

**UNITED STATES DEPARTMENT OF LABOR  
OFFICE OF ADMINISTRATIVE LAW JUDGES**

OFFICE OF FEDERAL CONTRACT  
COMPLIANCE PROGRAMS, UNITED  
STATES DEPARTMENT OF LABOR,

Plaintiff,

v.

ORACLE AMERICA, INC.,

Defendant.

OALJ Case No. 2017-OFC-00006

OFCCP No. R00192699

**CORRECTED DECLARATION OF  
KATHRYN G. MANTOAN IN  
SUPPORT ORACLE'S MOTION  
COMPEL OFCCP TO COMPLY WITH  
THE COURT'S DISCOVERY ORDERS  
REGARDING REDACTED  
INTERVIEW MEMORANDA AND  
30(b)(6) TESTIMONY**

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**JUL 30 2019**

**Office of Administrative Law Judges  
San Francisco, Ca**

MANTOAN DECL. ISO ORACLE'S MTC OFCCP TO COMPLY WITH THE COURT'S DISCOVERY  
ORDERS

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**DECLARATION OF KATHRYN G.  
MANTOAN IN SUPPORT ORACLE’S  
MOTION COMPEL OFCCP TO  
COMPLY WITH THE COURT’S  
DISCOVERY ORDERS REGARDING  
REDACTED INTERVIEW  
MEMORANDA AND 30(b)(6)  
TESTIMONY**

I, KATHRYN G. MANTOAN, hereby declare as follows:

1. I am an attorney admitted to practice in the States of California, Oregon, and Washington. I am Of Counsel at Orrick, Herrington & Sutcliffe LLP (“Orrick”) and counsel to Oracle America, Inc. (“Oracle”) in the above matter. I make this declaration in support of Oracle’s Motion to Compel OFCCP to Comply with the Court’s Discovery Orders Regarding Redacted Interview Memoranda and 30(b)(6) Testimony. I have personal knowledge of the facts set forth herein, except where stated on information and belief, and, if called as a witness, could competently testify thereto.

2. Pursuant to the Court’s July 1, 2019 Order compelling OFCCP to produce a 30(b)(6) witness, Oracle took the 30(b)(6) deposition of OFCCP on the statistical analysis implicated by Topic Nos. 1-21 on July 17, 2019.

MANTOAN DECL. ISO ORACLE’S MTC OFCCP TO COMPLY WITH THE COURT’S DISCOVERY  
ORDERS

3. Attached hereto as **Exhibit A** is a true and correct copy of correspondence from OFCCP regarding the designation of Dr. Michael Brunetti and a second witness as OFCCP's Rule 30(b)(6) designees.

4. I conducted the July 17 deposition of Dr. Brunetti on behalf of Oracle; Jeremiah Miller defended the deposition on behalf of OFCCP. Throughout the deposition, Mr. Miller objected repeatedly to Oracle's questions on privilege and other grounds and instructed Dr. Brunetti not to answer.

5. Mr. Miller and I conferred both on and off the record at the July 17 deposition about his objections and instructions, and Oracle's positions that those instructions were improper and violated this Court's July 1 Order.

6. Attached hereto as **Exhibit B** is a true and correct copy of excerpts of the final transcript of the July 17, 2019 deposition of Dr. Brunetti. The questions, objections, and instructions on which Oracle is moving are marked therein. Also included are pages that reflect on-the-record portions of the meet and confer between Mr. Miller and me at the deposition.

7. I also participated in a meet and confer call with Mr. Miller and Jessica Flores on July 22, 2019. In that call, we discussed the categories of questions, objections, and instructions on which Oracle intended to move to compel a response, along with dozens of individual questions. Mr. Miller suggested the possibility that a forthcoming 30(b)(6) witness set to testify on August 14, 2019 might be prepared to answer some of these questions, since (Mr. Miller contended) the questions concerned the factual basis for the statistical analysis rather than the statistical analysis itself. I asked for confirmation by Thursday, July 25, 2019 if OFCCP would commit to having its future witness answer the questions I had identified. To date, OFCCP has not provided that assurance.

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8. Attached hereto as **Exhibit C** is a true and correct copy of meet and confer communications between OFCCP and Oracle regarding OFCCP's objections and instructions to Dr. Brunetti.

I declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct.

Executed in Portland, Oregon on July 29, 2019.

  
Kathryn G. Mantoan

# EXHIBIT A

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**From:** "Daquiz, Abigail - SOL" <[Daquiz.Abigail@dol.gov](mailto:Daquiz.Abigail@dol.gov)>  
**Date:** July 16, 2019 at 16:51:44 PDT  
**To:** "Parker, Warrington" <[wparker@orrick.com](mailto:wparker@orrick.com)>, "Riddell, J.R." <[jriddell@orrick.com](mailto:jriddell@orrick.com)>, "Flores, Jessica - SOL SAN" <[Flores.Jessica@dol.gov](mailto:Flores.Jessica@dol.gov)>  
**Cc:** "Miller, Jeremiah - SOL" <[Miller.Jeremiah@dol.gov](mailto:Miller.Jeremiah@dol.gov)>, "James, Jessica R. L." <[Jessica.james@orrick.com](mailto:Jessica.james@orrick.com)>, "Grundy, Kayla Delgado" <[kgrundy@orrick.com](mailto:kgrundy@orrick.com)>  
**Subject:** RE: OFCCP/Oracle, scheduling the 30(b)(6) deposition of Topics 1-21

Hi Warrington—

We have identified the appropriate agency witness to answer questions about the non-statistical portions of Topics 1-21 and he is available to be deposed in San Francisco. He has personal obligations that make him unavailable until August 14 or August 15. He could also be available on August 20. Please let me know if any of those dates work for you.

Abigail G. Daquiz

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**From:** Parker, Warrington <[wparker@orrick.com](mailto:wparker@orrick.com)>  
**Sent:** Tuesday, July 16, 2019 10:52 AM  
**To:** Daquiz, Abigail - SOL <[Daquiz.Abigail@dol.gov](mailto:Daquiz.Abigail@dol.gov)>; Riddell, J.R. <[jriddell@orrick.com](mailto:jriddell@orrick.com)>; Flores, Jessica - SOL SAN <[Flores.Jessica@dol.gov](mailto:Flores.Jessica@dol.gov)>  
**Cc:** Miller, Jeremiah - SOL <[Miller.Jeremiah@dol.gov](mailto:Miller.Jeremiah@dol.gov)>; James, Jessica R. L. <[Jessica.james@orrick.com](mailto:Jessica.james@orrick.com)>; Grundy, Kayla Delgado <[kgrundy@orrick.com](mailto:kgrundy@orrick.com)>  
**Subject:** RE: OFCCP/Oracle, scheduling the 30(b)(6) deposition of Topics 1-21

Abigail—

I would like to get dates for the 30(b)(6) on the non-statistical portions of Topics 1 to 21.

Thank you.

---

**From:** Daquiz, Abigail - SOL [<mailto:Daquiz.Abigail@dol.gov>]  
**Sent:** Thursday, July 11, 2019 3:00 PM  
**To:** Riddell, J.R. <[jriddell@orrick.com](mailto:jriddell@orrick.com)>; Flores, Jessica - SOL SAN <[Flores.Jessica@dol.gov](mailto:Flores.Jessica@dol.gov)>  
**Cc:** Miller, Jeremiah - SOL <[Miller.Jeremiah@dol.gov](mailto:Miller.Jeremiah@dol.gov)>; Parker, Warrington <[wparker@orrick.com](mailto:wparker@orrick.com)>; James, Jessica R. L. <[Jessica.james@orrick.com](mailto:Jessica.james@orrick.com)>  
**Subject:** RE: OFCCP/Oracle, scheduling the 30(b)(6) deposition of Topics 1-21

Hi JR, OFCCP's 30(b)(6) witness for Wed. 7/17 is Michael Brunetti. Warrington and I have been discussing the deposition over the last few days and have confirmed that next week's deposition of Topics 1-211 will be limited to the statistical analysis.

Thanks, Abby

Abigail G. Daquiz

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**From:** Riddell, J.R. <[jriddell@orrick.com](mailto:jriddell@orrick.com)>

**Sent:** Thursday, July 11, 2019 2:55 PM

**To:** Daquiz, Abigail - SOL <[Daquiz.Abigail@dol.gov](mailto:Daquiz.Abigail@dol.gov)>; Flores, Jessica - SOL SAN <[Flores.Jessica@dol.gov](mailto:Flores.Jessica@dol.gov)>

**Cc:** Miller, Jeremiah - SOL <[Miller.Jeremiah@dol.gov](mailto:Miller.Jeremiah@dol.gov)>; Parker, Warrington <[wparker@orrick.com](mailto:wparker@orrick.com)>; James, Jessica R. L. <[Jessica.james@orrick.com](mailto:Jessica.james@orrick.com)>

**Subject:** RE: OFCCP/Oracle, scheduling the 30(b)(6) deposition of Topics 1-21

Abigail (or Jessica),

Pursuant to the Parties' agreement reflected in Jessica's June 25 email to me, the parties committed to identify their 30(b)(6) designees at least five business days prior to a deposition. For the July 17 deposition, we expected to receive that information by yesterday. To my knowledge, that has not occurred; please provide that information immediately.

Thank you,

JR

**J.R. Riddell**

Attorney

Orrick

Sacramento 

T +19163297928

[jriddell@orrick.com](mailto:jriddell@orrick.com)



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# EXHIBIT B

**OFCCP vs. Oracle America, Inc.**

**Videotaped Deposition of  
MICHAEL BRUNETTI - 30(B)(6)**

**July 17, 2019**

**Volume I**



[www.aptusCR.com](http://www.aptusCR.com) / 866.999.8310



1 files. 09:13:34

2 Q. Okay. And did you make some particular 09:13:34

3 request for certain types of files or were those 09:13:40

4 files just given to you without -- without you 09:13:43

5 having requested a particular type of information? 09:13:45

6 MR. MILLER: So, I'm going to instruct the 09:13:49

7 witness not to answer this question, to the extent 09:13:51

8 that it would require him to reveal attorney-client 09:13:53

9 communications or attorney opinions about what files 09:13:57

10 were required. 09:13:59

11 MS. MANTOAN: Okay. So -- 09:14:00

12 MR. MILLER: There may be another answer 09:14:03

13 that he can give that does not touch on the 09:14:05

14 communications we had. 09:14:07

15 MS. MANTOAN: So let me ask a different 09:14:08

16 question. 09:14:12

17 BY MS. MANTOAN: 09:14:13

18 Q. Prior to your receiving the Excel files, 09:14:13

19 had you made any request to receive any data of any 09:14:16

20 particular type? 09:14:19

21 MR. MILLER: I think it's going to be the 09:14:20

22 same instruction and I don't mean to impede your 09:14:22

23 questioning here, but, you know, our position is 09:14:25

24 that the solicitor's office instructed Mr. Brunetti 09:14:27

25 or Dr. Brunetti as to what to do for the analysis in 09:14:32

1 this case. So things like what conversations he had 09:14:35  
2 with the solicitor's office or the kinds of 09:14:37  
3 information that were passed back and forth, we 09:14:40  
4 think, is privileged from disclosure. 09:14:44  
5 MS. MANTOAN: So, as -- as you know, 09:14:49  
6 Counsel, this deposition is taking place after there 09:14:52  
7 was motion practice and an order compelling the 09:14:55  
8 deposition to take place, and in that order, the 09:14:57  
9 Court specifically found -- I'm reading from page 18 09:15:00  
10 of the order -- that "OFCCP had waived claims of 09:15:02  
11 privilege as to the mechanics of the statistical 09:15:05  
12 model, including instructions that were given to the 09:15:07  
13 statisticians, even if those instructions were given 09:15:11  
14 by an attorney." 09:15:13  
15 And so my understanding of that order is 09:15:15  
16 that conversations that relate to the statistical 09:15:19  
17 work that ended up in the second amended complaint, 09:15:22  
18 there's already been a finding of waiver. 09:15:27  
19 MR. MILLER: Yeah, so I think we disagree 09:15:29  
20 that all instructions would be available or any 09:15:31  
21 conversation we had. I mean, I -- we -- I do agree 09:15:33  
22 that it is fine for him to tell you, for instance, 09:15:35  
23 the three categories of Excel sheets he looked at, 09:15:37  
24 I'm happy to provide you the list of things we gave 09:15:41  
25 him, I mean, that kind of stuff. But if what you're 09:15:41

1 asking about is did we have some conversation before 09:15:45  
2 there was any instruction issued, if there were 09:15:46  
3 other things that were talked about before you got 09:15:48  
4 to the point of making this analysis, I don't think 09:15:50  
5 the order covers that. 09:15:52  
6 MS. MANTOAN: Okay. Well, we'll see how 09:15:54  
7 the remainder of the deposition goes, but I 09:15:58  
8 anticipate, and we'll put on the record now, that we 09:16:02  
9 will be leaving the deposition open because there 09:16:04  
10 may be differences of opinion as to what the order 09:16:07  
11 required, and if we believe we're entitled to 09:16:09  
12 information that you're instructing the witness not 09:16:12  
13 to provide, then we may find ourselves in motion 09:16:14  
14 practice again and -- and back here again. 09:16:17  
15 MR. MILLER: I understand. 09:16:19  
16 BY MS. MANTOAN: 09:16:23  
17 Q. Okay. So you said your best recollection, 09:16:24  
18 Dr. Brunetti, is that you received three Excel 09:16:27  
19 files. Did you receive any other documents at the 09:16:28  
20 time you received those Excel files? 09:16:31  
21 A. I believe, yes, but I -- I'm having a hard 09:16:33  
22 time remembering. 09:16:46  
23 Q. Okay. So I want to first get -- before we 09:16:47  
24 get into some specifics about what those Excel files 09:16:56  
25 were, I want to make sure I'm capturing the universe 09:16:59

1 knows? 10:09:58

2 A. Okay. I don't know what Bob knows or what 10:09:58

3 input he had. 10:10:01

4 Q. Okay. Okay. 10:10:02

5 MR. MILLER: Counsel, if it helps, I'll 10:10:07

6 represent that Bob LaJeunesse had no input. 10:10:08

7 BY MS. MANTOAN: 10:10:20

8 Q. I have a series of questions about what 10:10:35

9 facts OFCCP considered when it made choices about 10:10:40

10 how to construct the statistical model and -- let's 10:10:43

11 leave it at that. 10:10:52

12 Did OFCCP consider any of the narrative 10:10:54

13 text in any performance evaluations for any employee 10:10:57

14 at Oracle when it made choices about the statistical 10:11:00

15 model in the SAC? 10:11:06

16 MR. MILLER: So I'm going to instruct the 10:11:07

17 witness not to answer the question as it may reveal 10:11:09

18 attorney-client communications and work product. 10:11:11

19 MS. MANTOAN: Okay. And for -- for the 10:11:13

20 record, I believe that that question, which -- whose 10:11:14

21 language is taken directly from the order compelling 10:11:17

22 this deposition, is appropriate. 10:11:20

23 BY MS. MANTOAN: 10:11:22

24 Q. Did OFCCP consider any of the written 10:11:24

25 promotion justifications for any employee at Oracle 10:11:26

1 when it made choices about the statistical model in 10:11:29  
2 the second amended complaint? 10:11:32  
3 MR. MILLER: I'm going to instruct the 10:11:33  
4 witness not to answer the question as it may reveal 10:11:34  
5 attorney-client communications or attorney work 10:11:36  
6 product. 10:11:40  
7 BY MS. MANTOAN: 10:11:41  
8 Q. Did OFCCP consider any of the specific job 10:11:41  
9 postings or requisitions for any specific job 10:11:44  
10 opening for any position at Oracle when it made 10:11:47  
11 choices about the statistical model in the SAC? 10:11:50  
12 MR. MILLER: I'm instructing the witness 10:11:55  
13 not to answer the question as it may reveal attorney 10:11:57  
14 product communications or work product. 10:11:59  
15 BY MS. MANTOAN: 10:12:01  
16 Q. Did the OFCCP consider any of the written 10:12:03  
17 starting pay justifications for any employee at 10:12:06  
18 Oracle when it made choices about the statistical 10:12:10  
19 model in the SAC? 10:12:12  
20 MR. MILLER: I'm going to instruct the 10:12:14  
21 witness not to answer as it may reveal 10:12:15  
22 attorney-client communications or attorney work 10:12:18  
23 product. 10:12:19  
24 BY MS. MANTOAN: 10:12:20  
25 Q. Did OFCCP consider any off-cycle pay 10:12:26

1 justifications for any Oracle employee when it made 10:12:30  
2 choices about the statistical model in the SAC? 10:12:34  
3 MR. MILLER: I'm going to instruct the 10:12:37  
4 witness not to answer. It may reveal 10:12:39  
5 attorney-client communications or work product. 10:12:40  
6 BY MS. MANTOAN: 10:12:43  
7 Q. Did OFCCP consider the -- the full list of 10:12:43  
8 data files produced in October of 2017 when it made 10:12:48  
9 choices about the statistical model in the SAC? 10:12:52  
10 MR. MILLER: Instruct the witness not to 10:12:55  
11 answer as it may reveal attorney-client 10:12:58  
12 communications or attorney work product. 10:13:00  
13 BY MS. MANTOAN: 10:13:02  
14 Q. Did OFCCP consider any information about 10:13:02  
15 the products and services that Oracle provides when 10:13:04  
16 it made choices about the statistical model in the 10:13:06  
17 SAC? 10:13:09  
18 MR. MILLER: I'm going to instruct the 10:13:10  
19 witness not to answer as it may reveal 10:13:12  
20 attorney-client communications or work product. 10:13:14  
21 BY MS. MANTOAN: 10:13:16  
22 Q. Did OFCCP consider any interviews of any 10:13:16  
23 current or former Oracle employees when it made 10:13:19  
24 choices about the statistical model in the second 10:13:22  
25 amended complaint? 10:13:24

1                   MR. MILLER: I'm going to instruct the                   10:13:26  
2 witness not to answer as it may reveal                   10:13:28  
3 attorney-client communication or work product.                   10:13:30  
4 BY MS. MANTOAN:                   10:13:31  
5                   Q. Did OFCCP consider any materials from the                   10:13:32  
6 separate case of Jewett versus Oracle America when                   10:13:35  
7 it made choices about the statistical model in the                   10:13:38  
8 SAC?                   10:13:41  
9                   MR. MILLER: I'm going to instruct the                   10:13:42  
10 witness not to answer as it may reveal                   10:13:44  
11 attorney-client communications or work product.                   10:13:46  
12 BY MS. MANTOAN:                   10:13:47  
13                   Q. Did OFCCP consider the expert report of                   10:13:48  
14 Dr. David Neumark, which was provided in the Jewett                   10:13:52  
15 case, when it made choices about the statistical                   10:13:55  
16 model in the second amended complaint?                   10:13:59  
17                   MR. MILLER: I'm going to instruct the                   10:14:01  
18 witness not to answer as it may reveal                   10:14:02  
19 attorney-client communications or work product.                   10:14:04  
20 BY MS. MANTOAN:                   10:14:06  
21                   Q. Other than the four data files we've                   10:14:13  
22 discussed, did OFCCP consider any facts provided by                   10:14:15  
23 Oracle regarding its pay practices when making                   10:14:18  
24 choices about the statistical model in the second                   10:14:21  
25 amended complaint?                   10:14:24

1                   MR. MILLER: I'm going to instruct the                   10:14:24  
2 witness not to answer as it may reveal                   10:14:27  
3 attorney-client communications or work product.                   10:14:32  
4 BY MS. MANTOAN:                   10:14:40  
5                   Q. What did OFCCP do, if anything, to confirm                   10:14:42  
6 that the employees being compared in the models,                   10:14:45  
7 whose results are reflected in the second amended                   10:14:48  
8 complaint were performing similar work?                   10:14:51  
9                   MR. MILLER: I'm going to instruct the                   10:14:53  
10 witness not to answer as it may reveal                   10:14:55  
11 attorney-client communications or work product.                   10:14:57  
12 BY MS. MANTOAN:                   10:14:59  
13                   Q. What did OFCCP do, if anything, to                   10:15:01  
14 determine whether the models, whose results are                   10:15:02  
15 presented in the second amended complaint, group                   10:15:05  
16 together comparable employees?                   10:15:07  
17                   MR. MILLER: I'm going to instruct the                   10:15:09  
18 witness not to answer as that may reveal                   10:15:10  
19 attorney-client communications or work product.                   10:15:12  
20 BY MS. MANTOAN:                   10:15:14  
21                   Q. What, if anything, did OFCCP do to                   10:15:15  
22 determine whether the factors that are controlled                   10:15:18  
23 for in the second amended complaint statistical                   10:15:20  
24 models were, in fact, factors considered by Oracle                   10:15:23  
25 managers when determining pay?                   10:15:26

1           MR. MILLER: Instruct the witness not to           10:15:27  
2 answer as it may reveal attorney-client           10:15:29  
3 communications or work product.           10:15:32  
4 BY MS. MANTOAN:           10:15:33  
5           Q. What facts, if any, did OFCCP consider           10:15:37  
6 about the factors that managers at Oracle consider           10:15:40  
7 when they set pay when making choices about the           10:15:43  
8 statistical model in the SAC?           10:15:46  
9           MR. MILLER: I'm going to instruct the           10:15:48  
10 witness not to answer as it may reveal           10:15:51  
11 attorney-client communications or work product.           10:15:54  
12 BY MS. MANTOAN:           10:15:58  
13           Q. What, if anything, did OFCCP do to tailor           10:15:59  
14 the analytic procedures for the statistical models,           10:16:01  
15 whose results are presented in the SAC, to the work           10:16:07  
16 performed at Oracle in particular?           10:16:12  
17           MR. MILLER: I'm going to instruct the           10:16:15  
18 witness not to answer, as the answer may reveal           10:16:17  
19 attorney-client communications or work product.           10:16:23  
20 BY MS. MANTOAN:           10:16:41  
21           Q. Did OFCCP consider any information about           10:16:41  
22 the products that Oracle makes when it made choices           10:16:44  
23 about the statistical model in the SAC?           10:16:47  
24           MR. MILLER: I'm going to instruct the           10:16:50  
25 witness not to answer as it may reveal           10:16:51

1 attorney-client communications or work product. 10:16:54

2 BY MS. MANTOAN: 10:16:54

3 Q. Did OFCCP consider any facts about how work 10:16:55

4 to develop different Oracle products might differ 10:16:57

5 when it made choices about the statistical model in 10:17:01

6 the SAC? 10:17:04

7 MR. MILLER: I'm going to instruct the 10:17:05

8 witness not to answer as it may reveal 10:17:06

9 attorney-client communications or attorney work 10:17:09

10 product. 10:17:11

11 BY MS. MANTOAN: 10:17:11

12 Q. What facts did OFCCP consider, if any, 10:17:21

13 about Oracle's pay practices when it made choices 10:17:24

14 about the statistical model in the SAC? 10:17:27

15 MR. MILLER: I'm going to instruct the 10:17:31

16 witness not to answer as it may reveal 10:17:32

17 attorney-client communications or work product. 10:17:35

18 (Exhibit 3 was marked for identification.) 10:17:35

19 THE REPORTER: Exhibit 3. 10:18:17

20 BY MS. MANTOAN: 10:18:17

21 Q. So, Dr. Brunetti, I've put in front of you 10:18:18

22 a document that is an e-mail, two pages, a string of 10:18:21

23 e-mails that are two pages, Bates-number 10:18:26

24 ORACLE\_HQCA\_405 to 406 and then a cover sheet for a 10:18:29

25 native file ORACLE\_HQCA\_407. I'll represent to you 10:18:34

1 variable would not distinguish that experience? 10:47:06

2 A. I -- I'm confused. So are you saying there 10:47:09

3 are people that were working at -- what did you say? 10:47:15

4 Q. Like a retail store clerk, prior to coming 10:47:18

5 to Oracle. 10:47:21

6 A. That were hired at Oracle? I mean, are 10:47:22

7 there employees that are like that? 10:47:23

8 Q. Do you know? Did you study that? 10:47:25

9 A. I -- I don't know. 10:47:27

10 Q. Okay. So, fair to say that your previous 10:47:28

11 experience variable would treat two employees who 10:47:30

12 were the same age when they were hired at Oracle as 10:47:33

13 having the same prior experience, even if one of 10:47:35

14 them had been working as a retail store clerk and 10:47:38

15 one of them had been at a technology startup working 10:47:41

16 on AI? 10:47:47

17 A. Yes, but I don't think that's a realistic 10:47:48

18 example. This is -- 10:47:51

19 Q. Well, you didn't look at any -- 10:47:51

20 A. Yeah, I did not look at any. 10:47:52

21 Q. Okay. Did you look at any résumés that 10:47:53

22 were available for any of the employees that you 10:47:55

23 were studying? 10:47:58

24 A. No. 10:47:58

25 Q. Do you know if anyone at OFCCP considered 10:47:59

1 the résumés of any employee, who -- who -- whose 10:48:02  
2 information is in the data you reviewed, when making 10:48:06  
3 decisions about the statistical model in the second 10:48:09  
4 amended complaint? 10:48:11  
5 MR. MILLER: Instruct the witness not to 10:48:12  
6 answer, to the extent it reveals attorney-client 10:48:14  
7 communications or work product. 10:48:17  
8 MS. MANTOAN: Okay. 10:48:19  
9 BY MS. MANTOAN: 10:48:23  
10 Q. And if there were two individuals who were 10:48:23  
11 the same age when they were hired at Oracle, one of 10:48:25  
12 them had previously been working at a technology 10:48:28  
13 startup on cutting-edge artificial intelligence 10:48:33  
14 technology and the other one had been working at, 10:48:33  
15 say, in the IT department of a bank maintaining 10:48:36  
16 legacy systems, your prior experience variable would 10:48:39  
17 treat those two employees the same, correct? 10:48:43  
18 A. Yes. 10:48:46  
19 Q. When you controlled for full-time and 10:48:53  
20 part-time status, did you just use a -- a dummy 10:48:54  
21 variable or did you attempt to account for the -- 10:48:57  
22 the extent to which someone is part time, in other 10:49:00  
23 words, whether they're a 70-percent or a 50-percent 10:49:04  
24 employee? 10:49:06  
25 A. Dummy variable. 10:49:07

1 We are going off the record. 10:51:22

2 (Short recess was taken from 10:51 a.m. 10:51:24

3 until 11:08 a.m.) 10:51:28

4 THE VIDEOGRAPHER: The time is 11:08. 11:08:03

5 We're back on the record. 11:08:11

6 BY MS. MANTOAN: 11:08:12

7 Q. Welcome back, Dr. Brunetti. 11:08:13

8 So earlier I asked you a series of 11:08:15

9 questions about what facts OFCCP considered. And 11:08:17

10 there were a series of instructions. I -- I want to 11:08:20

11 ask a similar line of questions, but about just 11:08:23

12 what -- whether you reviewed certain information 11:08:25

13 when constructing the statistical models. 11:08:29

14 So, did you review any of the narrative 11:08:31

15 text of any performance evaluations for any employee 11:08:35

16 at Oracle? 11:08:38

17 MR. MILLER: I'm going to instruct the 11:08:40

18 witness not to answer. He's here as the agency's 11:08:42

19 designee under 30(b)(6) and is not available to 11:08:45

20 testify in his personal capacity because any work he 11:08:45

21 did do for us was as a consulting expert and thus, 11:08:50

22 therefore, completely bounds -- bounds the 11:08:52

23 discovery. 11:08:55

24 MS. MANTOAN: Okay. I -- so for the 11:08:55

25 record, we disagree with that position because 11:08:59

1 the -- he's not a consulting expert once his work is 11:09:01  
2 made the -- the foundation for the operative 11:09:04  
3 complaint in this case. So we do believe that fact 11:09:06  
4 witness questions are -- are appropriate and we're 11:09:10  
5 going to hold the deposition open for this, among 11:09:11  
6 other issues. 11:09:13  
7 For the record, though, I -- I do want to 11:09:16  
8 ask a series of -- of questions and it may be that 11:09:18  
9 you instruct on all of them, but I would -- I would 11:09:21  
10 like to ask those questions. 11:09:24  
11 MR. MILLER: As before, I'll give the 11:09:26  
12 instruction not to answer, but in a shortened form, 11:09:29  
13 so it doesn't take up as much of our time. 11:09:31  
14 MS. MANTOAN: Okay. 11:09:33  
15 BY MS. MANTOAN: 11:09:33  
16 **Q. Dr. Brunetti, did you review any of the** 11:09:34  
17 **written promotion justifications for any employee at** 11:09:34  
18 **Oracle?** 11:09:37  
19 MR. MILLER: I'm instructing the witness 11:09:37  
20 not to answer. He's a 30(b)(6) designee and is not 11:09:38  
21 available in his individual capacity. 11:09:41  
22 BY MS. MANTOAN: 11:09:43  
23 **Q. Did you review any of the specific job** 11:09:43  
24 **postings or requisitions for any particular job** 11:09:46  
25 **opening for any position at Oracle?** 11:09:49



1 BY MS. MANTOAN: 11:10:40

2 Q. Did you review any information about the 11:10:40

3 products and services that Oracle provides? 11:10:42

4 MR. MILLER: I'm going to instruct the 11:10:45

5 witness not to answer. He's a 30(b)(6) designee and 11:10:47

6 not available in his individual capacity. 11:10:50

7 BY MS. MANTOAN: 11:10:51

8 Q. Did you review any information on how, if 11:10:52

9 at all, the work needed to develop those different 11:10:53

10 products and services differs? 11:10:57

11 MR. MILLER: I'm going to instruct the 11:10:58

12 witness not to answer. He's here as a 30(b)(6) 11:11:00

13 designee and is not available in his individual 11:11:03

14 capacity. 11:11:06

15 BY MS. MANTOAN: 11:11:06

16 Q. Did you review any interviews or other 11:11:06

17 statements from any Oracle employees to inform the 11:11:10

18 statistical models you were generating? 11:11:16

19 MR. MILLER: I'm going to instruct the 11:11:17

20 witness not to answer. He's here as a 30(b)(6) 11:11:19

21 designee and is not available in his individual 11:11:21

22 capacity. 11:11:23

23 BY MS. MANTOAN: 11:11:24

24 Q. Do you know anything about -- sorry, do you 11:11:24

25 know how many products Oracle makes? 11:11:27

1                   MR. MILLER: I'm going to instruct the                   11:11:28  
2 witness not to answer. He's here as a 30(b)(6)                   11:11:30  
3 designee and not available in his individual                   11:11:33  
4 capacity.                   11:11:35  
5                   MS. MANTOAN: So your position is just                   11:11:35  
6 whether he knows something about Oracle is a                   11:11:36  
7 question that is somehow protected by the privilege?                   11:11:39  
8 Wouldn't the most -- the most that an instruction                   11:11:43  
9 would be proper, would be if you learned, you know,                   11:11:45  
10 something more limited, but just asking if he knows                   11:11:47  
11 a piece of information, whether a certain fact is                   11:11:49  
12 known to him, you're contending is privileged?                   11:11:51  
13                   MR. MILLER: Well, yes, because he's here                   11:11:54  
14 under a 30(b)(6) notice of deposition to be our                   11:11:55  
15 designee to testify about statistical and regression                   11:11:58  
16 analyses to support the second amended complaint.                   11:12:01  
17 His personal knowledge about various facts about                   11:12:03  
18 Oracle is not at issue here and, in fact, to the                   11:12:05  
19 extent he gained any of that personal knowledge                   11:12:08  
20 based on work he did at our direction not related to                   11:12:13  
21 the --                   11:12:13  
22                   THE REPORTER: I need you to slow down.                   11:12:13  
23 Based on work --                   11:12:13  
24                   MR. MILLER: Based on work he did at our                   11:12:13  
25 direction, not for the purpose of the second amended                   11:12:17

1 complaint's statistical or regression analyses, that 11:12:20  
2 information is not available because he would be a 11:12:22  
3 consulting expert and, therefore, outside the bounds 11:12:24  
4 of discovery. 11:12:27  
5 BY MS. MANTOAN: 11:12:28  
6 Q. What does OFCCP know about the products and 11:12:29  
7 services that Oracle makes? 11:12:32  
8 MR. MILLER: Objection. As we talked about 11:12:33  
9 in the beginning, he's not here to give all 11:12:35  
10 supporting facts. He's here to talk about the 11:12:37  
11 statistical analysis. 11:12:39  
12 BY MS. MANTOAN: 11:12:45  
13 Q. What facts does OFCCP know about the 11:12:45  
14 products and services that Oracle makes that were 11:12:49  
15 considered in making choices about the statistical 11:12:52  
16 model in the second amended complaint? 11:12:57  
17 MR. MILLER: I'm going to instruct the 11:12:59  
18 witness not to answer as it would reveal 11:13:01  
19 attorney-client communications or work product. 11:13:06  
20 BY MS. MANTOAN: 11:13:06  
21 Q. What facts does OFCCP know about the 11:13:07  
22 specific work that any individual employee at Oracle 11:13:11  
23 does that were considered in making choices about 11:13:13  
24 the statistical model in the second amended 11:13:17  
25 complaint? 11:13:17



1 because it's about the facts, not about the 11:14:37  
2 statistical analysis. 11:14:37  
3 MS. MANTOAN: The statistical analysis -- 11:14:39  
4 is it your position that the statistical analysis 11:14:39  
5 was untethered to any factual support? And clearly, 11:14:42  
6 the order is intended to allow us to inquire about 11:14:42  
7 the factual support for the statistical analysis. 11:14:45  
8 So is it your position that no information about any 11:14:48  
9 Oracle compensation policies provided any factual 11:14:52  
10 support for any of the statistical work? 11:14:55  
11 MR. MILLER: In the context of the 11:14:58  
12 statistical analysis, our position is that that 11:15:00  
13 stuff all would have been considered and reviewed by 11:15:02  
14 attorneys and then there was a position made about 11:15:05  
15 what parts to use and what parts were important -- 11:15:05  
16 THE REPORTER: I need you to slow down 11:15:05  
17 and -- 11:15:05  
18 MR. MILLER: Okay. Sorry. 11:15:05  
19 The -- our position is that those kinds of 11:15:10  
20 policies and all of the other things that might have 11:15:12  
21 been reviewed and considered, were reviewed and 11:15:15  
22 considered by attorneys and, therefore, whatever 11:15:17  
23 happened there was attorney work product. 11:15:19  
24 If you want to know about all of the 11:15:22  
25 policies and compensation -- compensation policies 11:15:24

1 and data that was -- that underlies this paragraph, 11:15:27  
2 we've offered another deponent for that. If you 11:15:32  
3 want to ask about how the statistical analysis was 11:15:34  
4 done, that's what Dr. Brunetti is here for. 11:15:36  
5 MS. MANTOAN: So your second witness will 11:15:39  
6 be prepared to talk about how compensation policies 11:15:42  
7 impacted the -- the choices made about the 11:15:44  
8 statistical model and what groupings to use and what 11:15:48  
9 controls to use. Is that what you're saying? 11:15:50  
10 MR. MILLER: Well, again, the second 11:15:51  
11 witness will be able to talk about the compensation 11:15:53  
12 policies, but they're not going to be able to tell 11:15:55  
13 you how they were selected because that, again, is 11:15:58  
14 privileged. 11:16:01  
15 MS. MANTOAN: So I disagree completely with 11:16:01  
16 you about what the Court has already ordered OFCCP 11:16:10  
17 to provide, but I suppose we will -- we will hash 11:16:13  
18 that out in another form. 11:16:17  
19 BY MS. MANTOAN: 11:16:19  
20 **Q. Dr. Brunetti, if we could look back at the** 11:16:20  
21 **second amended complaint and now moving to Paragraph** 11:16:23  
22 **14.** 11:16:31  
23 A. Okay. 11:16:31  
24 **Q. It says, "OFCCP's regression analysis for** 11:16:32  
25 **female employees based on the data and information** 11:16:36



1     in here. 11:31:43

2             MR. MILLER: Right, but that requires 11:31:43

3     whether or not it was discussed with the solicitor's 11:31:45

4     office and then what I -- what they made of it -- 11:31:48

5     what we made of it, so -- 11:31:49

6             MS. MANTOAN: It doesn't require that. It 11:31:51

7     requires knowing what Point A was and what Point B 11:31:53

8     was and if they're the same. 11:31:57

9             MR. MILLER: Well, the instruction stands. 11:31:58

10            MS. MANTOAN: Okay. I just want to be 11:32:00

11    clear that the question was not asking for any 11:32:01

12    communications. 11:32:08

13    BY MS. MANTOAN: 11:32:09

14            **Q. When you said in Paragraph 14, if I** 11:32:09

15    **understood you correctly, you basically said you** 11:32:11

16    **used a different way of computing the average pay of** 11:32:15

17    **employees when you found the average pay that you** 11:32:19

18    **were going to use to then generate damages than was** 11:32:21

19    **used to -- to generate the average wage loss that's** 11:32:25

20    **in -- actually in the table, correct?** 11:32:29

21            A. This average wage loss combines male and 11:32:29

22    female pay. 11:32:33

23            **Q. Right.** 11:32:34

24            A. So it's -- the average wage loss that I did 11:32:34

25    to calculate the 165 million was based on male pay. 11:32:37



1                   MR. MILLER: I'm going to instruct -- I'm                   11:35:52  
2 going to instruct the witness not to answer as it                   11:35:52  
3 may reveal attorney-client communications or                   11:35:52  
4 attorney work product.                   11:35:55  
5 BY MS. MANTOAN:                   11:35:57  
6           **Q. Did OFCCP make any determination that**                   11:36:06  
7 **somehow base compensation was a relevant measure**                   11:36:08  
8 **of -- of pay to use when assessing black and**                   11:36:11  
9 **African-American employees, but somehow not a**                   11:36:15  
10 **relevant measure when evaluating Asian employees or**                   11:36:18  
11 **female employees?**                   11:36:21  
12                   MR. MILLER: I'm going to instruct the                   11:36:22  
13 witness not to answer as it would reveal                   11:36:22  
14 attorney-client communications or attorney work                   11:36:22  
15 product.                   11:36:24  
16 BY MS. MANTOAN:                   11:36:24  
17           **Q. If we could move to Paragraph 17. Oh, I'm**                   11:36:35  
18 **sorry, just back on 16 and the -- were -- were you**                   11:36:38  
19 **instructed to -- to generate results for**                   11:36:43  
20 **African-American employees only for years 2015 and**                   11:36:46  
21 **2016?**                   11:36:51  
22           A. No.                   11:36:52  
23           **Q. Did you generate results for other years?**                   11:36:53  
24           A. Yes.                   11:36:57  
25           **Q. Okay. And with respect to the chart**                   11:36:58

1 amended complaint. If you could come back to that, 01:03:42  
2 please. 01:03:43  
3 I wanted to -- to back up a little bit and 01:03:47  
4 go back to Paragraph 12. So the first -- first 01:03:50  
5 sentence in Paragraph 12 reads: "Since at least 01:04:00  
6 January 1st, 2013, Oracle discriminated against 01:04:04  
7 qualified female employees in its product 01:04:07  
8 development, information technology, and support job 01:04:11  
9 functions at HQCA based upon sex by paying them less 01:04:14  
10 than comparable males employed in similar roles." 01:04:22  
11 Did I read that correctly? 01:04:27  
12 A. I believe so. 01:04:28  
13 Q. Did the statistical work that you did -- 01:04:29  
14 how, if at all, does the statistical work that you 01:04:32  
15 did take account of whether female employees are 01:04:34  
16 qualified within the meaning of this paragraph? 01:04:37  
17 MR. MILLER: I'm going to instruct the 01:04:44  
18 witness not to answer 'cause that would reveal 01:04:46  
19 attorney-client communications or work product. 01:04:48  
20 BY MS. MANTOAN: 01:04:52  
21 Q. What facts did OFCCP consider in 01:04:54  
22 determining which females were qualified, within the 01:04:56  
23 meaning of this paragraph, for purposes of its 01:05:01  
24 statistical analysis? 01:05:04  
25 MR. MILLER: So I'm going to instruct the 01:05:04

1 witness not to answer on the ground that it would 01:05:06  
2 reveal attorney-client communication and work 01:05:08  
3 product information, but I do think I should clarify 01:05:11  
4 that all of those things actually considered show up 01:05:15  
5 in that .do file or are part of his testimony today. 01:05:17  
6 The instruction I'm giving is related to other 01:05:20  
7 things that may have been considered and discarded 01:05:23  
8 and were not included. 01:05:25  
9 BY MS. MANTOAN: 01:05:27  
10 Q. So what, in the analysis that you ran, 01:05:27  
11 distinguishes qualified from not qualified 01:05:29  
12 employees? 01:05:33  
13 A. Prior experience, time in company, the -- 01:05:33  
14 yeah, that's -- that's it. 01:05:56  
15 Q. And both of those, in different ways, just 01:05:56  
16 come down to counts of time? 01:06:00  
17 A. Experience, yeah. 01:06:02  
18 Q. Experience defined by time spent either at 01:06:03  
19 Oracle or time spent on planet earth prior to coming 01:06:06  
20 to work at Oracle, correct? 01:06:12  
21 A. Yeah -- yes. 01:06:13  
22 Q. So they're -- they're quantitative 01:06:15  
23 measures, they're not qualitative measures of the -- 01:06:17  
24 of the nature of the experience, correct? 01:06:19  
25 A. True. 01:06:22



1 (Short recess was taken from 1:38 p.m. 01:38:55  
2 until 1:47 p.m.) 01:38:56  
3 THE VIDEOGRAPHER: The time is 1:47. 01:47:20  
4 We're back on the record. 01:47:29  
5 BY MS. MANTOAN: 01:47:31  
6 Q. Dr. Brunetti, what facts support using job 01:47:34  
7 title as a way to define similar employees at 01:47:38  
8 Oracle? 01:47:44  
9 MR. MILLER: Dr. Brunetti has not been 01:47:45  
10 prepared to testify about the facts supporting using 01:47:47  
11 individual factors. He's here to testify about the 01:47:51  
12 statistics for the regression analysis. 01:47:54  
13 MS. MANTOAN: So I guess I just want to be 01:47:55  
14 clear about this on the record. You're going to 01:47:55  
15 produce a different witness that I can ask that 01:47:56  
16 question to who will answer it? 01:47:59  
17 MR. MILLER: They will answer questions 01:48:00  
18 about the facts that support the claim that are 01:48:02  
19 not -- or at the second amended complaint that are 01:48:04  
20 not the statistical analysis. 01:48:05  
21 MS. MANTOAN: Well, this is the fact about 01:48:06  
22 using a particular control in this statistical 01:48:08  
23 model, so I just want to be clear that you're going 01:48:12  
24 to produce another witness who would answer the 01:48:14  
25 question that I just posed. 01:48:16

1           MR. MILLER: Well, as you just phrased it           01:48:18  
2           there, maybe not because now you're talking about an           01:48:20  
3           attorney assessment about what factors matter or           01:48:23  
4           which ones to use and those are not going to be           01:48:26  
5           produced.           01:48:28  
6           MS. MANTOAN: So it's not an assessment.           01:48:29  
7           It's about the facts that were considered or used in           01:48:31  
8           determining whether job title is the appropriate way           01:48:36  
9           to define similar employees at Oracle.           01:48:40  
10           MR. MILLER: Determining whether it's           01:48:42  
11           appropriate is attorney work product.           01:48:44  
12           MS. MANTOAN: So the objection is not that           01:48:46  
13           he's not the right witness. Your objection is now           01:48:48  
14           I'm never going to produce a witness to answer that.           01:48:51  
15           Is that correct?           01:48:53  
16           MR. MILLER: My statement is that as to the           01:48:53  
17           way you phrased just now, that's attorney work, it's           01:48:56  
18           attorney work product so we're not going to testify           01:48:59  
19           about that. If what you want is somebody who can           01:49:00  
20           testify about the facts that support these           01:49:01  
21           paragraphs that are not related to the statistical           01:49:05  
22           analysis or the regression, there's somebody else           01:49:07  
23           that we've offered for that.           01:49:09  
24           MS. MANTOAN: Okay.           01:49:11  
25           ///

1 BY MS. MANTOAN: 01:49:15

2 Q. What facts support treating every employee 01:49:15

3 who works in the same job title at Oracle as 01:49:17

4 performing similar work? 01:49:21

5 MR. MILLER: Again, I'm going to instruct 01:49:22

6 the witness not to answer because that would reveal 01:49:24

7 attorney-client communications or work product. 01:49:27

8 BY MS. MANTOAN: 01:49:44

9 Q. Okay. If we could go back to Paragraph 22, 01:49:45

10 Dr. Brunetti. So this is an analysis of starting 01:49:48

11 pay, I believe you said, correct? 01:49:55

12 A. Yes. 01:49:57

13 Q. And it's describing a starting -- an 01:49:58

14 analysis of starting pay, meaning starting base 01:50:01

15 salary, correct? 01:50:04

16 A. Yes. 01:50:05

17 Q. Okay. Is there a control for job title in 01:50:05

18 this starting pay model? 01:50:09

19 A. No. 01:50:11

20 Q. Okay. And were you instructed by 01:50:17

21 Mr. Miller on the set of factors to use with that 01:50:21

22 set not including job title? 01:50:26

23 A. He was the one who determined what I should 01:50:28

24 control for in the regression. 01:50:31

25 Q. And so then implicitly, he was deciding 01:50:33

1 what you should not control for, correct? 01:50:37

2 A. Yep. 01:50:39

3 Q. Okay. So he decided you should not control 01:50:39

4 for job title in this regression, correct? 01:50:43

5 A. Yes. 01:50:45

6 Q. Do you ever consider whether you should 01:50:46

7 include job title in this regression? 01:50:50

8 MR. MILLER: Instruct the witness not to 01:50:52

9 answer. He's here in a 30(b)(6) capacity and he's 01:50:55

10 not available as a percipient witness in this 01:50:59

11 matter. 01:51:02

12 BY MS. MANTOAN: 01:51:03

13 Q. What facts did OFCCP consider when it made 01:51:04

14 the choice to control for global career level only 01:51:07

15 and not job title in this statistical model 01:51:11

16 described in Paragraph 22? 01:51:16

17 MR. MILLER: I'm going to instruct the 01:51:17

18 witness not to answer as it may reveal 01:51:17

19 attorney-client communications or work product. 01:51:20

20 BY MS. MANTOAN: 01:51:21

21 Q. So if we move to paragraphs 20 -- well, 01:51:30

22 okay. Sorry. Paragraph 22 describes a model by 01:51:33

23 which you tested starting pay outcomes for Asians 01:51:38

24 and for women; is that correct? 01:51:41

25 A. Sorry. Let me read this right now. 01:51:42

1 question? 02:05:51

2 A. Yes. 02:05:52

3 Q. Okay. Is there any control in this 02:05:53

4 analysis for job title? 02:05:55

5 A. No. 02:05:59

6 Q. Is there any control in this analysis for 02:06:03

7 career level? 02:06:06

8 A. No. 02:06:08

9 Q. What facts did OFCCP consider when making 02:06:11

10 the choice about whether or not to include job title 02:06:18

11 in the analysis described in Paragraph 25? 02:06:21

12 MR. MILLER: I'm going to instruct the 02:06:24

13 witness not to answer as it may reveal 02:06:24

14 attorney-client communications or work product. 02:06:26

15 BY MS. MANTOAN: 02:06:29

16 Q. What facts did OFCCP consider when making 02:06:31

17 the choice about whether or not to include global 02:06:33

18 career level in the analysis described in 02:06:36

19 Paragraph 25? 02:06:38

20 MR. MILLER: I'm going to instruct the 02:06:38

21 witness not to answer as it may reveal 02:06:38

22 attorney-client communications or work product. 02:06:40

23 BY MS. MANTOAN: 02:06:50

24 Q. So, earlier in this paragraph, I'm going to 02:06:54

25 start, like, with that sentence that starts "There 02:07:04

1 is -- that is." I'm going to read that sentence and 02:07:06  
2 then ask you a question about the relationship of 02:07:08  
3 the statistical model to the sentence. 02:07:11  
4 "That is, Oracle suppressed the pay of 02:07:14  
5 female and Asian employees by ensuring they remained 02:07:17  
6 in lower paid positions relative to other employees 02:07:20  
7 or at the lower end of the pay range relative to 02:07:24  
8 other employees in the same positions." 02:07:28  
9 So my question is: What controls in the 02:07:32  
10 analysis that you ran here are used to group 02:07:33  
11 together employees who are in the same position? 02:07:35  
12 MR. MILLER: I'm going to instruct the 02:07:41  
13 witness not to answer that as it may reveal work 02:07:41  
14 product or attorney-client communications. 02:07:43  
15 MS. MANTOAN: This is just what factors in 02:07:47  
16 that model do that grouping. 02:07:49  
17 MR. MILLER: Again, that's a legal 02:07:52  
18 conclusion about how that would work, one that was 02:07:53  
19 made by attorneys. 02:07:55  
20 BY MS. MANTOAN: 02:07:57  
21 Q. What controls are in this model that 02:08:03  
22 describe the type of work that different employees 02:08:05  
23 perform? 02:08:08  
24 A. Well -- well, it's by product development. 02:08:15  
25 I think that's -- that's it. 02:08:26

1 Q. Okay. Did OFCCP attempt to follow 02:50:23  
2 Directive 2018-05 in constructing the statistical 02:50:24  
3 model in the second amended complaint? 02:50:29  
4 MR. MILLER: So I'm going to instruct the 02:50:30  
5 witness not to answer that question as it would 02:50:30  
6 reveal attorney work product or attorney work 02:50:32  
7 product -- or attorney-client communications. 02:50:36  
8 MS. MANTOAN: Okay. So what -- you're 02:50:39  
9 instructing the witness not to answer whether the 02:50:41  
10 agency attempted to follow its own directives in 02:50:45  
11 constructing the complaint? 02:50:48  
12 MR. MILLER: That's right. That's right. 02:50:51  
13 MS. MANTOAN: Okay. So I do want to take 02:51:06  
14 time, since we're here, to -- and there have been -- 02:51:08  
15 there was just an instruction not to answer. There 02:51:11  
16 have been instructions not to answer throughout the 02:51:14  
17 day, just to meet and confer on the record about 02:51:16  
18 those objections. I think I identified earlier the 02:51:19  
19 specific passages of the order that I think permit 02:51:22  
20 the questioning that I was doing that you were 02:51:24  
21 instructing the witness not to answer, just so that 02:51:28  
22 those are on the record. 02:51:33  
23 Those are that OFCCP may not withhold the 02:51:36  
24 factual basis for the statistical model, including 02:51:39  
25 the decisions about what factors to deem relevant or 02:51:42

1 to control for. I'm on page 17 of at least one 02:51:47  
2 version of the -- of the order. On that same page, 02:51:50  
3 the order says, "OFCCP may not withhold answers to 02:51:52  
4 what facts its attorneys and statisticians 02:51:56  
5 considered when they made choices about the 02:51:59  
6 statistical model." 02:52:01  
7 On page 12 of that same order earlier, the 02:52:02  
8 Court notes, "An attorney can be a fact witness and 02:52:04  
9 offer evidence without breaching any privileges." 02:52:07  
10 And the Court continues: "OFCCP may need to educate 02:52:10  
11 its statisticians and/or investigators so they are 02:52:13  
12 able to provide the basic factual information about 02:52:17  
13 what OFCCP considered and answer questions about the 02:52:20  
14 statistical model it relied on in the SAC." 02:52:24  
15 So those are the reasons why I believe that 02:52:28  
16 the questions that I posed about facts considered 02:52:30  
17 are appropriate. Are there specific parts of that 02:52:34  
18 order that you believe dictate something else or are 02:52:36  
19 there reasons why you don't believe that those parts 02:52:39  
20 of the order say what I read them to say? 02:52:41  
21 MR. MILLER: So I don't think this is 02:52:43  
22 related to the deposition and I'm not clear how we 02:52:45  
23 can have a meet and confer with an issue you've 02:52:47  
24 raised to me today on the record during a 02:52:50  
25 deposition. So that strikes me as strange, Katie. 02:52:52

1           The other thing is, I told you that I --           02:52:55  
2   our reading of the order does not permit you to get           02:53:00  
3   into the whys of the selection. The whys of the           02:53:03  
4   individual factors, all of those kinds of things,           02:53:07  
5   and those questions go squarely to the why.           02:53:10  
6           So, you know, I -- we are certainly happy           02:53:14  
7   to meet and confer about this, but the purpose of           02:53:16  
8   the meet and confer, as I understand the judge's           02:53:18  
9   order, is for us to attempt to have an informal           02:53:22  
10 resolution in these disputes before they rise to the           02:53:22  
11 level of motions practice. And I don't think on the           02:53:24  
12 record with a court reporter is the way to have           02:53:27  
13 those informal conversations. So we're happy to           02:53:28  
14 talk to you about it. If you want to -- if you want           02:53:31  
15 to write me some correspondence about it, we can set           02:53:32  
16 up some time to talk, but I don't think we can           02:53:35  
17 adequately meet and confer on the record at a           02:53:38  
18 deposition.           02:53:40  
19           MS. MANTOAN: Okay. Well, I'll just say           02:53:41  
20 it's clear that you had given some thought to this           02:53:42  
21 issue prior to the deposition because you came in           02:53:45  
22 ready to make certain objections and to argue a           02:53:46  
23 certain position with respect to what the order           02:53:49  
24 complies, and I feel like I've made our positions           02:53:52  
25 clear, made the record clear.           02:53:54

1           And we also spent some time talking off the           02:53:58  
2 record earlier about this exact issue, so the -- we           02:54:01  
3 had additional conversations about the -- the -- the           02:54:04  
4 privilege issue and the proprietary of the questions           02:54:08  
5 I was asking.           02:54:10  
6           So with that, I'm going to say I have no           02:54:12  
7 further questions for Dr. Brunetti today, but I am           02:54:16  
8 keeping the deposition open for all of the reasons           02:54:18  
9 that I specified earlier on the record. In           02:54:21  
10 addition, I think there were a few questions where I           02:54:26  
11 asked certain information about OFCCP, what it knew,           02:54:28  
12 what it did, and there was no objection, but           02:54:30  
13 Dr. Brunetti just said that he didn't know and I           02:54:35  
14 think, as a 30(b)(6) he had an obligation to provide           02:54:36  
15 and come to the deposition educated about certain           02:54:40  
16 things with respect to the agency at large, not just           02:54:42  
17 his particular knowledge. So I'm also going to keep           02:54:46  
18 the deposition open to potentially need to ask           02:54:48  
19 additional questions about that.           02:54:52  
20           And I -- I think, also, with respect to           02:54:54  
21 the, you know, log files, potentially correspondence           02:54:58  
22 that directs the -- provides the instructions that           02:55:02  
23 he was given in conducting the statistical model,           02:55:05  
24 it's possible some of those documents that we           02:55:08  
25 discussed at the deposition would probably warrant           02:55:11

1 I, the undersigned, a Certified Shorthand  
2 Reporter of the State of California, do hereby  
3 certify:

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

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

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

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

21  
22 Dated: July 22nd, 2019



23 \_\_\_\_\_  
24 MONICA LEPE-GEORG, No. 11976  
25

# EXHIBIT C



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July 17, 2019

***Via E-Mail***

Jeremiah Miller  
Counsel for Civil Rights  
U.S. Department of Labor, Office of the Solicitor  
300 Fifth Avenue, Suite 1120  
Seattle, WA 98104

Re: OFCCP v. Oracle; OALJ Case No. 2017-OFC-00006  
Deposition of Michael Brunetti, Ph.D. (OFCCP 30(b)(6) witness)

Dear Mr. Miller:

Today Oracle deposed Dr. Michael Brunetti, OFCCP's statistician responsible for performing the statistical analysis used in OFCCP's Second Amended Complaint ("SAC"). OFCCP produced Dr. Brunetti as the agency's witness most knowledgeable on the statistical analyses implicated by Topic Nos. 1-21, pursuant to the Court's July 1, 2019 Order Granting Defendant Oracle's Motion to Compel Plaintiff OFCCP to Designate and Produce 30(b)(6) Witness.

As you know, during the deposition Oracle raised concerns in response to OFCCP's repeated instructions that Dr. Brunetti not answer questions directly within the scope of the Court's July 1, 2019 Order. For example, OFCCP directed Dr. Brunetti not answer a series of questions related to "facts [OFCCP] considered when it made choices about how to construct the statistical model," and questions seeking facts supporting other aspects of the statistical analyses – such as "treating every employee who works in the same job title at Oracle as performing similar work" – asserting that such information is protected as attorney-client communications and work product.

OFCCP similarly instructed the witness not to answer related questions in his personal capacity, separate from what he may have discussed with the Solicitor's Office, although he is the person that actually did the statistical analysis and could answer the questions based on that fact.

The parties conferred multiple times both on and off the record regarding these issues.

///

///



Jeremiah Miller  
July 17, 2019  
Page 2

While Oracle does not believe that further meet and confer on OFCCP's series of objections and instructions is required given the clear language of the Court's July 1, 2019 Order, I am available to discuss on Friday. Otherwise, Oracle will promptly file another motion compel and seek all available relief.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kathryn G. Mantoan". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Kathryn G. Mantoan

**From:** [Mantoan, Kathryn G.](#)  
**To:** [Flores, Jessica - SOL SAN](#); [Garcia, Norman - SOL](#)  
**Cc:** [Miller, Jeremiah - SOL](#); [Bremer, Laura - SOL](#); [Song, Charles C - SOL](#); [Daquiz, Abigail - SOL](#); [Pilotin, Marc A - SOL](#); [Siniscalco, Gary R.](#); [Connell, Erin M.](#); [Parker, Warrington](#); [Grundy, Kayla Delgado](#); [James, Jessica R. L.](#); [Kaddah, Jacqueline D.](#); [Parekh, Nisha - SOL](#); [Santos, Martin C - SOL](#)  
**Subject:** RE: OFCCP v. Oracle, Case No. 2017-OFC-00006  
**Date:** Monday, July 29, 2019 10:24:55 AM  
**Attachments:** [image002.png](#)

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Hello Jessica:

Thank you for your e-mail. However, as OFCCP is aware, the Court has plainly ordered “it is proper to inquire into *what* factual basis was considered, *what* instructions were given as to the econometric model, and *how* that model is supposed to work.” July 1 Order at 15. Oracle is entitled to depose OFCCP on this information, regardless of OFCCP’s interrogatory responses or the exchange of expert reports. The law is also well-settled that Oracle is entitled to information known by an FRCP 30(b)(6) witness in his or her individual capacity; indeed, OFCCP has questioned Oracle’s FRCP 30(b)(6) witnesses in this manner.

Oracle has more than met its obligation to meet and confer on these issues, including on and off the record at Dr. Brunetti’s deposition, in my July 17 letter, twice by phone last week, and in multiple emails. Last Monday, Oracle provided OFCCP an exhaustive list (identified by page-line numbers) of the questions on which it intended to move. Our position has not changed. OFCCP represented it would respond by Thursday to confirm whether OFCCP would answer the questions, whether its August 14th witness would be prepared to answer the questions, or if the parties were at an impasse. Instead, on Friday afternoon, OFCCP responded with questions related to a handful of deposition questions and without any agreement to solutions discussed. As discussed on last Monday’s call, Oracle simply does not have time to prolong this discussion; accordingly, we will interpret OFCCP’s refusal to provide a substantive response as an impasse.

Thank you,  
Katie

**Kathryn G. Mantoan**

Attorney

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---

**From:** Flores, Jessica - SOL SAN <Flores.Jessica@dol.gov>

**Sent:** Friday, July 26, 2019 3:46 PM

**To:** Mantoan, Kathryn G. <kmantoan@orrick.com>; Garcia, Norman - SOL <Garcia.Norman@DOL.GOV>

**Cc:** Miller, Jeremiah - SOL <Miller.Jeremiah@dol.gov>; Bremer, Laura - SOL <Bremer.Laura@dol.gov>; Song, Charles C - SOL <Song.Charles.C@dol.gov>; Daquiz, Abigail - SOL <Daquiz.Abigail@dol.gov>; Pilotin, Marc A - SOL <Pilotin.Marc.A@DOL.GOV>; Siniscalco, Gary R. <grsiniscalco@orrick.com>; Connell, Erin M. <econnell@orrick.com>; Parker, Warrington <wparker@orrick.com>; Grundy, Kayla Delgado <kgrundy@orrick.com>; James, Jessica R. L. <Jessica.james@orrick.com>; Kaddah, Jacqueline D. <jkaddah@orrick.com>; Parekh, Nisha - SOL <Parekh.Nisha@DOL.GOV>; Santos, Martin C - SOL <santos.martin.c@DOL.gov>

**Subject:** Re: OFCCP v. Oracle, Case No. 2017-OFC-00006

Dear Katie,

After reviewing the rough draft testimony we discussed, I need to clarify some information with you.

1. **Clarify the number of challenged questions**

I was able to access the final version of the transcript and want to confirm that the questions discussed on Monday are the challenged questions. I compared the rough transcript to the final transcript and found 13 different questions under "Unanswered Questions." It is possible that you are not challenging some of these because they more blatantly get into the *why's* of the statistical model. For example, page 91, line 7, "Why construct a model with separate controls for global career level, job specialty, and standard job title, if standard job title just subsumes those other two variables?"

***Can you please confirm the challenged questions?***

Confirming the questions will also clarify the number of questions Oracle is challenging. Since you listed citations over the phone, I want to make sure I correctly have the "buckets" (as you put it) of questions. I have a total of 45 challenged questions. Is that correct?

- 1st Bucket (of challenged questions): 26 Questions regarding what was considered for the models
- 2nd Bucket: 4 Questions - I forgot how you described this section, can you please let me know?
- 3rd Bucket: 12 Questions asked in Dr. Brunetti's personal capacity
- 4th Bucket: 3 Miscellaneous questions

2. **Clarify Oracle's position for Bucket #1 questions**

I want to make sure we have Oracle's position for the questions in Bucket #1. The Court's July 1st Order states, "Oracle is entitled to inquire into what facts OFCCP discovered and considered as the basis for its complaint." p. 15.

***Is it Oracle's position that Oracle is entitled to inquire into facts that OFCCP considered but do not serve as the basis for the complaint?***

For example. If OFCCP considered controlling for Oracle employees who wear glasses as a variable affecting pay and then decided not to use this control for the model in the complaint. Are you saying that Oracle is entitled to know about OFCCP considering employees with glasses as a control even though this does not serve as the basis for the complaint?

***Is it the back and forth discussion between the Solicitor's Office and OFCCP regarding what they considered but did not use for the complaint that you are trying to learn about?***

Another example, if OFCCP considered information / controlling for people who wear glasses and contacts in preparation for mediation. And later OFCCP refined a statistical model for people who wear glasses for the complaint - is it Oracle's position that it gets to inquire about the information that is closely intertwined with previous work-product and is entitled to inquire about everything OFCCP considered but did not serve as the basis for the complaint?

I am using these simple examples to make sure we are not talking over each other when maybe we agree on what is considered attorney work-product and client communications.

### **3. Are these questions already answered?**

Before you challenge specific questions, I also want to make sure that your questions were not answered in other testimony when asked in a different format.

***Can you please confirm that these questions still need to be answered given the testimony in the final transcript?***

Oracle's Challenged Questions

- Rough Tr. 41:14 // Final Tr. 65:12
- Rough Tr. 41: 23 // Final Tr. 66:5
- Rough Tr. // Final Tr. 68:12
- Rough Tr. 116:5 // 150:1

Final Tr. 37:5

Q. So, you've told me about three, to the best of your recollection, Excel files. What other documents did you receive prior to conducting your statistical analysis?

A. I received some PowerPoints that were like pay policy documents.

Final Tr. 103:5

Q. In the same sentence in Paragraph 14, it reads: "Based on the data and information obtained thus far." I've already asked you what the word "data" is referring to there and now I'm asking what the word "information" is referring to there.

A. Yeah, so the information would be the PowerPoints, the pay policy PowerPoints that are similar to the Exhibit 3 that you had me go over.

#### **4. Clarify specific challenged questions**

Next, there are some questions that I think we should discuss over the phone or maybe you can clarify in writing.

- Rough Tr. 39:25// Final Tr. 64:7 - Do you mean hiring data? If not, which data?
- Rough Tr. 42:14// Final Tr. 66:21 - Can you please state what are the factors managers considered?
- Rough Tr. 42:23// 67:5 - Same question as above, can you please state what factors managers considered?
- Rough Tr. // Final Tr 185:9 - Can you please clarify what you mean by position?

## **5. Personal capacity questions for a witness without personal knowledge**

One thing I am unclear about is Oracle's reasoning as to why it believes it is entitled to ask Dr. Brunetti about the facts he knows about the case - and are not part of the statistical models in the complaint. I know you said you believe you get to ask him questions about the facts he learned, but can you please explain why? As we said during our discussion, Dr. Brunetti learned facts about this case from working on this litigation with the Solicitor's Office. So he is not a witness with personal knowledge about the facts in this case. Can you please provide the reasoning for asking him questions in his personal capacity?

## **6. Gathering topics for August 14 deposition**

I am gathering a list of the topics you asked Dr. Brunetti that could be directed to the witness on August 14th. I feel these topics will be ready next week. I know we flagged a couple of them during the deposition, but we'll find a way to work this out.

## **7. Did our interrogatory responses provide the information you are looking for?**

We also discussed Oracle reviewing OFCCP's interrogatory responses to examine whether the responses were sufficient to the challenged questions or maybe we can discuss possible supplements.

***After receiving testimony and responses about what is in the statistical model in the SAC and how it works, do you still need additional testimony? Did you find those interrogatory responses needed to be supplemented for the information you seek?***

## **8. Whether recent expert disclosures provide the information you seek**

Since we have exchanged expert reports, ***would you consider whether the issues we are discussing to be moot?*** I bring this up because we exchanged expert reports and they have the information and statistical models that are intended for trial. I thought it was worth an honest conversation, but understand you might not agree.

It is ultimately up to you - but I think a conversation over the phone might help since we received the new transcript and it is not clear which questions Oracle is actually challenging and Oracle's positions. I sincerely think it would be best if you can identify the questions in writing to make sure we have a complete and accurate record.

It was a pleasure talking with you, I hope you have a good weekend.

- Jessica

---

**From:** Flores, Jessica - SOL SAN <[Flores.Jessica@dol.gov](mailto:Flores.Jessica@dol.gov)>  
**Sent:** Friday, July 26, 2019 12:09:00 PM  
**To:** Mantoan, Kathryn G. <[kmantoan@orrick.com](mailto:kmantoan@orrick.com)>; Garcia, Norman - SOL <[Garcia.Norman@DOL.GOV](mailto:Garcia.Norman@DOL.GOV)>  
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**Subject:** Re: OFCCP v. Oracle, Case No. 2017-OFC-00006

Hello Katie,

I'm traveling today too (pew) but will be able to send our response as soon as I can today. Thank you for understanding.

Thank you,  
Jessica Flores

Jessica M. Flores  
U.S. Department of Labor, Office of the Solicitor  
90 7th Street, Suite 3-700  
San Francisco, CA 94103  
Tel: (415) 625-7748 | Fax: (415) 625-7772  
Pronouns: she, her, hers

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---

**From:** Mantoan, Kathryn G. <[kmantoan@orrick.com](mailto:kmantoan@orrick.com)>  
**Sent:** Friday, July 26, 2019 11:55:36 AM  
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**Subject:** Re: OFCCP v. Oracle, Case No. 2017-OFC-00006

Norm:

Jessica and I spoke yesterday and she said she would respond to us today. We look forward to that response.

Thank you,  
Katie

Sent from my iPhone

On Jul 26, 2019, at 11:53 AM, Garcia, Norman - SOL <[Garcia.Norman@dol.gov](mailto:Garcia.Norman@dol.gov)> wrote:

Katie,

There may have been some confusion about Jeremiah responding this week since he has been out of the office from Tuesday through today and will be returning on Monday. I am sure he will get back to you on Monday and that you won't mind since we faced the same situation when you were out of the office when I sent my witness question to you and I received a response more than nine days later. Again, I am sure that he will respond to you next Monday.

Have a good three-day weekend,

Norm

Norman E. Garcia  
Senior Trial Attorney  
United States Department of Labor  
90 7th Street, Rm. 3-700; SF, CA 94103 Telephone number: (415) 625-7747 Facsimile number: (415) 625-7772

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---

**From:** Mantoan, Kathryn G. <[kmantoan@orrick.com](mailto:kmantoan@orrick.com)>

**Sent:** Friday, July 26, 2019 11:44 AM

**To:** Miller, Jeremiah - SOL <[Miller.Jeremiah@dol.gov](mailto:Miller.Jeremiah@dol.gov)>; Bremer, Laura - SOL <[Bremer.Laura@dol.gov](mailto:Bremer.Laura@dol.gov)>; Garcia, Norman - SOL <[Garcia.Norman@DOL.GOV](mailto:Garcia.Norman@DOL.GOV)>; Song, Charles C - SOL <[Song.Charles.C@dol.gov](mailto:Song.Charles.C@dol.gov)>; Daquiz, Abigail - SOL <[Daquiz.Abigail@dol.gov](mailto:Daquiz.Abigail@dol.gov)>; Pilotin, Marc A - SOL <[Pilotin.Marc.A@DOL.GOV](mailto:Pilotin.Marc.A@DOL.GOV)>; Flores, Jessica - SOL SAN <[Flores.Jessica@dol.gov](mailto:Flores.Jessica@dol.gov)>

**Cc:** Siniscalco, Gary R. <[grsiniscalco@orrick.com](mailto:grsiniscalco@orrick.com)>; Connell, Erin M.

<[econnell@orrick.com](mailto:econnell@orrick.com)>; Parker, Warrington <[wparker@orrick.com](mailto:wparker@orrick.com)>; Grundy, Kayla Delgado <[kgrundy@orrick.com](mailto:kgrundy@orrick.com)>; James, Jessica R. L. <[Jessica.james@orrick.com](mailto:Jessica.james@orrick.com)>; Kaddah, Jacqueline D. <[jkaddah@orrick.com](mailto:jkaddah@orrick.com)>

**Subject:** Re: OFCCP v. Oracle, Case No. 2017-OFC-00006

Hi Jeremiah and Jessica (added to this chain):

Please respond today regarding your willingness to provide a witness to answer the FRCP 30(b)(6) questions we discussed at the deposition and in detail on Monday's meet and confer. As I am out of the office, please direct your response to this entire list.

Thank you,  
Katie

Sent from my iPhone

On Jul 25, 2019, at 3:34 PM, Mantoan, Kathryn G. <[kmantoan@orrick.com](mailto:kmantoan@orrick.com)> wrote:

Hi Jeremiah:

Will we be hearing back from you today, as discussed on Monday's meet and confer call?

Thank you,  
Katie

**Kathryn G. Mantoan**

Attorney

Orrick

San Francisco

Portland <image001.jpg>

T +1-415-773-5887

T +1-503-943-4870

[kmantoan@orrick.com](mailto:kmantoan@orrick.com)

<image002.png>

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**From:** Mantoan, Kathryn G.

**Sent:** Monday, July 22, 2019 9:49 AM

**To:** 'Miller, Jeremiah - SOL' <[Miller.Jeremiah@dol.gov](mailto:Miller.Jeremiah@dol.gov)>; 'Bremer, Laura - SOL' <[Bremer.Laura@dol.gov](mailto:Bremer.Laura@dol.gov)>; 'Garcia, Norman - SOL' <[Garcia.Norman@DOL.GOV](mailto:Garcia.Norman@DOL.GOV)>; 'Song, Charles C - SOL' <[Song.Charles.C@dol.gov](mailto:Song.Charles.C@dol.gov)>; 'Daquiz, Abigail - SOL' <[Daquiz.Abigail@dol.gov](mailto:Daquiz.Abigail@dol.gov)>; 'Pilotin, Marc A - SOL' <[Pilotin.Marc.A@DOL.GOV](mailto:Pilotin.Marc.A@DOL.GOV)>

**Cc:** Siniscalco, Gary R. <[grsiniscalco@orrick.com](mailto:grsiniscalco@orrick.com)>; Connell, Erin M. <[econnell@orrick.com](mailto:econnell@orrick.com)>; Parker, Warrington <[wparker@orrick.com](mailto:wparker@orrick.com)>; Grundy, Kayla Delgado <[kgrundy@orrick.com](mailto:kgrundy@orrick.com)>; James, Jessica R. L. <[Jessica.james@orrick.com](mailto:Jessica.james@orrick.com)>; Kaddah, Jacqueline D.

<[jkaddah@orrick.com](mailto:jkaddah@orrick.com)>

**Subject:** RE: OFCCP v. Oracle, Case No. 2017-OFC-00006

Counsel:

In the event you do not have it already, attached is the rough transcript of last Wednesday's deposition of Dr. Brunetti for reference during our 1pm PT call.

Thank you,  
Katie

---

**From:** Mantoan, Kathryn G.

**Sent:** Friday, July 19, 2019 4:06 PM

**To:** 'Miller, Jeremiah - SOL' <[Miller.Jeremiah@dol.gov](mailto:Miller.Jeremiah@dol.gov)>; Bremer, Laura - SOL <[Bremer.Laura@dol.gov](mailto:Bremer.Laura@dol.gov)>; Garcia, Norman - SOL <[Garcia.Norman@DOL.GOV](mailto:Garcia.Norman@DOL.GOV)>; Song, Charles C - SOL <[Song.Charles.C@dol.gov](mailto:Song.Charles.C@dol.gov)>; Daquiz, Abigail - SOL <[Daquiz.Abigail@dol.gov](mailto:Daquiz.Abigail@dol.gov)>; Pilotin, Marc A - SOL <[Pilotin.Marc.A@DOL.GOV](mailto:Pilotin.Marc.A@DOL.GOV)>

**Cc:** Siniscalco, Gary R. <[grsiniscalco@orrick.com](mailto:grsiniscalco@orrick.com)>; Connell, Erin M. <[econnell@orrick.com](mailto:econnell@orrick.com)>; Parker, Warrington <[wparker@orrick.com](mailto:wparker@orrick.com)>; Grundy, Kayla Delgado <[kgrundy@orrick.com](mailto:kgrundy@orrick.com)>; James, Jessica R. L. <[Jessica.james@orrick.com](mailto:Jessica.james@orrick.com)>; Kaddah, Jacqueline D. <[jkaddah@orrick.com](mailto:jkaddah@orrick.com)>

**Subject:** RE: OFCCP v. Oracle, Case No. 2017-OFC-00006

Let's use the following dial-in:



Thank you,  
Katie

---

**From:** Miller, Jeremiah - SOL <[Miller.Jeremiah@dol.gov](mailto:Miller.Jeremiah@dol.gov)>

**Sent:** Friday, July 19, 2019 3:28 PM

**To:** Mantoan, Kathryn G. <[kmantoan@orrick.com](mailto:kmantoan@orrick.com)>; Bremer, Laura - SOL <[Bremer.Laura@dol.gov](mailto:Bremer.Laura@dol.gov)>; Garcia, Norman - SOL <[Garcia.Norman@DOL.GOV](mailto:Garcia.Norman@DOL.GOV)>; Song, Charles C - SOL <[Song.Charles.C@dol.gov](mailto:Song.Charles.C@dol.gov)>; Daquiz, Abigail - SOL <[Daquiz.Abigail@dol.gov](mailto:Daquiz.Abigail@dol.gov)>; Pilotin, Marc A - SOL <[Pilotin.Marc.A@DOL.GOV](mailto:Pilotin.Marc.A@DOL.GOV)>

**Cc:** Siniscalco, Gary R. <[grsiniscalco@orrick.com](mailto:grsiniscalco@orrick.com)>; Connell, Erin M. <[econnell@orrick.com](mailto:econnell@orrick.com)>; Parker, Warrington <[wparker@orrick.com](mailto:wparker@orrick.com)>;

Grundy, Kayla Delgado <[kgrundy@orrick.com](mailto:kgrundy@orrick.com)>; James, Jessica R. L. <[Jessica.james@orrick.com](mailto:Jessica.james@orrick.com)>; Kaddah, Jacqueline D. <[jkaddah@orrick.com](mailto:jkaddah@orrick.com)>

**Subject:** RE: OFCCP v. Oracle, Case No. 2017-OFC-00006

Hi Katie,

That would work for us. What number would be best to reach you at?

Thanks,  
Jeremiah

Jeremiah Miller  
Counsel for Civil Rights  
telephone: 206-757-6757; fax: 206-757-6761

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**From:** Mantoan, Kathryn G. <[kmantoan@orrick.com](mailto:kmantoan@orrick.com)>

**Sent:** Thursday, July 18, 2019 9:13 PM

**To:** Miller, Jeremiah - SOL <[Miller.Jeremiah@dol.gov](mailto:Miller.Jeremiah@dol.gov)>; Bremer, Laura - SOL <[Bremer.Laura@dol.gov](mailto:Bremer.Laura@dol.gov)>; Garcia, Norman - SOL <[Garcia.Norman@DOL.GOV](mailto:Garcia.Norman@DOL.GOV)>; Song, Charles C - SOL <[Song.Charles.C@dol.gov](mailto:Song.Charles.C@dol.gov)>; Daquiz, Abigail - SOL <[Daquiz.Abigail@dol.gov](mailto:Daquiz.Abigail@dol.gov)>; Pilotin, Marc A - SOL <[Pilotin.Marc.A@DOL.GOV](mailto:Pilotin.Marc.A@DOL.GOV)>

**Cc:** Siniscalco, Gary R. <[grsiniscalco@orrick.com](mailto:grsiniscalco@orrick.com)>; Connell, Erin M. <[econnell@orrick.com](mailto:econnell@orrick.com)>; Parker, Warrington <[wparker@orrick.com](mailto:wparker@orrick.com)>; Grundy, Kayla Delgado <[kgrundy@orrick.com](mailto:kgrundy@orrick.com)>; James, Jessica R. L. <[Jessica.james@orrick.com](mailto:Jessica.james@orrick.com)>; Kaddah, Jacqueline D. <[jkaddah@orrick.com](mailto:jkaddah@orrick.com)>

**Subject:** RE: OFCCP v. Oracle, Case No. 2017-OFC-00006

Hi Jeremiah:

As my letter indicated, we do not believe any further meet and confer on these issues is required. Nonetheless, we are available to talk at 1pm on Monday, July 22 if that works for you.

Thank you,  
Katie

**Kathryn G. Mantoan**  
Attorney

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T +1-503-943-4870  
[kmantoan@orrick.com](mailto:kmantoan@orrick.com)

[<image002.png>](#)

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**From:** Miller, Jeremiah - SOL <[Miller.Jeremiah@dol.gov](mailto:Miller.Jeremiah@dol.gov)>  
**Sent:** Thursday, July 18, 2019 5:05 PM  
**To:** Mantoan, Kathryn G. <[kmantoan@orrick.com](mailto:kmantoan@orrick.com)>; Bremer, Laura - SOL <[Bremer.Laura@dol.gov](mailto:Bremer.Laura@dol.gov)>; Garcia, Norman - SOL <[Garcia.Norman@DOL.GOV](mailto:Garcia.Norman@DOL.GOV)>; Song, Charles C - SOL <[Song.Charles.C@dol.gov](mailto:Song.Charles.C@dol.gov)>; Daquiz, Abigail - SOL <[Daquiz.Abigail@dol.gov](mailto:Daquiz.Abigail@dol.gov)>; Pilotin, Marc A - SOL <[Pilotin.Marc.A@DOL.GOV](mailto:Pilotin.Marc.A@DOL.GOV)>  
**Cc:** Siniscalco, Gary R. <[grsiniscalco@orrick.com](mailto:grsiniscalco@orrick.com)>; Connell, Erin M. <[econnell@orrick.com](mailto:econnell@orrick.com)>; Parker, Warrington <[wparker@orrick.com](mailto:wparker@orrick.com)>; Grundy, Kayla Delgado <[kgrundy@orrick.com](mailto:kgrundy@orrick.com)>; James, Jessica R. L. <[Jessica.james@orrick.com](mailto:Jessica.james@orrick.com)>; Kaddah, Jacqueline D. <[jkaddah@orrick.com](mailto:jkaddah@orrick.com)>  
**Subject:** RE: OFCCP v. Oracle, Case No. 2017-OFC-00006

Hi Katie,

We don't believe that the parties have adequately met and conferred about this issue, particularly in light of the upcoming 30(b)(6) deposition of OFCCP regarding the factual support (other than statistical or regression analyses) for the specified paragraphs of the complaint.

We are not available to meet and confer on Friday, please let me know a time that works for you on Monday, July 22<sup>nd</sup>.

Thanks,  
Jeremiah

Jeremiah Miller  
Counsel for Civil Rights  
telephone: 206-757-6757; fax: 206-757-6761

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**From:** Mantoan, Kathryn G. <[kmantoan@orrick.com](mailto:kmantoan@orrick.com)>  
**Sent:** Wednesday, July 17, 2019 6:23 PM  
**To:** Bremer, Laura - SOL <[Bremer.Laura@dol.gov](mailto:Bremer.Laura@dol.gov)>; Miller, Jeremiah - SOL <[Miller.Jeremiah@dol.gov](mailto:Miller.Jeremiah@dol.gov)>; Garcia, Norman - SOL <[Garcia.Norman@DOL.GOV](mailto:Garcia.Norman@DOL.GOV)>; Song, Charles C - SOL <[Song.Charles.C@dol.gov](mailto:Song.Charles.C@dol.gov)>; Daquiz, Abigail - SOL <[Daquiz.Abigail@dol.gov](mailto:Daquiz.Abigail@dol.gov)>; Pilotin, Marc A - SOL <[Pilotin.Marc.A@DOL.GOV](mailto:Pilotin.Marc.A@DOL.GOV)>  
**Cc:** Siniscalco, Gary R. <[grsiniscalco@orrick.com](mailto:grsiniscalco@orrick.com)>; Connell, Erin M. <[econnell@orrick.com](mailto:econnell@orrick.com)>; Parker, Warrington <[wparker@orrick.com](mailto:wparker@orrick.com)>; Grundy, Kayla Delgado <[kgrundy@orrick.com](mailto:kgrundy@orrick.com)>; James, Jessica R. L. <[Jessica.james@orrick.com](mailto:Jessica.james@orrick.com)>; Kaddah, Jacqueline D. <[jkaddah@orrick.com](mailto:jkaddah@orrick.com)>  
**Subject:** OFCCP v. Oracle, Case No. 2017-OFC-00006

Counsel:

Please see attached correspondence.

Thank you,  
Katie

**Kathryn G. Mantoan**  
Attorney

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T +1-503-943-4870  
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<[image002.png](#)>

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