

U.S. Department of Labor

Office of the Solicitor  
90 7th Street, Suite 3-700  
San Francisco, California 94103  
Tel: (415) 625-7757  
Fax: (415) 625-7772



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October 26, 2017

**VIA HAND DELIVERY**

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The Honorable Christopher Larsen  
OFFICE OF ADMINISTRATIVE LAW JUDGES  
U.S. Department of Labor  
90 7th Street, Room 4-815  
San Francisco, CA 94103-1516

Office of Administrative Law Judges  
San Francisco, Ca

Re: OFCCP v. Oracle America, Inc., Case No. 2017-OFC-00006,  
Joint Request for Stay Pending Mediation

Your Honor:

The parties write to jointly request a call with you to discuss the parties' request for a stay of the litigation to allow the parties to focus their efforts and resources on resolving this matter through mediation.

Over the past several weeks, the parties have been meeting and conferring extensively over the selection of a mediator and a process for mediation, and have agreed to use Professor Eric Green at Resolutions, LLC (<http://www.resolutionsllc.com/principals.htm>). Professor Green is one of the most highly regarded mediators in the country, particularly when it comes to factually and legally complex cases such as this one. Given his current mediation calendar and class schedule, and the belief that the mediation will require two two-day sessions with time in between for the parties' experts to evaluate the positions presented during the first session, the mediator has offered mediation dates during January and February, 2018. The parties plan to travel to the East Coast for the mediation, and are working with Professor Green now to secure the four days on his calendar.

By agreeing to mediation, the parties have confirmed their mutual desire to resolve this case outside of litigation. The parties also recognize, however, that in order for the mediation to succeed, it will take significant effort and a singular focus. The parties expect to spend the next several months preparing and submitting substantial position statements to the mediator.

Both sides exchanged discovery on October 11 in response to your honor's orders on the parties' cross motions to compel, and Oracle has produced additional data and documents consistent with the parties' meet and confer agreements outside of your honor's orders. Both sides also intend to timely produce privilege logs in connection with those productions, per your honor's orders. Both sides also agree, however, that expending further substantial efforts and expense on the litigation process, including additional discovery and anticipated further discovery motion practice, will be detrimental and counter-productive to the mediation efforts.

For these reasons, we respectfully request a stay, which would entail vacating the current litigation schedule (including the hearing in June, 2018), and would allow both sides to reserve all rights and arguments they currently have, including with respect to discovery compliance. The parties propose filing a joint case management statement on February 28, 2018 reporting on their mediation efforts and their position on whether the stay should be lifted. If the parties do not agree to continue the stay in their February 28 joint statement, the parties respectfully request that the stay be lifted automatically and that the case proceed on the following litigation calendar:

Close of Fact Discovery	Friday, May 18, 2018
Initial Expert Disclosures	Friday, June 08, 2018
Rebuttal Expert Disclosures, if any	Friday, June 29, 2018
Close of Expert Discovery	Friday, July 27, 2018
Deadline to File All Pretrial, Discovery, and Dispositive Motions (non-MIL)	Friday, August 03, 2018
Deadline to Oppose Dispositive Motions, if any	Friday, August 17, 2018
Deadline to File Reply ISO Dispositive Motion	Friday, August 31, 2018
Deadline to Meet and Confer re Prehearing Statement	Friday, September 28, 2018
Pretrial Filings, Including MILS, Prehearing Statement, Exhibit List, and Witness List (Pre-Hearing Order § 4.d)	Tuesday, October 16, 2018
Pretrial Conference	Monday, October 29, 2018
TRIAL (14 days)	Monday, November 12, 2018

Both parties are available for a call with the Court tomorrow, October 27, 2017. We also can be available next week at a time that is convenient for the Court.

Respectfully submitted,



MARC A. PILOTIN  
 Counsel for OFCCP

*Erin Connell* by *MP* as authorized

ERIN M. CONNELL  
 ORRICK HERRINGTON & SUTCLIFFE LLP  
 Counsel for Oracle America, Inc.

*on 10/26/17*