

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 20 March 2020

CASE NO.: 2017-OFC-00006

In the Matter of

OFFICE OF FEDERAL CONTRACT
COMPLIANCE PROGRAMS,
U.S. DEPARTMENT OF LABOR,
Plaintiff,

v.

ORACLE AMERICA, INC.,
Defendant.

ORDER ON BRIEFING DEADLINES

This matter arises under Executive Order 11246 (30 Fed. Reg. 12319), as amended, (“EO 11246”) and associated regulations at 41 C.F.R. Chapter 60. It involves Plaintiff Office of Federal Contract Compliance Programs (“OFCCP”) and Defendant Oracle America, Inc. (“Oracle”). Hearing was held between December 5, 2019, and December 17, 2019. At the end of the hearing, I directed the parties to file simultaneous post-hearing briefs and findings of fact, limited to 40 and 15 pages respectively, by April 10, 2020. They were permitted to file simultaneous reply briefs limited to 15 pages by April 24, 2020. Hearing Transcript at 1961. There are also currently a total of seven motions to seal pending. On March 17, 2020, I ordered Oracle, and allowed OFCCP, to file additional briefing on an issue related to these motions with briefs due within 14 days, or by March 31, 2020.

On March 19, 2020, Chief Administrative Law Judge Stephen R. Henley issued an Administrative Order and Notice (No. 2020-MIS-00006)¹ suspending all hearings and procedural deadlines due to the COVID-19 National Emergency. Per that order, “[a]ll procedural deadlines in cases currently pending before OALJ are suspended until May 15, 2020, unless ordered otherwise by the presiding ALJ” (emphasis removed). By operation of Judge Henley’s Administrative Order, the briefing deadlines in this case have been suspended, pending further order.

The briefing requested regarding the motions to seal in this case involves a narrow legal issue and it initially appears that the parties should be able to adequately prepare the requested (or

¹ The order can be accessed online here:

[https://www.oalj.dol.gov/IN_RE_SUSPENSION_OF_HEARIN_2020MIS00006_\(MAR_19_2020\)_140827_CADEC_SD.pdf](https://www.oalj.dol.gov/IN_RE_SUSPENSION_OF_HEARIN_2020MIS00006_(MAR_19_2020)_140827_CADEC_SD.pdf)

permitted) briefs despite the current shelter-in-place orders and other restrictions due to the COVID-19 National Emergency. Accordingly, Oracle is ordered to file the responsive brief requested by the March 17, 2020, order by April 3, 2020. OFCCP, as before, may file a brief if it so wishes, but must do so by April 3, 2020. If the current COVID-19 National Emergency interferes with the parties' ability to comply with these deadlines, they should file a motion seeking an extension.

The deadlines for the post-hearing briefs and reply briefs in this case are vacated. The page limitations remain in force. The parties should meet and confer to determine reasonable new deadlines for post-hearing and reply briefs and submit their agreed dates in writing by April 2, 2020.

Under Judge Henley's March 19, 2020, order, the parties are now permitted and *encouraged* to make filings via email while the COVID-19 National Emergency is ongoing. Filings in this case should be directed to the San Francisco District Office email box at the following address: OALJ-SanFrancisco@dol.gov.

SO ORDERED.

RICHARD M. CLARK
Administrative Law Judge