UNited States Department of Labor

Office of Administrative Law Judges

Office of Federal Contract Compliance Programs, United States Department of Labor,

Plaintiff, OALJ Case No. 2017-OFC-00006

vs.

Oracle America, Inc.,

Defendant.

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Reported by:
Monica Lepe-Georg
CSR No. 11976
Job No. 10057521

Videotaped Deposition of Shirong "Andy" Leu

Volume I

San Francisco, California

Monday, July 1st, 2019
VIDEOTAPED DEPOSITION OF SHIRONG "ANDY"
LEU, VOLUME NO. I, taken on behalf of DEFENDANT, at
405 Howard Street, 10th Floor, San Francisco,
California, beginning at 9:37 a.m. and ending at
5:10 p.m., on Monday, July 1st, 2019, before Monica
Lepe-Georg, Certified Shorthand Reporter No. 11976.
Q. Okay. So I have a few questions here and I am going to ask about your understanding of these terms with respect to Oracle in particular, and if you don't have an understanding with respect to Oracle in particular that's fine; you can say so. Before I do that, you mentioned earlier that in connection with the Oracle headquarters' compliance review you received a data file, correct?

A. Uh-hm.

Q. To your recollection, did you receive just a single data file or did you receive more than one?

A. Okay. When you see -- just clarify your questions.

When you see multi-profile what do you mean? Like a different period -- different period of time?

Q. I mean did you get a --

A. Time period different, you know.

Q. Did the data that you recall receiving come in an Excel file?

A. It's Excel file, that's right.

Q. Okay. So did you get one or more than one Excel files in connection with your work on Oracle's headquarters' compliance review?

A. I cannot recall, but I know there is at
Q. Right. And you don't remember if you got any others; is that correct?
A. Yeah.
Q. Okay. What, if any --
A. Maybe I have. I don't know.
Q. What, if any, other documents or data did you receive to review in connection with Oracle's headquarters' compliance review?
A. I think the data already in Excels. I heard probably they pull from --
THE REPORTER: I'm sorry. I heard...
THE WITNESS: I heard the data -- I heard data may be from different legacy system put into the Excels, but I don't know that part. I don't know.
BY MS. MANTOAN:
Q. Okay. So you got one or more Excel files, correct -- at least one, maybe more?
A. Yeah, maybe one, or two, or three -- I don't know, at least one.
Q. Did you get any documents that weren't Excel files to review in connection with the Oracle headquarters' compliance review?
A. What kind of --
Q. Why?

A. I don't know. You can start -- you can start total, too, but like I say, we don't know -- we cannot find factor to evaluate the total comp, basically.

Q. Did you do a total compensation analysis of Oracle's headquarters' location?

MR. ELIASOPH: Objection. Deliberative process.

THE WITNESS: I cannot -- I cannot remember.

MS. MANTOAN: Are you instructing him not to answer?

MR. ELIASOPH: I am.

THE WITNESS: I cannot recall.

BY MS. MANTOAN:

Q. I'm going to continue reading this sentence, and I have a few questions about --

A. Yes, please.

Q. -- this.

The sentence after "dependent variable"
continues.

-- "and accounted for differences in employees' gender, work experience at Oracle, work experience prior to Oracle,
full-time/part-time status, exempt status,  

global career level, job specialty, and job  

title."

Did I read that correctly?  

A. Yes.  

Q. Okay. So how did your model control for  

work experience at Oracle?  

What was used to represent or capture work  

experience at Oracle?  

A. You mean the work experience prior to  

Oracle?  

Q. No, work experience at Oracle.  

A. Okay. From the date they hire -- they were  
hired to the snapshot you -- I mean contractor sent  
to us, the snapshot. So this one will be time in  
the company.  

Q. Did you account for leaves of absence in  
your measure of work experience at Oracle?  

A. No.  

Q. Okay. When you say "date of hire," do you  
mean date of hire at Oracle America, Inc., or do you  
mean date of hire at, let's say, a predecessor  
company that Oracle might have acquired with the  
employee then continuously working at Oracle?  

A. I cannot recall.
MR. ELIASOPH: Objection to the extent it calls for speculation.

BY MS. MANTOAN:

Q. You don't recall how you selected that hire date to measure from hire to snapshot, correct?

A. Yeah, I just -- they provide us a hire date there, right, but they don't explain a little bit more explanation, so they say, "Andy, can you do the regression for us" like that.

Q. Do you have a view, as a statistician, as to whether you would ideally use the hire date only at Oracle America or whether you would use the hire date at a predecessor company or a sister company?


THE WITNESS: I cannot recall that specific situation, no.

BY MS. MANTOAN:

Q. So I'm just asking if you have a view as to which is statistically more proper.

A. Yeah, yeah, well, I will review, yes, so sometimes I review, so...

Q. But did you -- it's not "did you review"; it's "do you have a view."

Do you have an opinion as to whether the
her questions.

THE WITNESS: Oh, sorry.

BY MS. MANTOAN:

Q. And did you ever see or hear any information that indicated that Oracle had said that the factors that you included in your model were the factors that should be used to evaluate pay amongst its employees?


THE WITNESS: No.

BY MS. MANTOAN:

Q. What, if anything, did you do to determine whether the factors that are controlled for in your statistical model were in fact factors considered by Oracle when it was determining pay?


THE WITNESS: "Did you do to determine"...

No.

BY MS. MANTOAN:

Q. "No" meaning you did not do anything?

A. Na-huh. I didn't hear, yeah, from anywhere.

Q. No, the question is whether you did
anything to determine whether the factors that you
controlled for in your statistical model --
A. Uh-hm.
Q. -- are factors that Oracle managers in fact
consider when determining pay.
MR. ELIASOPH: Objection. This has been
asked and answered.
MS. MANTOAN: Well, the answer was about
whether he'd heard anything, --
BY MS. MANTOAN:
Q. -- and the question is whether you,
yourself, did anything to determine whether the
factors in this model in Attachment A of
Exhibit 2 --
A. No, just -- I just followed, you know,
Janette's e-mail colonies, yeah.
Q. And earlier today --
Oh, I'm sorry, were you finished?
A. No, I'm finished.
Q. Oh. Okay.
Earlier today you used the phrase
"legitimate factors," --
A. Yeah.
Q. -- what, if anything, did you do to
determine whether the factors controlled for in your
statistical model, set forth in Attachment A,

Q. -- were legitimate factors at Oracle?


THE WITNESS: No, I just followed Janette orders at the time. I don't think a little bit further about, you know -- 'cause I was -- I heard the data is pretty clean at that time. I don't know...

BY MS. MANTOAN:

Q. So the model set forth --

A. Uh-hm.

Q. -- in Attachment A to Exhibit 2 includes a control for job title, correct?

A. Which page?

Q. Well, you said the model on 1404 and 1405 are the same.

A. Oh, 1404, yeah.

Q. The question is whether the model set forth in Attachment A to Exhibit 2, specifically pages 1404 and 1405 --

A. Uh-hm.

Q. -- includes a control for job title.
Q. This is also going to ask you to estimate 'cause I'm sure you don't remember to -- to the number.

A. Yeah.

Q. Can you give me a sense of roughly the amount of time you spent, in total, doing work on evaluation of Oracle's headquarters' location?

A. I think it's more than probably -- I know at least -- at least five hours.

Q. At least five?

A. Five hours at least.

Q. Okay. Do you think it was probably less than 10 hours?

A. Okay, yeah.

Q. Less than 10?

A. Less than 10 hours.

Q. Sorry. I want to make sure the record is clear.

A. Uh-hm.

Q. Is it your best estimate, as you sit here today, that in total you spent less than 10 hours in
total working on analyses related to Oracle's headquarters' location?

A. That was estimate or --

Q. Your best estimate.

MR. ELIASOPH: If you have a clear enough recollection.

THE WITNESS: Uh-hm.

To be honest with you, I don't have very clear -- very clear, you know, the numbers in my brain, you know.

BY MS. MANTOAN:

Q. But you did say you thought it was at least five hours, right?

A. Yeah. I think it's five hours, yeah, but ten, 20, I don't know, I really don't. Five -- five should be reasonable -- you know, at least to five.

Q. Okay. Are you pretty confident that it was fewer than 20 hours?

MR. ELIASOPH: Objection. Asked and answered.

THE WITNESS: I -- I don't know, you know.

MR. ELIASOPH: The witness doesn't remember.

THE WITNESS: Usually as a statistician, right, if I don't have any impression or kind of
concrete data I don't want to say anything, you know. You know, so I don't want to estimate like that, you know.

You have information, you estimate. Right now I don't have any --

MR. ELIASOPH: She's entitled to your best estimate --

THE WITNESS: Yeah.

MR. ELIASOPH: -- if you can give it, but if you don't -- if you're just kind of guessing --

THE WITNESS: Yeah --

MR. ELIASOPH: Then --

THE WITNESS: Yeah, I don't want to guess, you know.

BY MS. MANTOAN:

Q. What's your best estimate of how long you generally spend in connection with any given compliance review doing statistical work?

A. Any -- any kind of --

It depends. Some are like -- one time some time they give me up to one month, then they come back again do the -- you know, come back or communications. So I cannot -- I cannot accurately, you know, sum up, you know, that time.

Q. And I appreciate you can't be precise here,
1. situated is case specific."

2. My first question is: Do you have an understanding of what "similarly situated" means in this Directive 307?

3. A. Sort of, yeah.

4. Q. Okay. What is your understanding?

5. MR. ELIASOPH: Objection. Calls for legal conclusion.

6. THE WITNESS: Like, the -- you know, work in similar situations and assume similar responsibility, with same or similar skills, knowledge, or ability.

7. Something like that, yeah.

8. BY MS. MANTOAN:

9. Q. And using that understanding of similarly situated, what, if anything, did you do prior to running your regression analysis of Oracle's headquarters' location to determine which employees at Oracle are similarly situated?


11. THE WITNESS: I don't want to answer this question because, like I say, I just follow the -- you know, model sent from Janette to me.

12. MS. MANTOAN: Okay.
THE WITNESS: So because you -- specifically for Oracle, but for Oracle specifically. Usually I just -- you know, receive the orders from the management, and I have to complete, and that's it.

BY MS. MANTOAN:

Q. Okay. So since you use those orders from management --

A. Uh-hm.

Q. -- to structure the statistical analysis, --

A. Uh-hm.

Q. -- am I correct that you didn't do anything, independent of that, to determine which employees at Oracle were similarly situated; --

A. Uh-hm.

Q. -- is that correct?

A. Pretty much, yes, uh-hm, at that time.

Q. So you just said "at that time." Have you done anything since that time to determine which employees at Oracle are similarly situated?

A. No -- not -- not for Oracle. For another cases probably. You know, from a -- some of the district CO, right, they probably knew. They don't know about this kind of directive. They probably
I, the undersigned, a Certified Shorthand Reporter of the State of California, do hereby certify:

That the foregoing proceedings were taken before me at the time and place herein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were placed under oath; that a verbatim record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my direction; further, that the foregoing is an accurate transcription thereof.

I further certify that I am neither financially interested in the action nor a relative or employee of any attorney of any of the parties.

Further, that if the foregoing pertains to the original transcript of a deposition in a federal case, before completion of the proceedings, review of the transcript [ X ] was [ ] was not requested.

IN WITNESS WHEREOF, I have this date subscribed my name.

Dated: July 5th, 2019

MONICA LEPE-GEORG, No. 11976