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UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of:)
)
OFFICE OF FEDERAL CONTRACT)
COMPLIANCE PROGRAMS, US)
DEPARTMENT OF LABOR,)
)
Plaintiff,)
)
vs.)
)
ORACLE AMERICA, INC.,)
)
Defendant.)

Case No. 2017-OFC-00006

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Office of Administrative Law Judges
San Francisco, Ca

PROCEEDINGS HELD TELEPHONICALLY

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DATE: August 14, 2017

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COMPLIANCE PROGRAMS, US)
DEPARTMENT OF LABOR,)
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Plaintiff,)
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vs.)
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ORACLE AMERICA, INC.,)
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Defendant.)

PROCEEDINGS TELEPHONICALLY HELD

Monday,
August 14, 2017

90 Seventh Street
Suite 4-800
San Francisco, California

The above-entitled matter came on for prehearing
conference, pursuant to notice, at 11:02 o'clock a.m.

BEFORE: THE HONORABLE CHRISTOPHER LARSEN,

Administrative Law Judge

APPEARANCES:On behalf of the Plaintiff:

MARC PILOTIN, ESQ.

LAURA C. BREMER, ESQ.

US Department of Labor, Office of the Solicitor
90 Seventh Street, Suite 3-700
San Francisco, California 94103-1516On behalf of Defendant:

WARRINGTON S. PARKER, III, ESQ.

ERIN M. CONNNEL, ESQ.

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I N D E X

PROCEEDINGS:

PAGE:

Monday, August 14, 2017

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WITNESSES:

DIRECT

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ALJ

(None called.)

EXHIBITS:

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CLAIMANT

(None marked, nor received.)

RESPONDENT

(None marked, nor received.)

ADMINISTRATIVE LAW JUDGE

(None marked, nor received.)

P R O C E E D I N G S

(11:02 o'clock a.m.)

1
2
3 JUDGE LARSEN: Good morning, everyone. This is
4 Judge Larsen speaking.

5 THE REPORTER: Good morning, Your Honor.

6 MS. CONNELL: Good morning, Your Honor.

7 JUDGE LARSEN: Hi. Let's start with the court
8 reporter. I presume you are there?

9 THE REPORTER: Yes, Your Honor.

10 JUDGE LARSEN: Okay, terrific. Then let's get the
11 appearances on the record. We're -- by the way, we're in the
12 matter of OFCCP versus Oracle, 2017-OFC-6. So, let's start -
13 - who's there for the Office of Federal Contract Compliance
14 Programs today?

15 MS. BREMER: This is Laura Bremer on behalf of the
16 Department of Labor.

17 MR. PILOTIN: Good morning, Your Honor, Marc
18 Pilotin, for OFCCP.

19 JUDGE LARSEN: How are you all?

20 MS. BREMER: Good, thank you.

21 MR. PILOTIN: Doing well.

22 MR. PILOTIN: We have more, Your Honor.

23 JUDGE LARSEN: More? Okay. Who else is there?

24 MR. ELIASOPH: This is Ian Eliasoph.

25 JUDGE LARSEN: Mr. Eliasoph, how are you today?

1 MR. ELIASOPH: I'm fine, thank you.

2 MR. GARCIA: And Norm Garcia, Your Honor.

3 JUDGE LARSEN: All right. I don't think we've met
4 before, have we, Mr. Garcia?

5 MR. GARCIA: No, Your Honor, we haven't had the
6 pleasure.

7 JUDGE LARSEN: That's very kind of you. Thank you.

8 All right. And how about for Oracle, do we have
9 any surprises there? Mr. Parker, I presume you're there.

10 MR. PARKER: I am here. Thank you, Your Honor.
11 Warrington Parker, appearing on behalf of Oracle.

12 JUDGE LARSEN: And Ms. Connell?

13 MS. CONNELL: Yes. Good morning, Your Honor. Erin
14 Connell on behalf of Oracle.

15 JUDGE LARSEN: Any other surprises on your side, or
16 is that it?

17 MR. PARKER: That's it.

18 MS. CONNELL: It's just the two of us.

19 JUDGE LARSEN: Okay, very good.

20 Well, I appreciate your being available this
21 morning. I want to go back a little bit to how we got to
22 where we are today, because we seem to be losing focus a
23 little bit.

24 I had a letter from the Government, saying we want
25 to bring a motion to compel and, of course, I told you last

1 time I didn't want you to bring motions with Court
2 permission, so you're seeking permission to bring a motion to
3 compel the production of certain documents. And, let's see,
4 was there something else? Oh, the employee contact
5 information. And so I said, "Okay." I accepted Oracle's
6 suggestion, give you time to work those issues out and if you
7 couldn't work them out, I asked you to file a concise report
8 of where you stood on those matters.

9 Now, on those matters, as I understand it, on the
10 employee contact information, the Government feels like it's
11 entitled to get the names and addresses and telephone numbers
12 and email addresses of a number of current and former Oracle
13 employees. And Oracle hasn't agreed to that and feels like
14 maybe some winnowing of that request is necessary. And
15 Oracle has also expressed some concern for the privacy,
16 although I don't think -- my first question here, I guess, is
17 I don't think you're saying, are you, Mr. Parker, that you're
18 not obligated to provide any of this information at all?

19 MS. BREMER: Ms. Connell is handling this -- is
20 handling all of that portion, Your Honor.

21 JUDGE LARSEN: I see. Ms. Connell, is that your
22 position?

23 MS. CONNELL: Your Honor, you are correct that we
24 are not taking the position that OFCCP is entitled to no
25 contact information.

1 JUDGE LARSEN: Okay.

2 MS. CONNELL: There is a number of disputes,
3 however, regarding the process that should govern, including
4 whether --

5 JUDGE LARSEN: Yeah, I get that. But I just wanted
6 to make sure -- I mean, in the letter that you all sent,
7 there was this indication that there were these
8 constitutional privacy concerns and I didn't know, frankly,
9 if that was an attempt to sort of reserve that argument for
10 another day or -- and I hope you won't do that, because we
11 need to get this worked out. So, I appreciate what you're
12 saying.

13 Let's see. Let me ask you this -- and I'd like to
14 hear from both of you on this. A simple factual question, if
15 you can tell me.

16 Starting with you, Ms. Connell, do you have any
17 idea how many employees -- current and former employees --
18 you would have to disclose if you were to conform to the
19 literal terms of the request as OFCCP made it? How many
20 people are we talking about?

21 MS. CONNELL: So, as revised by OFCCP, we're
22 talking about thousands of employees.

23 JUDGE LARSEN: Thousands? Two thousand or it could
24 be 567,000? I want to know how many thousands.

25 MS. CONNELL: Sure. So, just looking at data for

1 2013 and 2014 alone, the time period that was at issue in the
2 audit, we're talking about more than 4,300 employees and
3 former employees. It's -- so that's just for those two
4 years. There's still a little bit of uncertainty between the
5 parties as to the actual end dates for both discovery and
6 liability. We are still waiting for Your Honor's final order
7 following the order to show cause.

8 JUDGE LARSEN: Okay.

9 MS. CONNELL: But just looking at those two years
10 alone, we're talking about just over 4,300 employees.

11 JUDGE LARSEN: Okay. Who should I talk to on the
12 other side? Mr. Pilotin? Ms. Bremer? Mr. Eliasoph? Who
13 knows the answer? How many --

14 MS. BREMER: Ms. Bremer.

15 JUDGE LARSEN: -- employees are we talking about?

16 MS. BREMER: It is probably around that amount. I
17 had calculated 1,500 non-Asian applicants for the PT-1 job
18 group.

19 JUDGE LARSEN: Okay.

20 MS. BREMER: About the same number of females in
21 the three job lines of business at issue. And 3,000 Asians
22 and 27 Blacks in the product development group for the data
23 that we have.

24 JUDGE LARSEN: How many people does Oracle employ?

25 MS. CONNELL: In the entire company or just the

1 HQCA location?

2 JUDGE LARSEN: Everywhere. The entire company.

3 MS. CONNELL: Off the top of my head, Your Honor, I
4 don't know that number for the entire company, worldwide.

5 JUDGE LARSEN: Okay.

6 MS. BREMER: I think it -- I believe we had about
7 45,000 in the US. Is that -- it was -- I think we put those
8 numbers in the complaint and it was about --

9 MR. PARKER: Your Honor, there are 136,263
10 employees as of Q-4 2016.

11 JUDGE LARSEN: A hundred and thirty-six thousand?

12 MR. PARKER: Yes.

13 JUDGE LARSEN: Okay.

14 MS. BREMER: Worldwide.

15 JUDGE LARSEN: Yeah, okay.

16 MR. PARKER: Worldwide.

17 JUDGE LARSEN: Okay. All right. Okay.

18 And let me shift gears for a little bit. Going to
19 the request for production, the Government's position seems
20 to be -- well, I think everybody would agree there are these
21 requests -- one, two, three, four, five, six -- seven
22 requests fall into two categories. 71, 72, 78, 79, and 80
23 are asking for reports or documents with respect to analyses
24 required under statutes that are cited in the request. And -
25 - yes?

1 And as to those requests, Oracle, your position is
2 generally, first of all, that's too broad, and at least in
3 some cases you're saying the regulations don't require that.
4 The premise of the question is wrong. Do I have that
5 correct?

6 MS. BREMER: Yes, Your Honor. I would say that the
7 arguments and objections are slightly different for 71 and 72
8 than they are for 78 and 79.

9 JUDGE LARSEN: Why is that?

10 MS. BREMER: Well, 71 and 72, the objection and
11 argument is that those -- the cited regulations do not
12 require or reference or make any reference of an internal pay
13 equity analysis.

14 JUDGE LARSEN: Okay.

15 MS. BREMER: And we further take the position that
16 it is improper to incorporate into the discovery request
17 these regulations themselves.

18 JUDGE LARSEN: Why is that?

19 MS. BREMER: Well, because in discovery, we're --
20 our position is that you shouldn't have to engage in a legal
21 analysis in order to answer discovery requests. However --

22 JUDGE LARSEN: Oh, I think the position is wrong
23 about that. You guys are lawyers, you went to law school.
24 You can handle a question that has -- you know, and it seems
25 to me there's even an argument to be made that that's helpful

1 by referring to the regulation, that should identify a
2 particular kind of report.

3 I'll add a third observation. If, in your view,
4 the regulation doesn't require you to conduct -- or to
5 complete that report in the case of Request 71, for example,
6 if the regulation doesn't require you to do an internal pay
7 equity analysis, then your response is simple. "We don't
8 have any, the regulation doesn't require us to do one,"
9 period.

10 MS. BREMER: We have that concern, Your Honor, and
11 we have asked them to revise their requests. But by all of
12 these requests, what OFCCP seems to be seeking is a
13 substantive admission from Oracle that it did not do
14 something that OFCCP contends that it was required to do.
15 And simply by revising these requests to omit a reference to
16 the regulation, they would not -- our position is that we may
17 have different objections, but they would --

18 JUDGE LARSEN: Why are we dancing all around the
19 issue? I mean, if OFCCP contends you were supposed to do
20 something that you didn't do, and you -- in fact, you didn't
21 do it, because you don't think you were required to do it,
22 why be coy about it. Why don't we just say that and put that
23 issue in front of me in some form? One way to do would be to
24 respond to these requests, it seems to me.

25 MS. BREMER: Your Honor, for these reasons that we

1 have requested the opportunity to brief these further,
2 because, I think, that on all of these requests that are
3 listed on page 12 of OFCCP's letter. The responses and the
4 objections are new ones and they deserve, I think, an
5 individualized analysis on the merits of the individual
6 requests. The arguments do differ from request to request
7 and it's for that reason that we've requested additional
8 briefing on those.

9 JUDGE LARSEN: No, see, there you go again. What's
10 to nuanced about it? Why can't you just tell me in 25 words
11 or less that the argument is about? I really don't
12 understand that.

13 And I say that to both of you. It seems to me
14 you're both trying to make this thing very, very complicated.
15 And it shouldn't be. If you make it complicated, it's going
16 to take forever, it's going to cost a fortune, and the
17 litigation will never end, because no matter what I do, you
18 will have squirted so much ink over anything that somebody
19 will have grounds to appeal and you'll go all of the way to
20 the Supreme Court with it.

21 If that's what you want to do, I guess that's your
22 business, but I don't think that's what this process was
23 designed for. This process, as you folks at Oracle keep
24 telling me, is supposed to be more corroborative than that.
25 It's not supposed to generate endless litigation between the

1 Government and contractors supplying the Government. It
2 seems to me the two of you have a common interest in trying
3 to resolve this.

4 So I go back to my original question to you, Ms.
5 Connell, if I were a very bright high school student, could
6 you not possibly explain to me what the dispute is about over
7 these requests for production in a way that I could
8 understand? Or is it so sophisticated that you've got to
9 give me 500 pages of eight-point type?

10 MS. CONNELL: I don't think we need 500 pages, Your
11 Honor. But I --

12 JUDGE LARSEN: Well, you're not going to get it.

13 MS. CONNELL: -- more than 25 words, because the
14 arguments differ and I will also note that your point
15 generally about working corroboratively, we have worked very
16 corroboratively on discovery as a whole and have made
17 significant compromises so as to narrow the disputes, as to
18 OFCCP's requests to only --

19 JUDGE LARSEN: I appreciate that.

20 MS. CONNELL: And the same cannot be said on the
21 other side.

22 JUDGE LARSEN: I appreciate that. I'm not
23 criticizing you. I'm not criticizing anybody. I am
24 criticizing where it looks to me like you're headed, which is
25 litigation without end. I mean, you people seem bound and

1 determined to go to litigation to hell on this. And I don't
2 think it's in either side's interest to do that, I really
3 don't.

4 MS. BREMER: And, Your Honor, that's why we've
5 requested that there be certain deadlines that -- you know,
6 we have the case management conference that you just ordered
7 and this process has been very effective in the last week or
8 so of forcing the parties to make compromises and agreements
9 on various issues that we've been struggling over for
10 literally months, since February. But at this point, you
11 know, we don't have -- we don't have the data, which they've
12 agreed to produce. And while they've agreed to produce a lot
13 of things, they haven't agreed to any deadlines as to when
14 the materials are going to be produced and I think that's one
15 of the -- the scheduling in this case is one of the key
16 things that we hope to get out of this conference.

17 JUDGE LARSEN: Okay. Well, let me tell you what I
18 think the issue is there. Once the OFCCP came here, you
19 became subject to the Rules of Civil Procedure. And they are
20 what they are. And they don't provide, in the ordinary
21 course of things, at least, for a requesting party to insist
22 that documents be produced in stages or in a particular
23 sequence. There's a procedure there for requesting
24 production of information. It says what it says. And the
25 other side responds, again according to the rules.

1 So, if there needs to be a production schedule, I
2 need to hear a reason why we should depart from the Rules of
3 Civil Procedure and add that. What is it about this case
4 that makes it different from everybody else?

5 MS. BREMER: Well, as part of the Rules for Civil
6 Procedure, you actually do -- the Court and the Judge does
7 have a lot of discretion --

8 JUDGE LARSEN: Yes, we do.

9 MS. BREMER: -- and the case management --

10 JUDGE LARSEN: That doesn't mean that I'm going to
11 rewrite the rules in every case.

12 MS. BREMER: In -- under Rule 16, you can issue a
13 schedule. In this case, specifically, Oracle did state that
14 it would provide a privileged log on June 12th, and it hasn't
15 -- it's reneged on that and hasn't provided a privileged log.
16 We would request that you have the ability to order that.

17 JUDGE LARSEN: You're changing the subject.

18 MS. BREMER: Well, okay.

19 JUDGE LARSEN: But that's not what I was talking to
20 you about.

21 MS. BREMER: Their -- I don't think it's correct
22 that they can agree to produce documents during the first
23 round of discovery and then just drag it out until the very
24 end of the fact discovery deadlines, which is what they've
25 said they might do. And if they did that, it would severely

1 prejudice us in this case.

2 JUDGE LARSEN: How do we get there? You make a
3 request for production of documents and under the rules, the
4 documents are to be produced by a certain date. And they
5 either are or they aren't. Right?

6 MS. BREMER: The rules say that you need to respond
7 to the request by a certain date.

8 JUDGE LARSEN: Okay.

9 MS. BREMER: Which they did and we have now met and
10 conferred, starting in February, up through now, and we've
11 reached agreement on many of the responses, as to what they
12 will provide.

13 JUDGE LARSEN: Are you telling me that with respect
14 to some documents, they have said in their response, "We'll
15 produce them in" -- I don't know, April 2018 or something
16 like that?

17 MS. BREMER: They haven't -- they have refused to
18 commit to a date. But in the meet and confer process, they
19 did say that they could be producing documents in response to
20 this initial round of discovery up through the discovery
21 deadline.

22 JUDGE LARSEN: Okay.

23 MS. BREMER: And that would not give us sufficient
24 time to do any follow-up discovery, give the documents to our
25 experts who need time -- like months, many months, to analyze

1 the data. If there's holes in it to plug in those holes
2 with, for example, with information for resumes. We need to
3 take depositions based on documents.

4 So having documents produced to the initial round
5 of discovery, produced at the end of the discovery period, is
6 not --

7 JUDGE LARSEN: Okay.

8 MS. CONNELL: Judge, I think that our -- that
9 discussion is taken out context. We have just reached
10 agreement last week on the scope of an initial set of emails
11 to be produced. And as OFCCP knows, we are working very
12 diligently on compiling a data base that we certainly do not
13 intend to take all of the way up until the end of the
14 discovery deadline. We want that data, as well. Our experts
15 want that data, as well. We're working as quickly as we can
16 to get that data. It's just that as OFCCP has recognizing,
17 compiling this data base is extremely complicated, it's
18 complex, it's burdensome. It requires Oracle employees to
19 actually write computer programs to compile the data base.
20 And we are working as diligently as possible. Oracle got at
21 least seven full-time employees working almost full-time on
22 this, and we will produce it as soon as it can be ready, and
23 it certainly not be at the end of the discovery cut-off.

24 JUDGE LARSEN: Okay, very good.

25 MS. CONNELL: And we've made that clear.

1 JUDGE LARSEN: Okay, very good.

2 Then here's what I suggest we do. Let's have OFCCP
3 file its motion to compel on two points. Number one, the
4 production of the personal information of the former
5 employees. And, number two, the one, two, three, four, five,
6 six -- seven categories of RFP -- requests for production --
7 that are identified at page 12 of their letter.

8 Let's have that motion filed by Friday -- this
9 Friday, August 18th. Let's have Oracle's opposition to that
10 motion filed by the following Friday, August 25th, and I can
11 give you a ruling on those two points forthwith after.

12 I guess we'd better include -- maybe we'd better
13 include as a third point the issue we've just talked about,
14 just in case -- I'll give you both an opportunity to address
15 it a little more fully. That is, whether OFCCP reasonably
16 believes that these documents are not going to be produced in
17 time to do them any good, whether there's a need for the
18 Court to set a drop-dead date for production of all of the
19 documents that I may order, and Oracle can have an
20 opportunity to address that question, as well.

21 I take it, Oracle is going to be a problem, that's
22 fine. But I'll give you an opportunity to brief that.

23 Moving papers and opposing papers, no more than 25
24 pages.

25 Now, your letters raise another issue that I did

1 not ask you, but that you've addresses, anyway.

2 And that is Oracle's complaint about it's
3 interrogatories, which, as Oracle tells the story, tracks the
4 language of the complaint and asked for a factual basis under
5 Rule 11 for bringing the complaint in the first place, the
6 OFCCP also addresses that point, saying, "We don't have to
7 provide that stuff. This is preliminary. It's
8 investigatory. It's -- we're not subject to disclosing it."
9 And you've cited a case or two that I haven't had an
10 opportunity to look at, frankly.

11 So, to get to the bottom of that as soon as we can,
12 why don't I give the same deal the other way. Oracle, if you
13 want to bring a motion to compel responses to those
14 interrogatories, do it with a 20-page limit by this Friday.
15 And, OFCCP, you can oppose it with a 20-page limit by Friday,
16 the 25th of August. And I'll give you a ruling on that, as
17 well.

18 MR. PARKER: Very good.

19 MS. CONNELL: Thank you, Your Honor. Wait -- one
20 point of clarification on Oracle's motion to compel?

21 JUDGE LARSEN: Yeah?

22 MS. CONNELL: The issues span more than just the
23 interrogatories. They also are impacted by the outstanding
24 deposition notices, as well as document requests.

25 JUDGE LARSEN: And are the same arguments

1 applicable to those, as well? Is OFCCP's position the same
2 with respect to those?

3 MR. PARKER: With regard -- this is Warrington
4 Parker, Your Honor. With regard to the deposition notices,
5 it is essentially the same. There's more to it, but they say
6 that it's too early in the day to take depositions.

7 With regard to a document request, I can sum up the
8 three issues. There are slightly more, but the main issues:
9 One is the scope of where they're going to look for
10 documents.

11 JUDGE LARSEN: Uh-huh.

12 MR. PARKER: The second is the statistical
13 analysis.

14 JUDGE LARSEN: Uh-huh.

15 MR. PARKER: And there's the third is interview
16 notes. They've agreed to produce interview notes in redacted
17 format, but we are asking them in the format which we
18 received in one instance, that is required to be kept under
19 the FCCN -- Federal Contract Compliance Manual. And if they
20 don't have them in that form, they should just tell us that.

21 But they are required to keep them in a certain
22 format, with a question and answer, and we've only received
23 one in that version form.

24 JUDGE LARSEN: Okay. Let's hear from OFCCP, do you
25 agree with what Mr. Parker just told me?

1 MS. BREMER: As far as what the issues are?

2 JUDGE LARSEN: Yeah.

3 MS. BREMER: Yes, those are issues that they've
4 raised.

5 JUDGE LARSEN: Okay.

6 MR. PARKER: Can we respond to those issues, Your
7 Honor?

8 JUDGE LARSEN: You mean now or in your opposition
9 to his motion?

10 MR. PARKER: Well, no, Your Honor. To clarify, in
11 terms of the interviews, we agree to provide the factual
12 information that the interviewee provided to us without
13 identifying the specific name of the interviewee.

14 In terms of the particular questions we ask and our
15 comments about the significance of that, we have objected to
16 that under both the deliberate process and investigative file
17 interview.

18 JUDGE LARSEN: Okay. Well, that sounds to me like
19 the issue we need to get resolved if we're going to move off
20 the dime here.

21 MS. BREMER: And, Your Honor, we also have just a
22 few other issues that we raised in the letter, that the
23 parties -- that we agreed upon. One was the moving the
24 schedule in the case. Since it's already been three months
25 since the case management conference when the Court set the

1 schedule and directed the parties to immediate produce
2 documents -- and we still don't have critical documents in
3 this case -- we proposed moving the schedule by three months
4 and Oracle did not object to that.

5 And we also --

6 JUDGE LARSEN: Is that you, Ms. Bremer?

7 MS. BREMER: It is.

8 JUDGE LARSEN: Ms. Bremer, do you know the meaning
9 of the word "concise"?

10 MS. BREMER: Yes.

11 JUDGE LARSEN: What is it?

12 MS. BREMER: Short --

13 JUDGE LARSEN: If you'll consult Webster's Third
14 New International Unabridged -- as I did -- before I issued
15 my order on July 20th, 2017, it says, "Not including
16 extraneous or superfluous information." I did not invite you
17 in my order of July 20th to raise new issues in your letter,
18 and both of you did.

19 That's not concise. I understand it's tempting. I
20 understand it's fun. I understand it's satisfying, but it's
21 not concise.

22 MS. BREMER: Well, Your Honor, with all due
23 respect, as you -- your order indicated that we should meet
24 and confer --

25 JUDGE LARSEN: Yeah, on the discovery motion you

1 wanted to bring.

2 MS. BREMER: Right.

3 JUDGE LARSEN: We're trying to narrow the issues
4 here, Ms. Bremer. We're not trying to think of new things to
5 argue about.

6 MS. BREMER: But the discovery -- the issues we're
7 having over discovery impacts the entire case.

8 Is there another way -- I guess it seemed that this
9 would be the most expedient way to bring this issue before
10 Your Honor. But if there's another way that you would
11 prefer, we could do that.

12 JUDGE LARSEN: No, I know I'm being a jerk about
13 this. But what I'd really prefer is that the two sides stop
14 playing games and show your cards to each other and be ready
15 to go to hearing on the day that I set. That's what I'd
16 prefer.

17 I do not want to consider postponing the schedule
18 now. And I'm not going to. Let's get these discovery issues
19 resolved that you brought before me and see if that helps us
20 get off the dime and see if we can keep to this schedule.
21 But we're going to reach a point, you know, where I'm going
22 to be tempted to say, "Look, if they've requested and you
23 haven't given" -- I'll say to both of you, if your opponent
24 has requested "X" and you haven't given them "X," then you'd
25 better not expect to enter "X" into evidence at the hearing,

1 because I won't allow it.

2 We're not going to drag this process on forever and
3 ever. I'm really concerned that we seem to be making this up
4 as we go along. And it's time to be able to talk about the
5 merits of this case and not about who kept which document in
6 what form, where, and how soon can I have it?

7 MS. BREMER: Right. Your Honor --

8 JUDGE LARSEN: You didn't go to law school to do
9 that. That's a traffic cop's job.

10 MS. BREMER: We -- this isn't an issue of just
11 which documents are produced at trial.

12 The data that Oracle has agreed to produce now is
13 completely new data bases with new data fields that we never
14 had and -- including many more years than we had during the
15 compliance review. It's going to need to need to -- it's
16 going to involve thousands of employees and our experts are
17 going to need to take time to review it and analyze it.

18 So it's not just a question of once they hand over
19 the data, then we have it and, you know, we can spit out a
20 report and we need additional time to analyze it and conduct
21 discovery with respect to that data.

22 JUDGE LARSEN: With all due respect to what you're
23 saying -- I understand that, but you don't know how much time
24 you need yet, because you haven't seen the data yet. And
25 you're already -- both of you are telling me we've got to

1 push the trial back, we've got to push the trial back.

2 I want you to try harder to stick to the date that
3 we've got. Today, to do that.

4 MS. BREMER: And one other issue we have is that we
5 don't have a ruling yet on the order to show cause and Oracle
6 hasn't produced any data or information since -- or past
7 2014, awaiting the end date.

8 JUDGE LARSEN: Well, that's on me. I thought I had
9 done an order. So, let me get to the bottom of that and I --
10 I will get you a ruling in the next 48 hours. That's on me.

11 MS. BREMER: Thank you, Your Honor.

12 JUDGE LARSEN: I don't know what happened. Let me
13 find out. I thought I had done that, but I'll make sure you
14 get something in 48 hours.

15 MS. BREMER: Okay. Thank you, Your Honor.

16 JUDGE LARSEN: All right. So we're going to go
17 ahead with those motions on both sides. I look forward to
18 receiving them.

19 Anything else we need to do today?

20 MS. BREMER: No, Your Honor.

21 MR. PARKER: No.

22 JUDGE LARSEN: All right. Thank you, all, and have
23 a good day. We're adjourned.

24 (Whereupon, the proceedings concluded at 11:35
25 o'clock a.m.)

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REPORTER'S CERTIFICATE

TITLE: Office of Federal Contract Compliance Programs vs.
Oracle, et al.

CASE NUMBER: 2017-OFC-00006

OWCP NUMBER: N/A

DATE: August 14, 2017

LOCATION: San Francisco, California

This is to certify that the attached proceedings
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SIGNATURE OF REPORTER



DATE

