

Congress of the United States
Washington, D.C. 20515

August 21, 2020

Larry D. Turner
Acting Inspector General
Office of Inspector General
U.S. Department of Labor
200 Constitution Avenue, NW
Room S-5502
Washington, D.C. 20210

Dear Acting Inspector General Turner:

We are deeply concerned by reports that Secretary of Labor Eugene Scalia involuntarily reassigned Regional Solicitor for San Francisco Janet Herold from her position at the Office of the Solicitor (SOL) to a role at the Occupational Safety and Health Administration (OSHA) in Chicago.¹ Ms. Herold has led the Department of Labor's (Department) litigation efforts in important cases including in anti-discrimination law enforcement against Oracle Corporation in which the agency found that the company underpaid women and minority workers by \$400 million over four years.² These reports also indicate that Ms. Herold wrote a memo earlier this year to Department leadership objecting to efforts by the Secretary to intervene in the Oracle litigation in order to reach a low settlement with the company.

The Secretary's efforts to involuntarily transfer Ms. Herold appear to be retaliation against an employee simply doing her job to enforce the law and uphold the Department's mission to protect workers. Further, the reassignment would be personally disruptive for Ms. Herold who would be forced to relocate from San Francisco to Chicago in the middle of the coronavirus pandemic. This purportedly planned retaliatory action appears particularly unscrupulous in light of Oracle co-founder Larry Ellison's fundraising efforts for President Trump's political campaign and Oracle CEO Safra Catz's role on President Trump's transition team.

The Secretary's plan to involuntarily transfer a senior litigator away from SOL also appears to contradict the Department's concerns about SOL capacity described in its fiscal year 2021 Congressional Budget Justification that requests an increase of \$5.9 million for an additional 28 full-time equivalent employees for the office, which states:

"Absent additional resources, SOL's ability to provide legal support to the Department will be substantially diminished, particularly in light of the flat level of appropriated funding that SOL

¹ <https://news.bloomberglaw.com/daily-labor-report/federal-litigator-behind-oracle-lawsuit-being-reassigned-by-dol>

² <https://news.bloomberglaw.com/daily-labor-report/oracle-digs-in-against-trump-labor-department-over-unfair-pay>;
<https://www.washingtonpost.com/technology/2019/12/05/oracle-allegedly-underpaid-women-minorities-by-million-now-details-are-set-come-out-court/>

received in FY 2020. Without enhanced resources as sought in this request, SOL will be unable to support the Department’s enhanced worker protection compliance and enforcement efforts as already funded for FY 2020 and proposed for FY 2021. SOL will also be unable to satisfy the legal workload generated by new Administration directives and initiatives, and to keep pace with the demands for legal services to support ongoing programs and activities, which span the full breadth of DOL programs, enforcement, and compliance assistance activities. Ultimately, this would result in slower or deferred provision of legal services, given the legal specialty and professional resources that are required to meet client demands for legal support as they engage in new and innovative efforts to help America’s working men and women and job creators.”³

It is very difficult to square the Secretary’s planned reassignment of a senior SOL litigator – who has decades of relevant litigation experience and has ably led the San Francisco Regional Solicitor’s Office since 2012⁴ – with the Department’s extensive concerns about SOL capacity.

To address our concerns, we ask that you investigate reports of political inference by Secretary Scalia and Department political appointees into the Department’s litigation against Oracle to determine whether the Secretary’s planned actions regarding Ms. Herold amount to inappropriate retaliation. We also ask that you review how the Secretary’s planned actions against Ms. Herold could exacerbate the Department’s concerns around SOL bandwidth outlined in its fiscal year 2021 Congressional Budget Justification. We appreciate your attention to these issues.

Sincerely,



ROSA L. DELAURO

Chair
Subcommittee on Labor, Health and Human
Services, Education, and Related Agencies
Committee on Appropriations
U. S. House of Representatives

PATTY MURRAY

Ranking Member
Committee on Health, Education, Labor
and Pensions
and
Subcommittee on Labor, Health and
Human Services, Education, and Related
Agencies
Committee on Appropriations
United States Senate

³ <https://www.dol.gov/sites/dolgov/files/general/budget/2021/CBJ-2021-V3-02.pdf>, pg. 30-31

⁴ https://www.dol.gov/sol/people/office_leadership-bios.htm#Janet_Herold