

Hi Norm,

We disagree that you received anything late. We provided both the designations and videos as we indicated we would to both OFCCP and the Court. Given the time, it would be helpful if you responded on a rolling basis. We will not be able to implement any changes prior to the court's 3pm deadline if we do not receive a response soon.

Thanks,
Kayla

On Dec 20, 2019, at 12:06 PM, Garcia, Norman - SOL <Garcia.Norman@dol.gov> wrote:

Kayla

We are dealing with the lateness of the production to us and the many errors and issues that we need to address. We will not be able to meet your noon deadline. We hope to have our response to you shortly.

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: Grundy, Kayla Delgado <kgrundy@orrick.com>
Sent: Friday, December 20, 2019 8:50 AM
To: Bremer, Laura - SOL <Bremer.Laura@dol.gov>; Garcia, Norman - SOL <Garcia.Norman@DOL.GOV>; Eliasoph, Ian - SOL <Eliasoph.Ian@dol.gov>; Song, Charles C - SOL <Song.Charles.C@dol.gov>; Flores, Jessica - SOL SAN <Flores.Jessica@dol.gov>; Hermosillo, Mary A - SOL SEA <Hermosillo.Mary.A@dol.gov>; Schultz, Andrew - SOL <Schultz.Andrew@dol.gov>
Cc: Connell, Erin M. <econnell@orrick.com>; Parker, Warrington <wparker@orrick.com>; Siniscalco, Gary R. <grsiniscalco@orrick.com>; Mantoan, Kathryn G. <kmantoan@orrick.com>; Kaddah, Jacqueline D. <jkaddah@orrick.com>; Fleetwood, Carl W. <cfleetwood@orrick.com>; Stanley, James <jamesstanley@orrick.com>
Subject: OFCCP v Oracle; today's filings

Counsel,

I'm following up on the two sets of filings due to the Court today -the joint status report and the deposition designations. Could you let me know when we can expect to hear back from you on both?

The designations are due to the Court by 3pm, so to the extent you have any concerns about them, we would need to know by noon so that we can make those adjustments. If there are any that you have reviewed and signed off on, please let us know so we can finalize those.

Jim Stanley sent Oracle's portion of the joint status report yesterday. Please let me know when we can expect to receive OFCCP's portion. We request that you send it no later than 1pm.

Thank you,
Kayla

Kayla Delgado Grundy
Attorney at Law

Orrick
San Francisco
T 415-773-5537
kgrundy@orrick.com

<image001.jpg>

<image005.png>

<image007.jpg>

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U.S. Department of Labor

Office of the Solicitor
90 7th Street, Suite 3-700
San Francisco, California 94103



December 20, 2019

VIA ELECTRONIC MAIL

Warrington Parker
ORRICK HERRINGTON & SUTCLIFFE LLP
405 Howard Street
San Francisco, CA 94105

Re: OFCCP v. Oracle America, Inc., OALJ Case No. 2017-OFC-00006
OFCCP's issues with Oracle's deposition designations

Dear Warrington:

Below and attached are the many issues that we identified with Oracle's modifications of the deposition transcripts and videos to conform with the parties' deposition designations. We are hopeful that Oracle will make these changes.

Oracle took 12 days to provide the designation modifications to OFCCP:

Before addressing the numerous problems, OFCCP needs to first address the lengthy period of time that Oracle took to provide these designation modifications. Oracle took 12 days to make the necessary modifications after the Court issued its Order on December 5, 2019. Oracle sent OFCCP its proposed modifications after 5:00 p.m. on December 17, 2019. Instead of providing its proposed modifications piecemeal so that OFCCP could respond timely, Oracle instead chose to delay its production of 17 videos totaling 26 hours that took more than seven hours to download and extract by sending them in a series of nine e-mails late on the afternoon on December 17, 2019, such that the last one arrived after 5:00 p.m. Oracle's production delay was made worse because the written deposition 'ClipReports' that it provided with the videos repeatedly did not mirror the content thereof and Oracle provided multiple copies of the same transcript that differed by over 130KB. Furthermore, any claim by Oracle that its production was delayed because it had to address issues with OFCCP's designations is belied by the fact that Oracle only had issues with 6 of the 17 depositions three of which was just with one designation each, Oracle had OFCCP's response before 10:00 a.m. on December 16, 2019, yet waited more than a day to produce, and Oracle did not even make all of the responses that OFCCP provided to Oracle on December 16th.

Oracle made new objections above and beyond those made at the depositions.

Oracle exceeded its mandate to conform the videos and transcripts to the parties' designations by suddenly making new objections, to include "to the extent" objections, in what it provided that were not made during the depositions. These objections took two forms. First, for every deposition that OFCCP took, Oracle formatted the designations as a separate filing whose preamble stated: "To the extent that the testimony designed herein calls for privileged and/or confidential information, Oracle objects." Oracle made no such designation for the depositions

that Oracle took. These objections are waived because they are listed as “to the extent” objections and it is not clear to which testimony they apply and they are untimely. Additionally, in the body of the designations, Oracle made foundational objections. These too are waived because they are untimely. Consequently, OFCCP requests that Oracle remove all such objections from its preamble and its “Objection/Errata” columns. Should Oracle refuse to remove them as requested, OFCCP objects.

Oracle’s failed to certify its deposition modifications and its remaining preamble statement is not true or it improperly included errata.

Oracle failed to provide any of the deposition certifications and failed to certify that the deposition modifications that it made to conform to the deposition designations are true and correct. Given the number of incorrect designations, OFCCP requests such a certification. OFCCP will object if Oracle declines to certify.

Additionally, Oracle’s claim that it is “submit[ing] the following deposition designations, including any errata and/or objections to such testimony by either party” is simply not true. Contrary to Oracle’s claim, Oracle did not include all of the objections made to the designated testimony. It only included those that were designated. Furthermore, Oracle included errata that was not produced in discovery for the Jewett depositions and that was not submitted as an exhibit. OFCCP requests that the preamble be changed to “Oracle submits the following designations made by the parties and any errata submitted as an exhibit thereto.” OFCCP also requests that Oracle remove any errata that was not produced and/or submitted as an exhibit. OFCCP will object if Oracle submits errata that it did not previously produce to OFCCP and/or submit as an exhibit.

Oracle’s proposed submission to the Court is not in compliance with the Court’s February 6, 2019, Prehearing Order.

Instead of Oracle putting the deposition designations in the form of exhibits and conforming to the Court’s February 6, 2019, Order, Oracle is treating each deposition’s designations as a separate filing without any reference to the exhibits that these modifications are replacing. OFCCP submitted deposition transcripts and errata for them as specific exhibit numbers. Oracle did the same for deposition transcripts. The parties referred to the exhibit numbers of the deposition transcripts during the hearing. Moreover, these separate filings are not bounded. To make it easier for the Court and any other necessary party to review them and to relate them to the hearing testimony, OFCCP is requesting that the written deposition designated transcripts be changed as listed below or OFCCP will object:

- labeled with their accompanying P or D exhibit number for the transcripts listed in the parties’ exhibit lists;
- be paginated according to the Court’s February 6, 2019, Prehearing Order;
- be tabbed according to the Court’s February 6, 2019, Prehearing Order; and
- be bounded according to the Court’s February 6, 2019, Prehearing Order.

Oracle's Joyce Westerdahl supplemental designations are different from what it represented to the Court.

Oracle misled the Court regarding the supplemental deposition designations that it was making for Joyce Westerdahl. Oracle represented to the Court that it was supplementing its designations for Joyce Westerdahl to respond to the specific testimony that Kristen Klagenburg made at the hearing regarding Joyce Westerdahl, e.g., stating to a Vice President that he should hire women because they would work harder and he could pay them less. When the Court inquired about the length of this additional designation, Mr. Parker held up his hand and stretched out his thumb and index finger to show the length and stated it was less than a page. However, Oracle's subsequent designation was 36 lines or almost one and a half pages that was more than three times what it represented to the Court. OFCCP requests that only retain the portion of the designation pertaining to Joyce Westerdahl's statement at 338:19-25 and remove the other portions that are above and beyond what Oracle represented to the Court at 337:14-338:18. If Oracle does not comply, OFCCP will object.

Oracle only lists one deposition for Jane Suhr in its exhibit list, but it provides two different deposition transcript designation documents for her.

Oracle submitted two deposition transcript designation documents for Jane Suhr when it only listed one of these depositions in its exhibit list. OFCCP requests that Oracle withdraw the extra transcript. If Oracle does not, OFCCP will object.

Oracle's numerous designation errors.

In addition to the problems identified above, OFCCP found many designation errors listed below. Some of these errors involve pages of deposition testimony. OFCCP requests that Oracle fix these errors to avoid objections. OFCCP has highlighted these errors in yellow to facilitate their correction.

1. The ClipReports do not correspond to the videos at times.

The deposition designations in the pdf documents submitted with the videos labeled "ClipReport," at times, do not match the videos and/or the transcripts that Oracle also provided. It was originally thought that these ClipReports were provided to represent some type of mirroring of the videos so that all OFCCP needed to do was to review them against the separately provided transcripts. However, they do not always mirror the videos or the transcripts. In terms of the videos, the ClipReports, at times contain testimony that is not in the videos and at times, the videos contain testimony that is not in the ClipReports.

2. The ClipReports and videos do not correspond to the separately designated deposition transcripts.

At times the ClipReports and/or videos have testimony that the separately designated deposition transcripts do not and vice-versa.

3. Testimony is missing from a line of testimony or the testimony therein is wrong.

Without any explanation, part of the testimony of a line is missing or the words listed therein are incorrect and do not match the video.

4. Single lines of deposition designations are missing from blocks of testimony.

In the middle of blocks of designated testimony, single lines of deposition designations are missing.

5. Testimony that was never designated was included in the designations.

The videos, ClipReports and designated deposition transcripts contain testimony that was never designated by either party.

6. Entire blocks of deposition designations are simply missing.

The videos, ClipReports and designated deposition transcripts are missing entire sections of deposition designations.

7. Oracle repeatedly did not include the revisions that OFCCP identified on December 16, 2019.

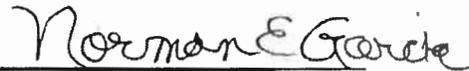
Surprisingly, even though Oracle had more than a day's notice, it did not even make all of the revisions that OFCCP provided to it on December 16, 2019, even though Oracle committed to making them. Not counting duplicates or issues with Oracle's designations, Oracle identified 13 separate issues with OFCCP's designations for 6 depositions. As stated earlier, three of these depositions had one issue each. OFCCP responded to Oracle's issues by 10:00 a.m. on December 16, 2019, within less than two hours of receiving notice of these issues. Over the course of five hours on December 17, 2019, ending after 5:00 p.m. Oracle sent a series of nine e-mails containing its deposition modifications. In this production, Oracle failed to make all of the revisions that OFCCP communicated to Oracle during the morning of December 16, 2019.

Oracle's editing of the videos into segments as small as one, two and three lines makes the videos chopping and hard to hear.

Oracle, for unknown reasons, choose to edit large blocks of designations into small segments. These small segments exist in large designations such that they have large segments beside them to include on both sides of them. This editing that causes these small segments to be beside or in the middle of large segments or other small segments causes the video to be chopping and it is

hard to hear all of the words at time. OFCCP requests that Oracle eliminate small segments of less than five lines unless the designation itself is composed of less than five lines.

Sincerely,

Handwritten signature of Norman E. Garcia in cursive script.

NORMAN E. GARCIA
Senior Trial Attorney

Video and Transcript Designation Mismatches

Depo	Video/clip report	transcript	Designation
Madhavi Cheruvu	77:05-78:03	77:03-78:03	77:03-78:03
Madhavi Cheruvu	84:22-85:08	84:22-85:6	84:22-85:6
Madhavi Cheruvu	189:21-190:23	189:20-190:23	189:20-190:23
Madhavi Cheruvu	223:3-6	223:2-6	223:2-6
Tamerlane Baxter	36:10-37:04	36:10-37:14	36:10-37:14
Tamerlane Baxter	44:21-25	44:21-25	44:22-25
Tamerlane Baxter	Missing	46:1-7	46:1-7
Tamerlane Baxter	54:10-55:09	54:10-55:09	Never designated
Tamerlane Baxter	151:10, 208:12 and 211:2 are missing	148:21-162:24	148:21-162:24
Tamerlane Baxter	242:25-243:5	Missing	243:1-5
Tamerlane Baxter	While ClipReport has 238:02-238:08; 238:23-239:25, and 242:25 (sic)-243:05, the video does not have these clips.	238:02-238:08; 238:23-239:25	238:02-238:08; 238:23-239:25, and 243:1-5
Juan Loaiza	Video is missing 321:20-325:4; this is in Clipreport	321:20-325:4	321:20-325:4
Juan Loaiza	After the 38:28 mark video has extra verbiage that was not designated.	N/A	N/A
Shauna Holman-Harries 8/1/19	182:13-184:10	182:14-184:10	182:13-184:10
Shauna Holman-Harries 8/1/19	After the 39:20 mark video has extra verbiage that was not designated.	N/A	N/A

Shauna Holman-Harries 8/1/19	After 222:05 mark video starts repeating at 218:7 such that portions of 222:17-223:19 and beyond is skipped. Whole video after 222:05 mark needs to be redone.	N/A	N/A
Chad Kidder	40:3-44:16	40:3-44:15; line 44:15 is incomplete.	40:3-44:15
Kate Waggoner, 7/19/19	Stops at 222:19	222:20-24 Never designated	Stops at 222:19
Kate Waggoner, 7/19/19		Oracle makes objection at 295:14-296:16 in a separate column. Objection waived. Improper objection not authorized by Court.	
Kate Waggoner, 7/19/19		Oracle makes objection at 296:17-298:15 in a separate column. Objection waived. Improper objection not authorized by Court.	
Kate Waggoner, 7/19/19		Oracle makes objection at 300:18-302:16 in a separate column. Objection waived. Improper objection not authorized by Court.	
Kate Waggoner, 7/19/19		Oracle makes objection at 306:25-308:7 in a separate column. Objection waived. Improper objection not authorized by Court.	
Kate Waggoner, 7/19/19		Oracle makes objection at 308:8-24 in a separate column. Objection waived. Improper objection	

		not authorized by Court.	
Kate Waggoner, 7/26/18		No errata sheet provided for Jewett depositions in discovery or in exhibit list cannot claim errata now at 26:3-6.	
Kate Waggoner, 7/26/18	Video is missing 181:12-183:2; ClipReport has this information	178:19-183:02	178:19-183:02
Kate Waggoner, 7/26/18	81:4-83:13 never designated in 79:16-86:12	Stops at 81:3; starts at 84:14	Never designated Stops at 81:3; starts at 84:14
Kate Waggoner, 7/27/18	326:7-330:21 & 332:5-336:6 designation was deleted/changed on 12/16/19	326:7-330:21 & 332:5-336:6 designation was deleted/changed on 12/16/19	
Kate Waggoner, 7/27/18	369:22-370:4	369:22-370:4	369:22-370:10, designation was changed on 12/16/19
Joyce Westerdahl	62:21-64:06	62:24-64:06	62:24-64:06
Joyce Westerdahl		75:17-22	Never designated
Joyce Westerdahl	103:3-103:10	103:3-103:11	103:3-103:11
Joyce Westerdahl	Missing 230:14 from 226:10-234:03	226:10-234:03	226:10-234:03
Joyce Westerdahl	337:14-337:25	337:14-337:25	Mr. Parker represented to the court that the supplemental addition was 5 inches in the form of a hand gesture and confirmed that it was less than a page.
Joyce Westerdahl	338:01-18	338:01-18	Mr. Parker represented to the court that the supplemental addition was 5 inches in the form of a hand

			gesture and confirmed that it was less than a page.
Joyce Westerdahl	338:19-25	338:19-25	This is only portion that addressed what was stated at the hearing.
Joyce Westerdahl	11:17:17 video recording just mentions Safra but ClipReport at 110:03 adds Larry and Mark.	109:24-110:3	109:24-110:3
Joyce Westerdahl	2:55:53 video doesn't state "I mean I don't. I actually don't know" at ClipReport at 229:07	227:14-229:07	227:14-229:07
Joyce Westerdahl	4:18:53 video leaves out the word "promotion" at ClipReport at 256:08.	255:24-256:08	255:24-256:08
Joyce Westerdahl	5:47:03 video leaves out the word "not" and just stated "I did" while ClipReport at 330:11 states "I did not."	330:05-11	330:05-11
Sean Ratliff	12:25-13:13	12:25-13:23	12:25-13:23
Hea Jung Atkins	192:6-193:7	192:6-25	192:6-193:7
Hea Jung Atkins	Video uses regression" analysis while transcript states "progression" analysis at 55:18.	N/A	N/A
Michael Brunetti	145:25-146:5 Never designated	Stops at 145:24 and starts at 146:6	Stops at 145:24 and starts at 146:6
Michael Brunetti	Missing	146:13-15	146:13-15
Michael Brunetti	Missing	203:19-25	203:19-25
Michael Brunetti	Words are missing throughout the video to include "no" at 118:22, "I don't know" at 156:15, "probability" at 158:12.	N/A	N/A
Jane Suhr	Video is missing "It's true, is it not,' from the middle of 18:11 while	N/A	N/A

	these works are in the ClipReport		
Jane Suhr	62:23-24	62:23-25	62:23-24
Waggoner 5/1/19	5:02 (minutes) – video – “as director,” ClipReport “business director” at page 13:10	N/A	N/A
Waggoner 5/1/19	12:55 – video “senior director,” ClipReport “the director” at page 19:14	N/A	N/A
Waggoner 5/1/19	18:44 – video “best match,” ClipReport “that match” at page 23:18	N/A	N/A
Waggoner 5/1/19	35:35 – video “2011,” ClipReport “2012” at page 47:05	N/A	N/A
Waggoner 5/1/19	48:15 – video “should retain its,” ClipReport “should have a” at page 60:24	N/A	N/A
Waggoner 5/1/19	Video “598”, ClipReport “798” at page 63:11	N/A	N/A
Waggoner 5/1/19	Video “is titled,” ClipReport “is an exhibit that” at page 108:25	N/A	N/A
Waggoner 5/1/19	Video “manager training,” ClipReport “manager system” at page 111:15	N/A	N/A