

**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.

RECEIVED

NOV 18 2019

Office of Administrative Law Judges
San Francisco, CA

OALJ Case No. 2017-OFC-00006

OFCCP No. R00192699

**DECLARATION OF LARA F.
GRAHAM IN SUPPORT OF
ORACLE AMERICA, INC.'S
MOTION TO SEAL LIMITED
PORTIONS OF EVIDENCE
SUBMITTED IN SUPPORT OF
PLAINTIFF OFCCP'S
OPPOSITION TO ORACLE'S
MOTION FOR SUMMARY
JUDGMENT AND OPPOSITION
TO ORACLE AMERICA, INC.'S
MOTION TO EXCLUDE THE
EXPERT REPORT AND
TESTIMONY OF JANICE
FANNING MADDEN, PH.D.**

I, Lara F. Graham, declare as follows:

1. I am a member of the State Bar of California and authorized to practice before this Court. I am an attorney with Orrick, Herrington & Sutcliffe LLP, attorneys of record for Defendant Oracle America, Inc. in the above-titled action. I make this declaration in support of Defendant Oracle America, Inc.'s ("Oracle") Motion to Seal ("Motion") limited portions of the materials submitted in support of Plaintiff OFCCP's Opposition to Oracle's Motion for Summary Judgment and Opposition to Oracle America, Inc.'s Motion to Exclude the Expert Report and Testimony of Janice Fanning Madden, Ph.D. (collectively, "Opposition"). The facts set forth in

DECLARATION OF LARA F. GRAHAM IN SUPPORT OF ORACLE'S MOTION TO SEAL

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CASE NO. 2017-OFC-00006

this declaration I know to be true of my own personal knowledge, except where such facts are stated to be based on information and belief, and those facts I believe to be true. If called as a witness, I could and would testify competently to the matters set forth in this declaration.

2. I met conferred with counsel for OFCCP in person on Thursday, November 14, 2019, and again telephonically on November 15, 2019 to discuss the materials Oracle seeks to seal through its Motion. The parties reviewed the materials on a redaction-by-redaction basis and the chart below details the areas of agreement and/or disagreement over Oracle’s proposed redactions.

3. I have reviewed the materials that Oracle seeks to seal in its Motion to Seal OFCCP’s Opposition. I have also reviewed the attached versions of the aforementioned documents. The attached versions include redactions covering the information that Oracle both deems confidential and seeks to seal through its motion; more specifically:

Graham MTS Decl., Ex.:	Document Name	Confidential Material	Areas of Agreement and/or Disagreement and Other Docket Locations on the Docket
A	Evidentiary Objections to Declaration of Kate Waggoner	Salary range information: p. 12	OFCCP opposes all proposed redactions.

Graham MTS Decl., Ex.:	Document Name	Confidential Material	Areas of Agreement and/or Disagreement and Other Docket Locations on the Docket
B	OFCCP's Statement of Genuine Disputes of Material Fact	<p>Confidential information related to focal budgets, salaries, and bonuses: pp. 7, 46, 101, 114-115, 118</p> <p>Confidential information regarding equity grants: pp. 35, 100, 118</p> <p>Confidential compensation and offer information for non-party job candidates: pp. 37, 175</p> <p>Confidential college recruit compensation structure information: <i>Id.</i></p> <p>Compensation information of non-party employees: p. 115</p> <p>Identifying information of non-party job candidates, including names: pp. 37, 43, 120, 174-176, 186</p> <p>Identifying personnel information of non-party employee including name and job-related information: p. 106</p>	<p>OFCCP opposes all compensation- and budget-related redactions, including individual salary and general salary information, and equity-related information.</p> <p>OFCCP does not opposing sealing names and job-related identifying information.</p>
C	OFCCP's Statement of Additional Uncontested Material Facts in Opposition to Oracle America, Inc.'s Motion for Summary Judgment or, in the Alternative, for Partial Summary Judgment	Identifying information of non-party job candidates, including names: p. 9	OFCCP does not oppose these proposed redactions.

Graham MTS Decl., Ex.:	Document Name	Confidential Material	Areas of Agreement and/or Disagreement and Other Docket Locations on the Docket
D	Declaration of Laura C. Bremer in Support of OFCCP's Opposition to Oracle America, Inc.'s Motion for Summary Judgment, or, in the Alternative, for Partial Summary Judgment and Exhibit List ("Bremer Decl.")	Identifying information of non-party job candidates: ¶ 32 and exhibit list p. 2	OFCCP does not oppose these proposed redactions.
E	Declaration of Laura C. Bremer in Support of OFCCP's Opposition to Oracle America, Inc.'s Motion for Summary Judgment, or, in the Alternative, for Partial Summary Judgment ("Bremer Decl."), Ex. 8 ((30(b)(6) Deposition of Kate Waggoner taken on July 19, 2019)	Confidential information related to focal budgets: pp. 247:11-12, 24; 248:5; 263:16-18, 21; 308:4-5, 7-10, 20, 22, 24 Confidential information regarding equity grants: pp. 272: 14-15; 273:9-11, 13; 274:2, 16, 18	OFCCP opposes all proposed redactions.
F	Bremer Decl., Ex. 10 (Declaration of Colin McGregor)	Identifying personnel information, including names and job-related information, of non-party employees in paragraphs discussing sensitive compensation and performance-related information: ¶¶ 9, 13, 15	OFCCP does not oppose these proposed redactions.

Graham MTS Decl., Ex.:	Document Name	Confidential Material	Areas of Agreement and/or Disagreement and Other Docket Locations on the Docket
G	Bremer Decl., Ex. 11 (Deposition of Juan Loaiza taken June 14, 2019)	Confidential race information about non-party employee: p. 27:2-4 Identifying personnel information of non-party employee: pp. 282:21, 290:24 Confidential information regarding focal salary increases: pp. 131:3, 7, 9, 11-12, 18 Confidential information related to compensation strategies, levels, and allocation: pp. 306:2, 8-9	OFCCP does not oppose the proposed redactions at 27:2-4, 282:21, or 290:24. OFCCP opposes all other proposed redactions.
H	Bremer Decl., Ex. 12 (Declaration of Avinash Pandey)	Identifying personnel information of non-party employee including name and job-related information: ¶ 12	OFCCP does not oppose these proposed redactions.
I	Bremer Decl., Ex. 15 (Declaration of Donna Kit Yee Ng)	Identifying personnel information of non-party employee including name, along with confidential employee status: ¶ 12	OFCCP does not oppose these proposed redactions.
J	Bremer Decl., Ex. 17 (Deposition of Kate Waggoner in her personal capacity taken May 1, 2019)	Confidential salary range information p. 88:17, 20	OFCCP opposes all proposed redactions.
K	Bremer Decl., Ex. 21 (Declaration of Lynn Snyder)	Identifying personnel information, including names and job-related information, of non-party employee with paragraphs discussing sensitive compensation and performance- related information: ¶¶ 9, 14, 16	OFCCP does not oppose these proposed redactions.

Graham MTS Decl., Ex.:	Document Name	Confidential Material	Areas of Agreement and/or Disagreement and Other Docket Locations on the Docket
L	Bremer Decl., Ex. 22 (ORACLE_HQCA_00003 80453)	Confidential college recruit compensation structure information	OFCCP opposes all proposed redactions.
M	Bremer Decl., Ex. 23 (ORACLE_HQCA_00000 12587)	Confidential college recruit compensation structure information	OFCCP opposes all proposed redactions.
N	Bremer Decl., Ex. 24 (ORACLE_HQCA_00000 23717)	Confidential college recruit compensation structure information	OFCCP opposes all proposed redactions.
O	Bremer Decl., Ex. 25 (ORACLE_HQCA_00000 380671 - 00000380673)	Confidential college recruit compensation structure information at ORACLE_HQCA_0000380671	OFCCP opposes all proposed redactions.
P	Bremer Decl., Ex. 26 (ORACLE_HQCA_00000 12204 - 12210)	Identifying personnel information, including name of non-party job candidate within email discussing Confidential college recruit compensation structure information and confidential salary-offer information for non-party job candidate at ORACLE_HQCA_12204 - 12208	OFCCP opposes all compensation- and salary-related redactions. OFCCP does not opposing sealing names.
Q	Bremer Decl., Ex. 27 (ORACLE_HQCA_00000 11640_11645)	Identifying personnel information, including name of non-party job candidate within email discussing confidential compensation and offer information for non-party job candidate and Confidential college hire compensation structure at ORACLE_HQCA_0000011640 - 11641	OFCCP opposes all compensation- and salary-related redactions. OFCCP does not opposing sealing names or email address.

Graham MTS Decl., Ex.:	Document Name	Confidential Material	Areas of Agreement and/or Disagreement and Other Docket Locations on the Docket
R	Bremer Decl., Ex. 28 ORACLE_HQCA_00000 12173-12183	Identifying personnel information, including name and address of non-party job candidate within email discussing confidential compensation and offer information for non-party job candidate and Confidential college hire compensation structure at ORACLE_HQCA_0000012173 - 12176	OFCCP opposes all compensation- and salary-related redactions. OFCCP does not opposing sealing names, address, phone number, or email address.
S	Bremer Decl., Ex. 29 (ORACLE_HQCA_00000 36993 to 0000036994)	Identifying personnel information, including name and address of non-party job candidate at ORACLE HQCA 0000036993	OFCCP does not oppose these proposed redactions.
T	Bremer Decl., Ex. 30 (Declaration of Bhavana Sharma)	Identifying personnel information about non-party employees, including names: ¶¶ 8-10	OFCCP does not oppose these proposed redactions.

4. The materials that Oracle seeks to seal in its Motion to Seal include excerpts from depositions and/or documents produced to OFCCP and expressly designated as “Confidential,” materials filed in this matter with a concurrent motion to seal, and/or materials filed in this matter that Oracle indicated to this Court and OFCCP, by letter, it will move to seal, pursuant to the May 22, 2019 Protective Order adopting and amending Judge Larsen’s May 26, 2017 Protective Order (“Protective Order”):

- a. Evidentiary Objections to the Declaration of Kate Waggoner in Support of Defendant Oracle America, Inc.’s Motion for Summary Judgment, or in the Alternative, For Partial Summary Judgment (“Waggoner Decl.”), the relevant redactions quoting from the Waggoner Decl. which was filed with a concurrent Motion to Seal;
- b. OFCCP’s Statement of Genuine Disputes of Material Fact, all proposed redactions derive from the materials listed below, or materials subject to prior motions to seal;
- c. OFCCP’s Statement of Additional Uncontested Material Facts in Opposition to Oracle America, Inc.’s Motion for Summary Judgment or, in the Alternative, for Partial Summary Judgment, all proposed redactions derive from the materials listed below, or materials subject to prior motions to seal;
- d. Declaration of Laura C. Bremer in Support of OFCCP’s Opposition to Oracle America, Inc.’s Motion for Summary Judgment, or, in the Alternative, for Partial Summary Judgment and Exhibit List (“Bremer Decl.”), which Oracle notified this Court and OFCCP it will move to seal by its November 14, 2019 letter;
- e. Bremer Decl., Ex. 8, 30(b)(6) Deposition of Kate Waggoner taken on July 19, 2019, with relevant portions designated confidential on August 12, 2019;

- f. Bremer Decl., Ex. 10, Declaration of Wilbur A. Colin McGregor, which Oracle notified this Court and OFCCP it will move to seal by its November 14, 2019 letter;
- g. Bremer Decl., Ex. 11, Deposition of Juan Loaiza taken on June 14, 2019 (“Loaiza Dep.”), with relevant portions designated confidential on July 10, 2019;
- h. Bremer Decl., Ex. 12, Declaration of Avinash Pandey, which Oracle notified this Court and OFCCP it will move to seal by its November 14, 2019 letter;
- i. Bremer Decl., Ex. 15, Declaration of Donna Kit Yee Ng, which Oracle notified this Court and OFCCP it will move to seal by its November 14, 2019 letter;
- j. Bremer Decl., Ex. 17, Deposition of Kate Waggoner in her personal capacity taken May 1, 2019, with relevant portions designated confidential on May 17, 2019;
- k. Bremer Decl., Ex. 21, Declaration of Lynn Snyder, which Oracle notified this Court and OFCCP it will move to seal by its November 14, 2019 letter;
- l. Bremer Decl., Ex. 22, produced confidential at ORACLE_HQCA_0000380453
- m. Bremer Decl., Ex. 23, produced confidential at ORACLE_HQCA_0000012587
- n. Bremer Decl., Ex. 24, produced confidential at ORACLE_HQCA_0000023717
- o. Bremer Decl., Ex. 25, produced confidential at ORACLE_HQCA_00000380671 - 380673;
- p. Bremer Decl., Ex. 26, produced confidential at ORACLE_HQCA_0000012204 - 12210;
- q. Bremer Decl., Ex. 27, produced confidential at ORACLE_HQCA_0000011640;
- r. Bremer Decl., Ex. 28, ORACLE_HQCA_0000012173 - 12183;
- s. Bremer Decl., Ex. 29, produced confidential at ORACLE_HQCA_0000036993 - 36994; and

t. Bremer Decl., Ex. 30, Declaration of Bhavana Sharma which Oracle notified this Court and OFCCP it will move to seal by its November 14, 2019 letter.

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

Executed on November 18, 2019, in San Francisco, California.



Lara F. Graham

EXHIBIT A

JANET M. HEROLD
 Regional Solicitor
 IAN H. ELIASOPH
 Counsel
 LAURA C. BREMER
 Acting Counsel for Civil Rights
 NORMAN E. GARCIA
 Senior Trial Attorney
 DAVID L. EDELI
 Trial Attorney
 UNITED STATES DEPARTMENT OF LABOR
 90 Seventh St., Rm. 3-700
 San Francisco, CA 94103
 Tel: (415) 625-7747
 Fax: (415) 625-7772
 Email: garcia.norman@dol.gov

Attorneys for OFCCP

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

OFFICE OF FEDERAL CONTRACT	:	
COMPLIANCE PROGRAMS, UNITED	:	
STATES DEPARTMENT OF LABOR,	:	
	:	Case No. 2017-OFC-00006
Plaintiff,	:	
	:	
v.	:	
	:	
ORACLE AMERICA, INC.	:	
	:	
Defendant.	:	
	:	

EVIDENTIARY OBJECTIONS TO DECLARATION OF KATE WAGGONER

Plaintiff Eugene Scalia, the United States Secretary of Labor, submits the following
 evidentiary objections to the Declaration of Kate Waggoner submitted in support of Defendant's

motion for summary judgment.

DECLARATION OF KATE WAGGONER	OBJECTION	RULING
<p>¶ 1: I make this declaration in support of Oracle America Inc.’s (“Oracle”) motion for summary judgment or, in the alternative, for partial summary judgment. I have personal knowledge of the matters contained in this declaration. If called to testify to the information in this declaration, I could do so competently.</p>	None	
<p>¶ 2: Before signing this declaration, I read it carefully to make sure it was accurate, and it is. I was not pressured or required to sign this declaration. I am providing this declaration voluntarily.</p>	None	
<p>¶ 3: I am currently Senior Director, Global Compensation at Oracle, and have been since approximately January 2018. Prior to that I worked at Oracle as Director, Compensation (from approximately November 2014 to December 2017); Senior Manager, Compensation (from approximately March 2012 to October 2014); and Compensation Analyst (from approximately March 2005 to February 2012). I joined Oracle following its acquisition of PeopleSoft, Inc. in 2005; previously I had worked at Time Warner Telecom, J.D. Edwards, and PeopleSoft, all in compensation-related roles. I hold</p>	None	

<p>a B.A. in psychology with a minor in statistics from the University of Northern Colorado and an M.A. in human resources and industrial relations from the University of Minnesota-Twin Cities.</p>		
<p>¶ 4: In my current role, I am responsible for Oracle’s global compensation programs; the administration, setup, and rollout of annual focal review, corporate bonus, and equity programs (when offered); overseeing maintenance of and updates to Oracle’s global job table; and supervising merger and acquisition (M&A) activities related to compensation, which involves the transition of acquired employees into Oracle’s jobs, pay programs and plans. I report to Phil Jenish, Oracle’s VP of Compensation and Workforce Intelligence.</p>	<p>None</p>	
<p>¶ 5: Given my current and former roles and long history with Oracle, I am familiar with the breadth of products and services that Oracle develops and offers to customers. I am also familiar, given my role, with Oracle’s history of acquisitions.</p>	<p>None</p>	
<p>¶ 6: Oracle is a leading global technology company that provides cutting-edge software and hardware products and related services to customers worldwide. Oracle’s more than 800 products and services are designed for customers of any size, from small business to</p>	<p>FRE 602, Lack of Personal Knowledge. FRE 701, Lay Opinion.</p>	

large global corporations.		
<p>¶ 7: Our products vary widely in the technologies they power and the functions they support. For example, Oracle’s products include everything from cloud computing solutions to middleware to industry-focused software to hardware to network solutions and more. Oracle’s application, platform, and infrastructure technologies enable enterprise information technology environments worldwide. More broadly, Oracle products assist customers with an array of objectives, including enterprise resource planning, customer experience and customer relationship management, procurement and supply chain management, human capital and talent management, business analytics, financial management, and governance, risk, and compliance.</p>	None	
<p>¶ 8: Oracle provides comprehensive services to supplement and support its products. Those services include providing security assessments and pushing software enhancements and upgrades, as well as providing excellent customer support and education.</p>	None	
<p>¶ 9: One of the primary ways Oracle has grown its uniquely diverse business is by acquisition. Acquisitions enable Oracle to innovate faster and provide an unparalleled breadth and depth of technology products and services.</p>	<p>FRE 602, Lack of Personal Knowledge.</p> <p>FRE 701, Lay Opinion.</p>	

<p>¶ 10: Oracle has acquired top companies like PeopleSoft, Sun Microsystems, NetSuite, and others that focus on specialized technologies and services, many of which differ in important ways from Oracle’s legacy product offerings. Together these acquisitions have added hundreds of new products to Oracle’s portfolio.</p>	<p>FRE 602, Lack of Personal Knowledge. FRE 701, Lay Opinion.</p>	
<p>¶ 11: I have reviewed extracts from Oracle’s centralized data systems which are kept in Oracle’s regular course of business and contain our system of record regarding the employment records of Oracle employees. Those extracts reflect that, as of January 1, 2019, Oracle employed more than 48,000 employees nationwide. As of that date more than 11,000 employees worked at its headquarters location in Redwood Shores, California.</p>	<p>FRE 1002, best evidence FRE 1006-improper summary;</p>	
<p>¶ 12: Oracle is organized functionally into lines of business (“LOBs”), each of which is generally focused on a distinct part of Oracle’s business or operations. Although others at Oracle may use the term “LOB” in different ways, from the perspective of the Compensation team, each of these LOBs is defined by its particular leader or head, who in turn reports directly to one of Oracle’s CEOs (Safra Catz or Mark Hurd) or its CTO (Larry Ellison).</p>	<p>FRE 602, Lack of Personal Knowledge</p>	
<p>¶ 13: At the highest levels, LOBs encompass entire segments of Oracles’ business or operations. Additional layers divide</p>	<p>FRE 602, Lack of Personal Knowledge</p>	

<p>employees into narrower sub-organizations and teams that reflect increasingly specialized areas of the company. These specialized teams differ in terms of their import to the company and their role in the company’s strategic vision.</p>		
<p>¶ 14: Managers within these LOBs fan out through a reporting hierarchy that ultimately ends with “first-level” (or “direct”) managers who supervise individual contributors. This managerial hierarchy is in a near-constant state of flux, to reflect Oracle’s evolving technologies and portfolio structures.</p>	<p>FRE 602, Lack of Personal Knowledge</p>	
<p>¶ 15: Budgeting decisions and allocations for bonuses and/or salary raises are made within the framework of this LOB hierarchical structure, and can reflect differing allocations to different teams and units based on (among other things) the importance of retaining and motivating employees on that team. Accordingly, the particular team an employee works within, and where that team is situated within Oracle’s LOB structure, may impact individual compensation. The budget allocated to a particular LOB (or subset thereof) may also be impacted by the composition of that LOB in terms of the country or countries where employees in that LOB work, as different per-country weights are applied when determining how much budget to allocate to account for differences</p>	<p>FRE 602, Lack of Personal Knowledge</p>	

<p>in market conditions, among other factors.</p>		
<p>¶ 16: Attached as Exhibit A is a true and correct copy of a training presentation entitled “Annual Focal Program (Sales & Non-sales) and Workforce Compensation” that was prepared by the Compensation team for presentation to HR business partners at Oracle (ORACLE_HQCA_0000380438). As noted in the speaker notes accompanying slide 6: “Budgets are published to the top executive level of the organization based on eligible salaries for eligible employees on September 1. Each LOB leader is then able to determine the method of cascading budgets in their organization.” Because of my responsibility for the administration, setup, and rollout of Oracle’s global compensation programs, I am familiar with how the budget allocation process works, and believe this to be a true and accurate statement.</p>	<p>None</p>	
<p>¶ 17: Job functions are a different way that Oracle organizes its employees for different purposes, and are the highest level classification in the global job table that my team maintains and updates. Job functions describe, in broad strokes, the general kind of work an employee performs – for example, Legal, Administrative, or Product Development. Job functions sweep in huge numbers of employees with vastly different skills, duties, and responsibilities,</p>	<p>None</p>	

<p>and do not capture or reflect any particular employee’s day-to-day-job duties. Employees in the Product Development job function, for example, work on differing components of all manner of applications, platform, and infrastructure products. Employees within the IT job function work in areas including business implementation and planning, data center services, network services, and risk management. And employees within the Support job function provide services related to products ranging from legacy on-premise solutions to cloud-based solutions and other emerging technologies.</p>		
<p>¶ 18: I have reviewed copies of data files produced to the government in this case, which I understand contain extracts from Oracle’s centralized data systems which contain data recorded and maintained in the regular course of business by Oracle. That data shows that approximately 7,521 individuals were employed in the Product Development job function at Oracle’s headquarters at some point from January 1, 2013 forward (which is the time period that I understand to be at issue in this case), approximately 1,044 individuals were employed in the IT job function during that time period at Oracle’s headquarters, and Approximately 349 individuals were employed in the Support job function at Oracle’s</p>	<p>FRE 1002, Best Evidence FRE 1006- improper summary.</p>	

headquarters during that time period.		
¶ 19: Unlike LOBs, job functions do not have a single head or leader. The individuals who work within a given job function work across different LOBs and report to many different leaders, who in turn oversee many different products and teams. For example, an employee within the Product Development job function does not necessarily work within the LOB previously led by Thomas Kurian, the President of Product Development at Oracle, during the relevant time period; employees within the Product Development job function are spread across various LOBs.	None	
¶ 20: Employees within each of these sweeping job functions are organized into more narrow groupings called specialty areas, and, within each specialty area, job families (e.g., applications developers). Each job family is comprised of multiple system job titles. System job titles generally reflect a progression of development within a job family (e.g., Applications Developer 1, Applications Developer 2, and so on). Each of these system job titles corresponds to a unique job code.	None	
¶ 21: Because I am responsible for overseeing the maintenance of and updates to Oracle’s global job table (which contains Oracle’s system job titles), I am familiar with Oracle’s system job titles, including those used by Oracle in its headquarters offices. Examples	None	

<p>of system job titles in use at headquarters during what I understand to be the relevant period (as reflected in the data files produced to Plaintiff in this case) in the Product Development job function include HW Development Technician 3, Product Mgmt/Strategy SVP – Prodev, QA Analyst 1-5, Software Developer – Architect, and Technical Writer 1-5 – Prodev. Examples of system job titles in use during the relevant period in the IT job function at headquarters include Database Administrator 1-5, IT Security Analyst 3-5, IT VP, and Project Mgmt Snr Director. Examples of system job titles in use during the relevant period in the Support job function at headquarters include Business Services Snr Director-Support, Customer Service Analyst 2-3– Support, Field Support Specialist 3, and Product Support VP.</p>		
<p>¶ 22: Each level of grouping within the job table that my team maintains and updates—job function, specialty area, job family, and system job title—provides a high-level description of the work performed by employees with that label. Even the most granular label in this taxonomy—system job title—does not account for differences in individual job duties among the employees with that label, and there are indeed many differences. Employees with the same system job title may work on different tools and use different</p>	<p>FRE 701: Lay opinion</p> <p>Note: Job family does not appear to be on the job table- see 56234</p>	

<p>programming languages. Their jobs may require them to work different numbers of hours or attend a different number or type of training. Some employees spend much more time in meetings than others with the same system job title, whereas others do much more coding. Some work on more complex products than others. Some work on many components or sub-areas within the product at a given time (or over the course of time), whereas others work on only one or two.</p>		
<p>¶ 23: Because I am responsible for overseeing the maintenance of and updates to Oracle’s global job table, I also am familiar with the salary ranges that accompany Oracle’s system job titles. Each system job title at Oracle is associated with a broad salary range. There is a set of salary ranges that apply to employees who work in zip codes we define for this purpose to encompass the San Francisco Bay Area (sometimes referred to on the Compensation team as the “HQ Salary Range”). My colleague, Kris Edwards—Senior Director, Compensation at Oracle—and her team reviews each set of ranges for each system job title each year and recommends range adjustments if and as we deem appropriate based on, among other things, market research of compensation benchmarks in use at other technology companies with whom</p>	<p>FRE 1002, Best Evidence</p>	

<p>Oracle competes for talent. These salary ranges generally span [REDACTED]. For example, in FY2018, the salary range for an Applications Developer 3 at HQ spanned nearly \$ [REDACTED]—from \$ [REDACTED] to \$ [REDACTED].</p>		
<p>¶ 24: System job title reflects an individual’s career level. The global career level structure has two paths: Management (corresponding to codes M1-M10) for those whose primary responsibility is management of two or more regular employees, and Individual Contributor (corresponding to codes IC0-IC6) for all other roles. There is no correlation between a given “step” in those two tracks—in other words, one cannot assume that an individual contributor in an IC3-level role is any more or less experienced than a manager in an M3-level role.</p>	<p>None</p>	
<p>¶ 25: To my knowledge and understanding, the majority of employees are hired into the job and career level for which they applied. On occasion, however, an employee may be hired at one career level above or below the level listed in the job posting, depending upon the individual’s specific experience and expertise and consistent with Oracle’s business needs. On such occasions, individual front-line managers are the primary decision-makers regarding adjustments to level at hire. For example, the job requisition may be for a Software</p>	<p>FRE 601, lack of personal knowledge</p>	

<p>Developer 3, but the best qualified candidate's skills and expertise are a bit more advanced, such that the candidate is qualified to be a Software Developer 4. In such an instance, the hiring manager may determine that the candidate should be brought in at a higher level and will explain this on the justification form to HR listing the candidate's qualifications that warrant the job at a higher level.</p>		
<p>¶ 26: Some employees (but not all) have a discretionary job title as well as a system job title, which in many cases is more descriptive and specific than the system job title. As with system job title, the details of the work performed by two individuals with the same discretionary job title may vary significantly. Among many other factors, such individuals may work on different products; supervise or serve as a lead for a different number of employees; and work a different number of hours.</p>	<p>FRE 602, Lack of Personal Knowledge</p>	
<p>¶ 27: In my directorial and managerial roles at Oracle, I am familiar with Oracle's compensation framework and its goals. The aim of that compensation framework is to achieve the overarching goals of equity within teams and recognition of each employee's particular knowledge, skills, abilities, performance, experience, and contributions to the company.</p>	<p>None</p>	
<p>¶ 28: Oracle's compensation system is highly decentralized in order to further its business need to recognize individual skills and</p>	<p>FRE 602, Lack of Personal Knowledge FRE 1002, Best Evidence</p>	

<p>contributions. An employee’s direct manager—who knows individual employees’ work and how their work compares to that of others—typically plays the most significant role in setting that employee’s compensation. First-line managers, for example, determine the starting compensation to offer to new hires. Similarly, most salary increases occur during the annual focal review process (in years when there is a focal review process). Although these individual salary increases ultimately are subject to an approval process by more senior management to ensure alignment with budget, senior managers generally defer to and rarely change the decisions of the lower-level managers.</p>	<p>FRE 1006, improper summary</p>	
<p>¶ 29: Compensation budgets are managed through a computerized compensation tool called Workforce Compensation. Different LOBs (and sub-organizations within each LOB) cascade compensation (salary, bonus, and equity) budgets down through their organizations to different levels. In other words, in one organization an employee’s second-level manager may control the budget for her compensation, whereas in another organization the budget may be held at a higher level. Even within a single LOB, budgetary authority may be cascaded to different levels in different parts of the LOB. And the level to which budget is “pushed down” may also vary for different compensation programs; for example, a given LOB (or sub-part of an LOB) may push down bonus award approval authority in a given</p>	<p>Note: Prior to using Workforce Compensation, Oracle used different tools.</p>	

<p>year or cycle to one managerial level, but focal salary increase approval authority to a different level.</p>		
<p>¶ 30: Whatever manager is the last recipient of budget allocation determines how to distribute the budget in the form of compensation awards to individual employees. The managers responsible for recording those decisions in the compensation tool may exercise their own judgment or consult other managers (for example, if they do not directly supervise the employees at issue) for their views. Usually, first- or second-line managers play a primary role in the allocation decision. From there, in the vast majority of cases, the approval process simply acts as a check to review whether managers stay within allotted budgets.</p>	<p>FRE 602, Lack of Personal Knowledge FRE 1002, Best Evidence FRE 1006, Improper Summary</p>	
<p>¶ 31: In the training that members of the Compensation team prepare and provide to managers, managers are advised to take a comprehensive view in making compensation recommendations. For instance, managers may award greater compensation—particularly bonuses or incentive stock awards—to those employees who work on more complex products. Likewise, managers may provide additional compensation as incentive to employees who work on products that require skills for which the labor market is particularly competitive.</p>	<p>FRE 1002, Best Evidence Note: objection based on assumption that there are written training materials other than those provided in the attachments. If that is not correct, then do not object.</p>	

<p>¶ 32: Through trainings provided by the Compensation team, individual managers are encouraged to consider the relative pay among employees on their particular teams when making compensation decisions, including awarding bonuses and salary increases through the focal review process, and to strive for pay equity while accounting for all relevant factors. Managers are expressly instructed to make compensation decisions without regard to employees' gender or any other protected characteristic.</p>	<p>FRE 1002, Best Evidence</p>	
<p>¶ 33: Attached as Exhibit B is a true and correct copy of a training presentation entitled "Global Compensation Training: Managing Pay Module" that was prepared by the Compensation team for presentation to managers at Oracle (ORACLE_HQCA_0000364183).</p>	<p>None</p>	
<p>¶ 34: Attached as Exhibit C is a true and correct copy of a training presentation entitled "Global Compensation Training: Salary Ranges at Oracle" that was prepared by the Compensation team for presentation to managers at Oracle (ORACLE_HQCA_0000364272).</p>	<p>None</p>	
<p>¶ 35: Attached as Exhibit D is a true and correct copy of a training presentation entitled "Global Compensation Training: Job Classification and Global Job Table Module" that was prepared by the Compensation team for presentation to managers at Oracle</p>	<p>None</p>	

(ORACLE_HQCA_0000364276).		
¶ 36: Attached as Exhibit E is a true and correct copy of a training presentation entitled "Managing Compensation: July 2016" that was prepared by the Compensation team for presentation to managers at Oracle (ORACLE_HQCA_0000056234).	None	
¶ 37: Oracle engages legal counsel to direct privileged pay analyses, including a review and evaluation of Oracle's pay systems, pay decisions, and pay data as warranted, for the purpose of providing legal advice regarding Oracle's compliance with applicable state and federal non-discrimination requirements and to assess legal risk.	FRE 602, Lack of Personal Knowledge	

DATED:

KATE S. O'SCANNLAIN
Solicitor of Labor

JANET M. HEROLD
Regional Solicitor

IAN H. ELIASOPH
Counsel

LAURA C. BREMER
Acting Counsel for Civil Rights

/s/ Norman E. Garcia
NORMAN E. GARCIA
Senior Trial Attorney

DAVID L. EDELI
Trial Attorney

OFFICE OF THE SOLICITOR
U.S. DEPARTMENT OF LABOR
Attorneys for OFCCP

EXHIBIT B

**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

STATEMENT OF GENUINE DISPUTES OF MATERIAL FACT

Oracle’s Allegedly Uncontested Material Facts	OFCCP’s Response
<p>1. Oracle’s long-time President and current co-CEO, Safra Catz, is female.</p> <p>Alleged Supporting Evidence: Thrasher Decl., ¶ 6.</p>	<p>Undisputed.</p>
<p>2. One-third of Oracle’s Board of Directors is female or from a diverse background.</p> <p>Alleged Supporting Evidence: Thrasher Decl., ¶ 6.</p>	<p>Undisputed.</p> <p>1) OFCCP does not dispute the fact that two-thirds of Oracle’s Board of Directors are white males.</p>
<p>3. Oracle’s General Counsel, Lead Employment Counsel, Global Director of Compensation, Head of Human Resources for the Americas and Global Head of Human Resources are all women.</p> <p>Alleged Supporting Evidence: Thrasher Decl., ¶ 6</p>	<p>Undisputed.</p>
<p>4. Thomas Kurian, who led Oracle’s Product Development line of business for most of the relevant time period, is Asian.</p> <p>Alleged Supporting Evidence: Thrasher Decl., ¶ 6.</p>	<p>Undisputed.</p>

<p>5. Oracle’s managers are required to take regular non-discrimination training.</p> <p>Alleged Supporting Evidence:</p> <p>Yakkundi Decl., ¶ 20; Eckard Decl., ¶ 14; Hsin Decl., ¶ 15; Fox Decl., ¶ 17; Oden Decl., ¶ 12; Talluri Decl., ¶ 17; Suri Decl., ¶ 23; Ousterhout Decl., ¶ 18; Galka Decl., ¶ 11.</p>	<p>Disputed.</p> <p>1) OFCCP contests this fact because Oracle’s managers were not required to take affirmative action training until October 2015, and when they did take it, it did not address compensation.</p> <p>A) Oracle first made affirmative action training mandatory for all US managers and HR personnel in October 2015.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OFCCP Statement of Undisputed Facts, Filed October 21, 2019 (OFCCP SUF), Fact 228; • Ex. 77,¹ “Affirmative Action Training at Oracle,” dated 10/12/15, slide 2 (notes), slide 6, and slide 6 (notes), ORACLE_HQCA_0000416488 -2, -11, -12 in Vol. 3. <p>B) Vice President of Human Resources Madhavi Cheruvu (Ms. Cheruvu), Oracle’s Human Resource Partner for President Thomas Kurian’s Product Development line of business (LOB) and seven other LOBs, testified that she has not taken any affirmative action training and does not know any affirmative action requirements that Oracle has to meet.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OFCCP SUF: Facts 48, 49, 231; • OEx. 4, Dep. of Madhavi Cheruvu, dated 6/11/19 (Cheruvu Dep.) 11:8-17, 60:12-19, 240:23–241:11, 276:3–14.
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¹ OFCCP will be using two exhibit references in this Statement of Genuine Disputes of Material Fact. The first is “Ex.” that will refer to the exhibits that were filed attached to the Norman E. Garcia Declaration Supporting OFCCP’s Motion for Summary Judgment in the four bound volumes and the four exhibits physically attached to his declaration. These exhibits will be referenced by the “Ex.” reference. The second is “OEx” that represents the new exhibits that are attached to the Laura C. Bremer Declaration Opposing Oracle America, Inc.’s (Oracle) Motion for Summary Judgment, or, in the Alternative, for Partial Summary Judgment.

C) Ms. Cheruvu testified that she has not taken any affirmative action training and does not know any affirmative action requirements that Oracle has to meet.

Citation:

- OFCCP SUF: Fact 231;
- OEx. 4, Cheruvu Dep. 23:2-10, 240:23–241:11.

D) Oracle’s Executive Vice President of Human Resources Joyce Westerdahl (Ms. Westerdahl) testified that she did not know if Oracle conducted any affirmation action plan training. She just assumed that it did.

Citation:

- OFCCP SUF: Fact 42;
- OEx. 1, Dep. of Joyce Westerdahl dated 5/30/19 (Westerdahl Dep.) 12:14-16, 306:16-23.

E) The U.S. Employee Handbook that Oracle provided to OFCCP in the audit contains a section titled “Internal Training and Development” with subsections titled “Required Training” and “Online Training” that do not list any training for affirmative action.

Citation:

- OFCCP SUF: Fact 225;
- Ex. 11, “U.S. Employee Handbook,” latest revision date February 2014 (Handbook) (Ex. 25 at Holman-Harries May Dep.), ORACLE_HQCA_0000000509-10 in Vol. 1.

F) The Affirmative Action Section of the U.S. Employee Handbook that Oracle provided to OFCCP in the audit did not address compensation.

Citation:

- OFCCP SUF: Fact 226;
- Ex. 11, ORACLE_HQCA_0000000474 in Vol. 1.

G) Oracle has never revised the U.S. Employee Handbook to address equity or affirmative action with respect to employee compensation.

Citation:

- OFCCP SUF: Fact 227;
- OEx. 5, Dep. of Shauna Holman-Harries dated 5/8/19 (Holman-Harries May Dep.) 159:22–160:8.

H) While Oracle did conduct affirmative action non-discrimination training in 2015, its focus was on non-discrimination in hiring. This training did not address how to ensure compensation equity.

Citation:

- OEx. 3, “Affirmative Action at Oracle,” copyright 2015, ORACLE_HQCA_0000417320-5.

I) Former Senior Director of Global Organization and Talent Development Kristen Hanson Garcia (Ms. Hanson Garcia), a management position within Oracle’s Human Resources Department, testified that she did receive any guidance or training as to how to ensure that men and women were paid equitably or how to ensure that minorities and whites were paid equitably. She was also not aware that Oracle had an Affirmative Action Plan.

Citation:

- OEx. 6, Kirstin Hanson Garcia Decl. (KHG Decl.) ¶ 9.

J) Former Senior Director of Customer Experience User Experience Christina Kolotouros (Ms. Kolotouros) testified that while she worked at Oracle, she did not receive any training or guidance as to how to ensure that men and woman are paid equitably or how to ensure that minorities and white are paid equitably.

Citation:

- OEx 7, Christina Kolotouros Decl. (Kolotouros Decl.) ¶10.

2) OFCCP further disputes this fact because even though Oracle recognized its obligation to conduct affirmative action training for employees involved in personnel and compensation decisions of its employees, it only conducted the mandatory October 2015 training because of the administration’s increased emphasis on regulatory

compliance at that time.

A) Oracle stated that this affirmative action training was “required” due to the Administration’s focus on hiring, selection, promotional opportunities and pay, and other terms and conditions of employment.

Citation:

- OFCCP SUF: Fact 229;
- Ex. 77, “Affirmative Action Training at Oracle,” dated 10/12/15, slide 3, ORACLE_HQCA_0000416488-5 in Vol. 3.

B) Oracle waited until enforcement to comply even though it recognized that the affirmation action training was “required” because federal contractor employees must take this course if they are involved in recruitment, screening, selection, hiring, promotion, or other related employment making decisions.

Citation:

- OFCCP SUF: Fact 230;
- Ex. 77, slide 4, ORACLE_HQCA_0000416488-7 in Vol. 3.

6. Oracle’s managers are instructed that pay “differences need to be based on fair, justifiable and non-discriminatory criteria.”

Alleged Supporting Evidence:

Waggoner Decl., Ex. B (ORACLE_HQCA_0000364183 at 6), Ex. C (ORACLE_HQCA_0000364272 at 15); Connell Decl., Ex. B (8/1/19 Holman-Harries PMK Dep. 265:23-266:13).

Disputed.

1) OFCCP contests this fact because Oracle’s managers are not required to take the training wherein this statement is made. If the managers do not take the training, they do not receive this instruction.

A) Kate Waggoner (Ms. Waggoner), Oracle’s Senior Director of Global Compensation who Oracle designated as the person most knowledgeable (PMK) about Oracle’s compensation topics in *Jewett v. Oracle Corp. Inc.*, testified that managers are not required to listen to or go online to review the compensation training. Oracle confirmed that PMK admissions in *Jewett* are binding in this case.

Citation:

- OEx. 2, PMK Dep. of Kate Waggoner in *Jewett v. Oracle Corp. Inc.*, Case No. 17-cv-02669 (Sup. Ct. San Mateo), dated 7/26/18, (Waggoner PMK *Jewett* Dep.) ORACLE_HQCA_0000400660-62, 7:14-15, 77:3-78:5;
- Ex. 85, Email from Oracle to OFCCP, dated 7/12/19, in Vol 3.

B) Ms. Waggoner, who Oracle again designated as the PMK for compensation topics in this case a year later, and who continues to serve as Oracle’s Senior Director of Global Compensation, again testified that managers are not required to take the compensation training.

Citation:

- OFCCP SUF: Fact 110;
- OEx. 8, Dep. of Kate Waggoner under Rule 30(b)(6) dated 7/19/19 (Waggoner PMK Dep.) 7:12-15, 79:2-20, 81:19-82:4 in Vol. 2.

C) Oracle’s Senior Director of Diversity Compliance Shauna Holman-Harries (Ms. Holman-Harries) also did not also know whether this compensation training was required training for managers.

Citation:

- OEx. 5, Holman-Harries May Dep. 18:4-11; 121:25-126:17.

D) Former Software Development Director Amit Sharma (Mr.

Sharma) testified that he was never asked by his managers if he thought any of his reporting employees' pay should be adjusted because their pay was not equitable.

Citation:

- OEx. 9, Decl. of Amit Sharma Decl. (A. Sharma Decl.) ¶ 8.

E) Current Director of User Assistance Colin McGregor (Mr. McGregor) testified that he did not have the authority to adjust the pay of his reporting employees if he believed the pay of an employee was too low for the work performed or too low as indicated by Oracle's compensation ratio.

Citation:

- OEx.10, Wilbur A. Colin McGregor Decl. (McGregor Decl.) ¶ 12.

2) OFCCP further contests this fact because Oracle prevents compliance by providing a limited budget.

A) Oracle's Executive Vice President of Mission Critical Databases Juan Loaiza (EVP Loaiza) testified that [REDACTED] of the employees in his organization are paid below the market rate because not enough money is provided for them in the budget.

Citation:

- OFCCP SUF: Fact 40, 129;
- OEx. 11, Dep. of Juan Loaiza, dated 6/14/19 (Loaiza Dep.) 16:3-12, 283:6-284:22, 305:7-306:3.

B) While testifying as Oracle's PMK, Ms. Waggoner, stated that the budget Oracle provides its managers for salary increases is insufficient to keep up with the market rate and that only [REDACTED]% of the employees may get a raise in a year because of budget pressures.

Citation:

- OFCCP SUF: Fact 127;
- OEx. 8, Waggoner PMK Dep. 247:4-13, 308:8-24 in Vol 2.

C) Mr. McGregor testified that he had reporting employees who were paid below the range for their job, and the small raise pool

	<p>he received was insufficient to put these employees in the salary range for their position.</p> <p>Citation:</p> <ul style="list-style-type: none">• OEx. 10, McGregor Decl. ¶ 12. <p>3) OFCCP additionally disputes this fact because in “dive and save” salary requests, other senior managers identify that they face significant “salary compression” for their employees because of the budget and face a “rob Peter to pay Paul” situation.</p> <p>Citation:</p> <ul style="list-style-type: none">• OFCCP SUF: 133, 134;• OEx. 11, Loaiza Dep. 282:15-285:11, 290:3-12;• Ex. 33, “Request for Dive-and-Save Salary Adjustment,” dated 5/7/14, ORACLE_HQCA_0000437696–701, in Vol. 2;• Ex. 34, Out of Cycle Salary Adjustment Proposal, dated 6/15/15, ORACLE HQCA 0000434971–72, in Vol. 2.
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<p>7. When making compensation decisions, managers are instructed to:</p> <ul style="list-style-type: none"> a) consider how an employee’s compensation compares to her peers; b) account for each employee’s relevant knowledge, skills, abilities, and experience; c) balance external and internal equity considerations; d) differentiate rewards by performance; and e) consider the employee’s importance to the company. <p>Alleged Supporting Evidence:</p> <p>a) Waggoner Decl., ¶ 30, Ex. B (ORACLE_HQCA_0000364183 at 5), Ex. E (ORACLE_HQCA_0000056234 at 24).</p> <p>b) Waggoner Decl., ¶ 30, Ex. B (ORACLE_HQCA_0000364183 at 5), Ex. E (ORACLE_HQCA_0000056234 at 17, 22, 37); Connell Decl., Ex. A (ORACLE_HQCA_0000400584 at 204:11-20), Ex. B (8/1/19 Holman-Harries PMK Dep. 265:23-266:13), Ex. C (7/19/19 Waggoner PMK Dep. 111:10-22; 142:17-143:12; 180:16-181:21; 182:14-183:2), Ex. U (10/10/19 Madden Dep. 123:18-124:12).</p> <p>c) Waggoner Decl., ¶ 31, Ex. B (ORACLE HQCA 0000364183</p>	<p>Undisputed.</p>
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<p>at 6), Ex. C (ORACLE_HQCA_0000364272 at 15), Ex. E (ORACLE_HQCA_0000056234 at 17, 22, 37); Connell Decl., Ex. C (7/19/19 Waggoner PMK Dep. 84:25-85:25; 173:13-174:13).</p> <p>d) Waggoner Decl., Ex. C (ORACLE_HQCA_0000364272 at 15), Ex. E (ORACLE_HQCA_0000056234 at 16, 17, 22); Connell Decl., Ex. C (7/19/19 Waggoner PMK Dep. 111:10-22), Ex. K (ORACLE_HQCA_0000400313 at 313).</p> <p>e) Waggoner Decl., Ex. C (ORACLE_HQCA_0000364272 at 15); Connell Decl., Ex. C (7/19/19 Waggoner PMK Dep. 178:19-179:21).</p>	
<p>8. Oracle’s managers can partner with HR business partners and compensation consultants to ensure compensation decisions are equitable.</p> <p>Alleged Supporting Evidence: Waggoner Decl., Ex. B (ORACLE_HQCA_0000364183 at 2, 22), Ex. C (ORACLE_HQCA_0000364272 at 8, 15, 37); Connell Decl., Ex. C (7/19/2019 Waggoner Dep. (PMK) at 122:9-17), Ex. H (6/11/19 Cheruvu Dep. 139:19-24), Ex. L (ORACLE_HQCA_0000400403 at 446, 448-49); Gill Decl., ¶ 6; Talluri Decl., ¶ 15; Abushaban Decl., ¶ 15.</p>	<p>Disputed.</p> <p>1) The portion of Oracle’s claim stating “to ensure compensation decisions are equitable” is unsupported by the alleged supporting evidence. The alleged support does not identify consulting occurred for this purpose.</p>

<p>9. Oracle is organized into lines of business (“LOBs”), which are organizations within Oracle that are focused on a distinct part of Oracle’s business or operations.</p> <p>Alleged Supporting Evidence: Waggoner Decl., ¶ 12; Miranda Decl., ¶ 8.</p>	<p>Undisputed.</p> <p>1) While the OFCCP does not dispute Oracle’s Material Fact 9, OFCCP objects to paragraph 12 of Ms. Waggoner’s declaration on the basis that she lacks personal knowledge about the facts contained therein.</p>
<p>10. Each LOB has an executive who oversees it, and who is responsible for the products within that LOB.</p> <p>Alleged Supporting Evidence: Connell Decl., Ex. A (ORACLE_HQCA_0000400584 at 85:1-19; 86:4-12; 87:9-88:3).</p>	<p>Undisputed.</p>

<p>11. LOBs are divided into specialized organizations and teams that differ by strategic importance or business criticality.</p> <p>Alleged Supporting Evidence: Waggoner Decl., ¶ 13; Miranda Decl., ¶¶ 8, 11.</p>	<p>Disputed.</p> <p>1) Campbell Webb (Mr. Webb) testifies in his Oracle declaration that while he and his employees work in information technology and provide internal services to Oracle, his organization also provides application and infrastructure services to “Oracle’s public cloud customers” and that several of Oracle’s [information technology] vice presidents, who Mr. Webb managed, worked to supported “Oracle’s Cloud Business.”</p> <p>Citation:</p> <ul style="list-style-type: none"> • Declaration of Campbell Webb in Support of Oracle’s Motion (Webb Decl.), ¶¶ 2, 5, 6. <p>2) Mr. Webb also testifies in his Oracle declaration that parts of his team have skills that are interchangeable between the information technology and product development LOBs. In speaking of one of his team members, Mr. Webb states that “[t]his [information technology vice president] has since transitioned to the [product development vice president] role, where she and her team now apply many of the <i>same skills to a different kind of work</i> (performance testing of Oracle database code).”</p> <p>Citation:</p> <ul style="list-style-type: none"> • Webb Decl., ¶ 6, emphasis added. <p>3) OFCCP additionally disputes this fact because it relies on paragraph 13 of Ms. Waggoner’s declaration. OFCCP objects to Oracle’s reliance on paragraph 13 of Ms. Waggoner’s declaration because she lacks personal knowledge regarding the facts contained therein.</p> <p>4) Oracle employees and managers testified that their skills are interchangeable as proved by the fact that they and/or their reports have transferred across teams as well as lines of business, and were able to perform their duties without additional trainings.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OEx. 12, Decl. of Avinash Pandey (Pandey Decl.) ¶¶ 6, 12; • OEx. 7, Kolotouros Decl. ¶ 4; • OEx. 13, Decl. of Diane Boross (Boross Decl.) ¶¶ 8, 9, 11; • OEx. 14, Decl. of Jill Arehart (Arehart Decl.) ¶ 10; • OEx. 15, Decl. of Donna Kit Yee Ng (Ng Decl.) ¶¶ 6, 10, 11.
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<p>12. Each LOB has a management reporting hierarchy that starts at the top and ends with first-level (or direct) managers who directly supervise individual contributors.</p> <p>Alleged Supporting Evidence: Waggoner Decl., ¶ 14.</p>	<p>Undisputed.</p>
<p>13. Where a particular employee’s team is located in this LOB structure may impact her compensation, as budgeting decisions and bonus or raise allocations are distributed within this LOB.</p> <p>Alleged Supporting Evidence: Waggoner Decl., ¶ 15; Miranda Decl., ¶ 11; <i>see also</i> Connell Decl., Ex. A (ORACLE_HQCA_0000400584 at 182:18-183:16; 186:13-188:8).</p>	<p>Undisputed.</p>
<p>14. Oracle is a global technology company that provides more than 800 software and hardware products and related services to customers worldwide.</p> <p>Alleged Supporting Evidence: Waggoner Decl., ¶ 6; Miranda Decl., ¶¶ 3, 4, 9, Ex. A.</p>	<p>Undisputed.</p>

<p>15. Oracle’s products include cloud computing services, software, hardware, and business analytics, as well as solutions for managing enterprise resources, human resources, customer relationships, and supply chains, and for assessing governance, risk, and compliance.</p> <p>Alleged Supporting Evidence: Waggoner Decl., ¶¶ 6-7; Robertson Decl., ¶¶ 6-9; Bashyam Decl., ¶ 4; Sarwal Decl., ¶¶ 5, 10; Miranda Decl., ¶¶ 4-5.</p>	<p>Undisputed.</p>
<p>16. Oracle offers product-related services, such as security assessments, software upgrades, and customer support and education services.</p> <p>Alleged Supporting Evidence: Waggoner Decl., ¶ 8; Yakkundi Decl., ¶¶ 3, 6, 10; Bashyam Decl., ¶¶ 2-4; Sarwal Decl., ¶¶ 5, 10.</p>	<p>Undisputed.</p>

<p>17. One catalyst to Oracle’s growth is acquisitions, which have added hundreds of new products to Oracle’s product portfolio, further increasing the diversity of technology products and services Oracle offers.</p> <p>Alleged Supporting Evidence: Waggoner Decl., ¶¶ 9-10; Yakkundi Decl., ¶¶ 6-7; Bashyam Decl., ¶ 8; Galka Decl., ¶ 4.</p>	<p>Disputed.</p> <p>1) This fact is unsupported. The Yakkundi, Bashvam and Galka declarations combined only provide support for Oracle acquiring a handful of companies and less than twenty products. Their declarations do not identify Oracle’s acquisitions as a “catalyst to Oracle’s growth,” or as “adding hundreds of new products to Oracle’s product portfolio.” Further, these declarations contain no statements claiming that Oracle's acquisitions increase the diversity of Oracle’s products and services. Thus, these declarations leave Ms. Waggoner’s declaration as the sole support for these factual assertions. As identified in the objections OFCCP filed against Ms. Waggoner’s declaration, her statements as to Oracle’s acquisitions lack foundation because of a lack of personal knowledge.</p> <p>2) Dr. Saad testified that acquisitions were not relevant to this case because his data set for Oracle HQCA only contained seven employees whereas for the <i>Jewett</i> case the acquisitions contained a large share of the non-headquarters population.</p> <p>Citation:</p> <ul style="list-style-type: none"> • Ex. 89, Dep. of Expert Ali Saad, dated 10/11/19 (Saad Dep.) 128:11-129:13.
<p>18. Some of Oracle’s products involve cutting-edge technology in high demand, and some constitute legacy products with infrequent updates or enhancements.</p> <p>Alleged Supporting Evidence: Bashyam Decl., ¶¶ 8-9; Sarwal Decl., ¶ 14.</p>	<p>Undisputed.</p>

19. Not all of Oracle’s products and services have the same value or profitability to the market, and the value of the skills, duties, and responsibilities associated with working on one product can differ among products and change over time.

Alleged Supporting Evidence:

Miranda Decl., ¶ 11; Sarwal Decl., ¶ 14.

Disputed.

1) OFCCP disputes this fact because Oracle’s documents and witness declarations do not support and also contradict the statements therein.

A) Oracle’s factual assertions are repeatedly contradicted by its compensation instructions over the years, which clearly state that jobs having the same salary grade have the *same value* to Oracle.

Citation:

- Ex. 16, “Global Compensation Training: Salary Ranges at Oracle,” copyright 2011, slide 8 (notes) ORACLE_HQCA_0000364272-15 in Vol. 1;
- See also Ex. 8, “Q4FY15 HR Webinar Oracle Compensation” dated March 2015, slide 20 (notes), ORACLE_HQCA_0000056391-39 in Vol. 1;
- Ex. 12, Untitled, Compensation-related presentation, copyright 2012 (Ex. 3 to the Waggoner May Dep.), slide 19 (notes), ORACLE_HQCA_0000042098-35 in Vol. 1;
- Ex. 13, “Managing Compensation,” July 2016 (Ex. 7 to the Waggoner May Dep.), slide 17 (notes), ORACLE_HQCA_0000056234-30 in Vol. 1;
- Ex. 14, “Managing Compensation at Oracle,” no date, slide 22 (notes) ORACLE_HQCA_0000382580-42 in Vol. 1.

2) Oracle’s compensation training slides demonstrate that jobs can have the same salary grade (and thus the same value to Oracle) across individual contributor or manager positions and across different job functions. For example, one of Oracle’s training slide’s notes state: “you will also notice that Grade 8 has an IC4, IC5, M2 and M3.” These four global career levels are for seven different job functions (A, B, F, G, H-J).

Citation:

- Ex. 16, slide 10 and slide 10 (notes), ORACLE_HQCA0000364272-18, -19 in Vol. 1;
- Ex. C to Declaration of Kate Waggoner in Support of Oracle’s Motion (Waggoner Oracle Decl.), ORACLE_HQCA_0000364272 at 10.

3) Multiple job codes can be assigned to the same salary grade, and therefore have the same salary range.

Citation:

- OFCCP SUF: Fact 87;
- OEx. 16, Dep. of Lynne Carrelli dated 5/24/19 (Carrelli Dep.) 118:15–20 in Vol. 1;
- OEx. 17, Dep. of Kate Waggoner dated 5/1/19 (Waggoner May Dep.) 118:8–20;
- Ex. 13, slide 17 (notes), ORACLE_HQCA_0000056234-30 in Vol. 1;
- Ex. 16, slide 10 and slide 10 (notes), ORACLE_HQCA0000364272-18, -19 in Vol. 1.

4) A comparison of the systems job titles in the three job functions that are at issue in this litigation identifies the following:

- a) Salary grade E.09 contained seventeen different job titles and three different job functions.
- b) Salary grade N.10 contained sixteen different job titles and two different job functions.
- c) Salary grade E.11 contained fourteen different job titles and three different job functions
- d) Salary grade E.12 contained twelve different job titles and three different job functions
- e) Salary grade E.10 contained twelve different job titles and two different job functions.
- f) Salary grade E.14 contained eight different job titles and three different job functions.
- g) Salary grade N.12 contained eight different job titles and three different job functions.
- h) Salary grade E.06 contained seven different job titles.
- i) Salary grade E.07 contained seven different job titles and three different job functions.
- j) Salary grade E.08 contained seven different job titles and two different job functions.
- k) Salary grade N.07 contained seven different job titles and two different job functions.
- l) Salary grade N.14 contained seven different job titles and three different job functions.

Citation:

- Ex. 17, Decl. of Hea Jung Atkins in Support of OFCCP’s Motion for Summary Judgment, dated 10/16/19 ¶ 6-21 (Atkins MSJ Decl.), and Ex. B attached thereto (Table 2).

5) Noticeably, Oracle provides no compensation training reference or any support this fact from Ms. Waggoner, its Senior Director of Global Compensation. This is because not one of Oracle’s compensation trainings tie skills, duties, and responsibilities to the product an employee performs work. Instead, Oracle ties skills, duties, and responsibilities to job code and its associated global career levels (e.g., individual contributor (IC) and Manager (M)).

Citation:

- Ex. 13, slide 4 (notes), ORACLE_HQCA_0000056234-6 in Vol. 1;
- *See also* Ex. 8, slide 13 and slide 13 (notes), ORACLE_HQCA_0000056391 -24, -25 in Vol. 1;
- Ex. 12, slide 12 and slide 12 (notes), ORACLE_HQCA_0000042098-20 to -21 in Vol. 1;
- Ex. 14, slide 29 (notes), ORACLE_HQCA_0000382580-56 in Vol. 1;
- Ex. 17, Atkins MSJ Decl., ¶ 8 & Ex. B, rows 31–47 in Vol. 1.

6) Ms. Kolotouros testified that the products an employee works on does not determine compensation.

Citation:

- OEx. 7, Kolotouros Decl. ¶ 9.

7) Managers testified that they had employees under them earning more than them, thereby showing that product is not tied wages.

Citation:

- OEx. 10, McGregor Decl., ¶ 9;
- OEx. 9, A. Sharma Decl., ¶10.

<p>20. Oracle categorizes the jobs in which its employees work by job functions.</p> <p>Alleged Supporting Evidence: Waggoner Decl., Ex. D (ORACLE_HQCA_0000364276 at 7); Connell Decl., Ex. C (7/19/19 Waggoner PMK Dep. 100:13-23).</p>	<p>Undisputed.</p>
<p>21. Job functions describe, at a very high level, “the general type of work performed” by employees within the function.</p> <p>Alleged Supporting Evidence: Waggoner Decl., ¶ 17, Ex. D (ORACLE_HQCA_0000364276 at 5), Ex. E (ORACLE_HQCA_0000056234 at 4); Connell Decl., Ex. C (7/19/19 Waggoner PMK Dep. 88:19-89:7).</p>	<p>Disputed.</p> <p>1) OFCCP disputes this fact because none of the two training presentations Oracle cited as support and none of the trainings that Oracle produced to date in discovery state that job functions are described “at a very high level.” Instead, these documents just state that “[t]he [job] function describes the general type of work the employee performs.”</p> <p>Citation:</p> <ul style="list-style-type: none"> • Ex. 13, slide 4 (notes), ORACLE_HQCA_0000056234-6 in Vol. 1; • OEx. 17, Waggoner May Dep. 74:11-15, 80:23–81:5, 30:8-15; • <i>See also</i> Ex. 12, slide 12 and slide 12 (notes), ORACLE_HQCA_0000042098-20 to -21 in Vol. 1; • Decl. of Kate Waggoner, attached to Oracle’s MSJ, Ex. D, ORACLE_HQCA_0000364276 at 5. <p>2) OFCCP further disputes Oracle’s Material Fact 21 because Ms. Waggoner’s PMK testimony does not make or support this alleged fact.</p>

<p>22. Employees in Product Development are responsible for developing the various components of Oracle’s products and services. Their duties are varied and range from writing software code for new products to product management, technical writing, and quality assurance.</p> <p>Alleged Supporting Evidence: Waggoner Decl., ¶ 17; Connell Decl., Ex. I (ORACLE_HQCA_0000399991 at 999), Ex. J (ORACLE_HQCA_0000400010 at 010); Robertson Decl., ¶¶ 3, 6-9; Kottaluru Decl., ¶¶ 8, 11; Oden Decl., ¶ 6; Chan Decl., ¶¶ 5-7.</p>	<p>Disputed.</p> <p>1) Other employees in other functions also perform these duties. As such, they are not just limited to Product Development. For example, Mr. Webb identified that even though he and his employees, like his vice presidents (VPs) have an information technology job function, he also identified these employees as performing work akin to product development when he stated that they supply “application and infrastructure services to ... Oracle’s public cloud customers.”</p> <p>Citation:</p> <ul style="list-style-type: none"> • Webb Decl. ¶¶ 2, 4-6. <p>2) Oracle employees and managers testified that their skills are interchangeable as proved by the fact that they and/or their reports have transferred across teams as well as lines of business, and were able to perform their duties without additional trainings.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OEx. 12, Pandey Decl. ¶¶ 6, 12; • OEx. 7, Kolotouros Decl. ¶ 4; • OEx. 13, Boross Decl. ¶¶ 8, 9, 11; • OEx. 14, Arehart Decl. ¶10; • OEx. 15, Ng Decl. ¶¶ 6, 10, 11.
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<p>23. Employees within the IT job function specialize in business implementation and planning, data center services, network services, and risk management.</p> <p>Alleged Supporting Evidence: Waggoner Decl., ¶ 17; Webb Decl., ¶¶ 5-7; Talluri Decl., ¶¶ 6-8; Galka Decl., ¶¶ 3, 8.</p>	<p>Disputed.</p> <p>1) Mr. Webb identified that even though he and his employees, like his vice presidents (VPs) have an information technology job function (INFTECH), he also identified that they had product development type responsibilities “for supplying application and infrastructure services to ... Oracle’s public cloud customers.”</p> <p>Citation:</p> <ul style="list-style-type: none"> • Webb Decl. ¶¶ 2, 4-6. <p>2) Oracle employees and managers testified that their skills are interchangeable as proved by the fact that they and/or their reports have transferred across teams as well as lines of business, and were able to perform their duties without additional trainings.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OEx. 12, Pandey Decl. ¶¶ 6, 12; • OEx. 7, Kolotouros Decl. ¶ 4; • OEx. 13, Boross Decl. ¶¶ 8, 9, 11; • OEx. 14, Arehart Decl. ¶10; • OEx. 15, Ng Decl. ¶¶ 6, 10, 11.
<p>24. In the Support job function, employees work on everything from legacy on-premise solutions to cloud-based solutions and other emerging technologies.</p> <p>Alleged Supporting Evidence: Waggoner Decl., ¶ 17; Yakkundi Decl., ¶¶ 10-16; Eckward Decl., ¶¶ 3, 5; Wu Decl., ¶¶ 4, 6; Suri Decl., ¶ 3, 5.</p>	<p>Disputed.</p> <p>1) Oracle employees and managers testified that their skills are interchangeable as proved by the fact that they and/or their reports have transferred across teams as well as lines of business, and were able to perform their duties without additional trainings.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OEx. 12, Pandey Decl. ¶¶ 6, 12; • OEx. 7, Kolotouros Decl. ¶ 4; • OEx. 13, Boross Decl. ¶¶ 8, 9, 11; • OEx. 14, Arehart Decl. ¶10; • OEx. 15, Ng Decl. ¶¶ 6, 10, 11.

25. Within each job function, employees are further divided into job families (*e.g.*, Applications Developers) and then into system job titles with a corresponding numeric job code.

Alleged Supporting Evidence:

Waggoner Decl., ¶ 20; Connell Decl., Ex. C (7/19/19 Waggoner PMK Dep. 100:13-23), Ex. I (ORACLE_HQCA_0000399991 at 98).

Undisputed.

<p>26. System job titles reflect a progression of development within a job family (<i>e.g.</i>, Applications Developer 1, Applications Developer 2, and so on).</p> <p>Alleged Supporting Evidence: Waggoner Decl., ¶ 20; Yakkundi Decl., ¶ 16; Wu Decl., ¶ 8; <i>see</i> Connell Decl., Ex. I (ORACLE_HQCA_0000399991 at 997-99).</p>	<p>Disputed.</p> <p>1) Oracle defines its “systems job title” “as “a brief description of the job” not a “progression of development within a job family.” Furthermore, “job family” is not an element of Oracle’s global job table since Oracle’s global job table only consists of five core elements: job code, job function, specialty area, job title, and global career level.</p> <p>Citation:</p> <ul style="list-style-type: none"> • Ex. 13, slide 4 and slide 4 (notes), ORACLE_HQCA_0000056234-5, -6 in Vol. 1; • Ex. 12, slide 12 and slide 12 (notes), ORACLE_HQCA_0000042098-20 to -21 in Vol. 1; • Decl. of Erin Connell, attached to Oracle’s MSJ (Connell Decl.), Ex. I, ORACLE_HQCA_0000399998. <p>2) Oracle defines global career level as the element of its global job table that “indicates increased skill, knowledge, and responsibilities and performance expectations.”</p> <p>Citation:</p> <ul style="list-style-type: none"> • Ex. 13, slide 4 (notes), ORACLE_HQCA_0000056234-5 in Vol. 1; • <i>See also</i> Ex. 12, slide 12 (notes), ORACLE_HQCA_0000042098-21 in Vol. 1. <p>3) Additionally, Oracle’s Employee Handbook and training materials define a promotion as a move from a job in one Global Career Level to a job in a higher Global Career Level with greater responsibility and impact on the Company’s business. Promotions are not defined as a progression of development within a job family.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OFCCP SUF: Fact 180; • Ex. 14, slide 34 (notes), ORACLE_HQCA_0000382580-66 in Vol. 1; • Ex. 11, ORACLE_HQCA_0000000507 in Vol. 1; • Ex. 8, slide 27, ORACLE_HQCA_0000056391-51 in Vol. 1; • Ex. 18, “Global Compensation Training: Managing Pay Module,” copyright 2011, slide 13, ORACLE HQCA 0000000407-24 in Vol. 1.
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27. Job functions, specialty areas, job families, and system job titles are broad and describe the type of work that a person performs at a high level of abstraction.

Alleged Supporting Evidence:

Waggoner Decl., ¶¶ 17, 22;
Connell Decl., Ex. B (8/1/19
Holman-Harries PMK Dep.
35:24-36:16), Ex. C (7/19/19
Waggoner PMK Dep. 102:17-
103:23), Ex. I
(ORACLE_HQCA_0000399991
at 999), Ex. J
(ORACLE_HQCA_0000400010
at 010).

Disputed.

1) OFCCP disputes Oracle’s characterization that each of these categories “describe the type of work a person performs at a high level of abstraction.” Oracle’s supporting cite at ORACLE_HQCA_0000399999 does not address job family let alone identify that it is broad or describes the type of work being performed. Instead it identifies and example of the different elements of Oracle’s global job tab. Oracle’s description of “Job Functions, specialty areas, ... and system titles” below does not attribute to them a “high level of abstraction.”

- “The function which describes the general type of work the employee performs. This is not the same as LOB.”
- “The specialty area which is a subset of the function and is intended to further identify the work performed.”
- “The job title which is a brief description of the job – known as the ‘systems title.’”

Citation:

- Ex. 8, slide 12 (notes), ORACLE_HQCA_0000056391-25 in Vol. 1;
- Connell Decl., Ex. I (ORACLE_HQCA_0000399999).

Oracle uses some of these elements to compare Oracle’s jobs to its competitors, and set salary ranges associated with each system job title.

Citation:

- OEx. 2 Waggoner PMK *Jewett* Dep., ORACLE_HQCA_0000400683-85, 100:23-102:4.

2) Additionally, Ex. D to Ms. Waggoner’s declaration disputes Oracle’s characterization of specialty area as describing work at a “high level of abstraction.” It states “[t]he specialty area is more specific, and it describes the work the employee performs within the defined function.” It further states that that “[t]he specialty area assigned to a job helps to pinpoint the responsibilities of that job.”

Citation:

- Waggoner Dec., Ex. D, ORACLE_HQCA_0000364276 at 8.

3) This fact is is unsupported by the bits and pieces from different documents and testimony Oracle cites:

A) Ms. Waggoner’s PMK testimony did not address job functions, specialty areas or job families in the cited testimony, and cannot provide support for Oracle’s statements about those categorizations.

Citation:

- Connell Decl., Ex. C (7/19/19 Waggoner PMK Dep. 102:17-103:23).

B) There is a lack of foundation for Ms. Holman-Harries’ deposition testimony, as her counsel noted in his objections. Further, Oracle omits additional testimony from Ms. Holman-Harries (SHH PMK 36:18-38:23), revealing her lack of foundation. Further, Ms. Holman-Harries’ testimony did not mention the job functions, specialty areas, job families, systems job titles, physical location.

Citation:

- Connell Decl., Ex. B (8/1/19 Holman-Harries PMK Dep. 35:24-36:16).

C) The Ex. I cite does not state that these four items are broad nor does it state that these items are defined at a high level of abstraction. It also does not address systems job title. It simply identifies some examples for some of the job functions at issue in this litigation. Additionally parts of it are not legible.

Citation:

- Connell Decl., Ex. I (ORACLE_HQCA_0000399991 at 999).

D) The Ex. J cite does not address job families or systems job titles. It likewise does not state that job function or specialty areas are broad or highly abstract.

Citation:

- Connell Decl., Ex. J (ORACLE_HQCA_0000400010 at 010).

4) Fourth, Oracle’s factual assertion that “[j]ob functions, specialty areas, job families, and system job titles are broad and describe the type

of work that a person performs at a high level of abstraction” is contradicted by its compensation instructions over the years that do not apply “broad” and “a high level of abstraction” characteristics to these items.

Citation:

- Ex. 16, slide 8 (notes) ORACLE_HQCA_0000364272-15 in Vol. 1;
- *See also* Ex. 12, slide 19 (notes) ORACLE_HQCA_0000042098-35 in Vol. 1;
- Ex. 13, slide 17 (notes), ORACLE_HQCA_0000056234-30 in Vol. 1;
- Ex. 8, slide 20 (notes), ORACLE_HQCA_0000056391-39 in Vol. 1;
- Ex. 14, slide 22 (notes) ORACLE_HQCA_0000382580-42 in Vol. 1.

28. Employees who share the same job function, specialty area, job family, or system job title may have very different duties, skills, education, and experience.

Alleged Supporting Evidence:

Bashyam Decl., ¶¶ 7, 14; Webb Decl., ¶¶ 5-6, 8-11; Sarwal Decl., ¶¶ 4-12; Eckward Decl., ¶¶ 9-10; Kottaluru Decl., ¶ 13; Hsin Decl., ¶ 8; Fox Decl., ¶¶ 12-13; Oden Decl., ¶¶ 7-11; Abushaban Decl., ¶ 10; Suri Decl., ¶ 10; Chan Decl., ¶ 8; Adjei Decl., ¶¶ 8-9; Chechik Decl., ¶ 6; Ousterhout Decl., ¶¶ 11-13; Miranda Decl., ¶¶ 5-8; Budalakoti Decl., ¶ 8.

Disputed.

1) The element in Oracle’s global job table that addresses skills, knowledge, responsibilities and performance is global career level. The higher a person’s career level, the higher the complexity of the person’s duties.

Citation:

- Ex. 13, slide 4 (notes), ORACLE_HQCA_0000056234-5 in Vol. 1;
- *See also* Ex. 12, slide 12 (notes), ORACLE HQCA 0000042098-21 in Vol. 1.

2) Oracle’s global career level also takes into account experience. For example, Oracle’s “Position Criteria” for IC positions, notes that an IC3, IC4, IC5 and IC6 typically have more than 2.5, 5, 10 and 15 years of experience respectively.

Citation:

- OEx. 18, “Position Criteria,” dated April 2006, ORACLE HQCA 0000360865.

3) In her *Jewett* PMK deposition, Ms. Waggoner, testified that Oracle’s global career level concerns: “Responsibility, complexity, knowledge, skills, and abilities that the person brings to the table, their scope.”

Citation:

- OEx. 2, Waggoner PMK *Jewett* Dep. ORACLE HQCA 0000400756, 173:1-6.

4) Oracle employees and managers testified that their skills are interchangeable as proved by the fact that they and/or their reports have transferred across teams as well as lines of business, and were able to perform their duties without additional trainings.

Citation:

- OEx. 12, Pandey Decl. ¶¶ 6, 12;
- OEx. 7, Kolotouros Decl. ¶ 4;
- OEx. 13, Boross Decl. ¶¶ 8, 9, 11;
- OEx. 14, Arehart Decl. ¶10;
- OEx. 15, Ng Decl. ¶¶ 6, 10, 11.

<p>29. Each system job title associates a given employee with a particular career level.</p> <p>Alleged Supporting Evidence:</p> <p>Waggoner Decl., ¶ 24; Connell Decl., Ex. B (8/1/19 Holman-Harries PMK Dep. 86:14-87:18).</p>	<p>Undisputed.</p>

<p>30. Career levels are broad steps that roughly reflect increased skill, knowledge, responsibility, and performance expectations.</p> <p>Alleged Supporting Evidence:</p> <p>Connell Decl., Ex. B (8/1/19 Holman-Harries PMK Dep. 86:14-88:13), Ex. C (7/19/19 Waggoner PMK Dep. 100:24-102:8), Ex. I (ORACLE_HQCA_0000399991 at 997); Bashyam Decl., ¶¶ 7, 14; Webb Decl., ¶ 12; Sarwal Decl., ¶ 13; Wu Decl., ¶ 8; Fox Decl., ¶ 11; Kite Decl., ¶¶ 9-10; Chechik Decl., ¶ 13; Desmond Decl., ¶¶ 5-6; Ousterhout Decl., ¶ 10; Miranda Decl., ¶ 9; Galka Decl., ¶ 4.</p>	<p>Disputed.</p> <p>1) Oracle’s compensation training did not define global career levels as “roughly reflecting” “skill, knowledge, responsibility, and performance expectations.” Instead, they stated that Career Level “indicates skill, knowledge, and responsibilities and performance expectations.”</p> <p>Citation:</p> <ul style="list-style-type: none"> • Ex. 13, slide 4 (notes), ORACLE_HQCA_0000056234-5 in Vol. 1; • <i>See also</i> Ex. 12, slide 12 (notes), ORACLE_HQCA_0000042098-21 in Vol. 1. <p>2) Ms. Waggoner’s PMK deposition testimony did not use the qualifiers Oracle includes in its “fact.” She described a global career level as: “Responsibility, complexity, knowledge, skills, and abilities that the person brings to the table, their scope.”</p> <p>Citation:</p> <ul style="list-style-type: none"> • OEx. 2, Waggoner PMK <i>Jewett</i> Dep. ORACLE_HQCA_0000400756, 173:1-8. <p>3) Ms. Waggoner further identified in her <i>Jewett</i> PMK deposition that the global career level is “the level at which someone is performing their job.”</p> <p>Citation:</p> <ul style="list-style-type: none"> • OEx. 2, Waggoner PMK <i>Jewett</i> Dep. ORACLE_HQCA_0000400755, 172:9-12. <p>4) Ms. Waggoner identified in her <i>Jewett</i> PMK deposition that Oracle employees who share the same global career levels share the same level of responsibility and their impacts are similar.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OEx. 2, Waggoner PMK <i>Jewett</i> Dep. ORACLE_HQCA_0000400810-12, 227:15-229:9. <p>5) One of the exhibits attached to Ms. Waggoner’s declaration identifies the clarity of Oracle’s global career level by noting that “if a job in Finance has the same level of responsibilities and complexity as a job in Sales, the career level of the two jobs will be the same.”</p>
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	<p>Citation:</p> <ul style="list-style-type: none"> Waggoner Decl., Ex. D, ORACLE_HQCA_0000364276 at 9. <p>6) The evidence that Oracle cites to support this fact, including the training at ORACLE_HQCA_0000399997, just identifies increased skill, knowledge, responsibility, and performance expectations. It does not identify that a global career level “roughly” indicates these traits. In fact, the cited paragraphs in the declarations identify that Oracle’s employees, as their career levels increase, have a higher degree of skills, knowledge, responsibility and experience.</p>
<p>31. Job functions are not tied to specific LOBs.</p> <p>Alleged Supporting Evidence:</p> <p>Waggoner Decl., Ex. D (ORACLE_HQCA_0000364276 at 5, 7), Ex. E (ORACLE_HQCA_0000056234 at 6).</p>	<p>Undisputed.</p>

<p>32. Unlike LOBs, job functions do not have a leader, and individuals within a given job function typically work across different LOBs and report to many different leaders.</p> <p>Alleged Supporting Evidence: Waggoner Decl., ¶ 19; Connell Decl., Ex. A (ORACLE_HQCA_0000400584 at 47:20-48:24; 51:9-21; 146:21-147:23).</p>	<p>Disputed</p> <p>1) Job functions have leaders.</p> <p>A) For example, Joyce Westerdahl is the leader of the human resources job function and is the top human resources person at Oracle. Kate Waggoner reports to Phil Jenish and he reports to Ms. Westerdahl.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OEx. 1, Westerdahl Dep. 12:14 – 13:19, 14:1-18. <p>B) Ms. Waggoner is in the human resources job function and reports to Phil Jenish.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OEx. 8, Waggoner PMK Dep. 9:5-6; • OEx. 1, Westerdahl Dep. 15:14-15. <p>C) For example, Larry Ellison is the Chief Technology Officer and technology functions and leader of Product Development and Information Technology job functions such that he approved the hiring and salary increases of people within those functions from Juan Loaiza’s organization within Thomas Kurian’s organization..</p> <p>Citation:</p> <ul style="list-style-type: none"> • OFCCP SUF Facts 40, 41; • OEx. 31, Loaiza Dep. 28:22-29:2, 119:3-120:16; • Ex. 35, “Dimensions of Diversity Newsletter,” dated 12/9/15, ORACLE HQCA 0000049995 in Vol. 2.
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<p>33. An employee’s direct manager plays the most significant role in setting that employee’s compensation.</p> <p>Alleged Supporting Evidence: Waggoner Decl., ¶ 28, Ex. C (ORACLE_HQCA_0000364272 at 15), Ex. E (ORACLE_HQCA_000005234 at 16, 22); Connell Decl., Ex. C (7/19/19 Waggoner PMK Dep. 111:23-112:3); Chan Decl., ¶ 9.</p>	<p>Disputed.</p> <p>1) An employee’s direct manager plays a minimal role, if any, with an Oracle employee’s compensation of an Oracle employee because the employee’s compensation does not change when he changes supervisor, moves to a different product, or works on a different project.</p> <p>A) Oracle’s managerial training provides that there will generally be no change in base salary and job level for U.S. domestic transfers unless Larry Ellison gives his approval.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OFCCP SUF: Fact 172; • Ex. 58, “Manager Essentials Product Development,” dated March 2014, ORACLE_HQCA_0000380891 in Vol. 2. <p>B) Oracle’s compensation training states that the starting point for transfers should be lateral (targeting the same base salary compa-ratio in the employee’s old and new roles).</p> <p>Citation:</p> <ul style="list-style-type: none"> • OFCCP SUF: Fact 173; • Ex. 13, slide 31 ORACLE_HQCA_0000056234-57 in Vol. 1. • <i>See also</i> Ex. 59, “Global Compensation Guidelines Training North America: US, ”dated May 2013, slide 6, ORACLE_HQCA_0000382399-8 in Vol. 1. <p>C) Oracle’s instructions for addressing “Internal Transfers” states that transfers should be at “equal career level and salary.”</p> <p>Citation:</p> <ul style="list-style-type: none"> • OFCCP SUF: Fact 174; • Ex. 28, slide 21, ORACLE_HQCA_0000057179-41; • Ex. 51, Untitled Oracle Hiring Presentation, copyright 2014, slide 32, ORACLE_HQCA_0000057093-32.OEx. 8, Waggoner PMK Dep. 327:24-328:12, 267:21-22. <p>D) Oracle’s compensation training to managers instructs them that internal transfers should not be used as a means to increase salaries.</p> <p>Citation:</p>
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- OFCCP SUF: Fact 175;
- Ex. 13, slide 31, ORACLE_HQCA_0000056234-57 in Vol. 1;
- Ex. 21, slide 19, ORACLE_HQCA_0000380437-37 in Vol. 1;
- Ex. 59, slide 6, ORACLE_HQCA_0000382399-8 in Vol. 2.

E) When a person moves from one organization to another within the Product Development LOB, there is “very rarely” any change in salary.

Citation:

- OFCCP SUF: Fact 176;
- Ex. 11, Loaiza Dep. 105:10–23;

F) Oracle purposely discourages granting pay increases when its employees laterally transfer from one position to another because if employees were given raises with a transfer, the organization would be beset by infighting as managers sought to poach staff from other organizations with promises of increased compensation..

Citation:

- OFCCP SUF: Fact 177;
- OEx. 8, Waggoner 30b6 Dep. 312:10–20, 310:2–24.

G) A transfer within Oracle can occur with no increase in salary or other compensation unless an employee’s current salary places him or her below the minimum range for the new job.

Citation:

- OFCCP SUF: Fact 178;
- Ex. 11, Handbook, ORACLE_HQCA_0000000508.

H) Appropriate levels of management must approve any compensation adjustment associated with a transfer.

Citation:

- OFCCP SUF: Fact 178;
- Ex. 11, Handbook, ORACLE_HQCA_0000000508-09.

2) The decisions whether to do corporate wide focal salary increases, bonuses, and stock grants and the budgets or caps allocated for them are more significant in determining employee compensation than employees' direct managers.

I) While, at times, Oracle calls its focal, aka focal reviews "annual focal reviews," they are not truly annual because Oracle did not have any in 2013 and 2018 and has them about every 14-18 months apart.

Citation:

- OFCCP SUF: Fact 137, 138;
- OEx. 8, Waggoner PMK Dep. 248:7-17, 192:19-193:1;
- Ex. 34, ORACLE_HQCA_0000434971 in Vol. 2.

J) From January 1, 2013, to January 19, 2019, Oracle only gave bonuses in two years: 2014 and 2018.

Citation:

- Ex. 91, Madden Report at 13 n. 4, 26 n. 15, 38 n. 18 in Vol. 3.

K) In Ms. Waggoner PMK testimony, she stated that Oracle has had lean budget years such that there is "little to no focal budget." She explained the impact of this situation by stating "if we give little to no focal budget, naturally we're not keeping up with the way the market has grown." She further testified that Oracle has had a lean budget for "the last many years."

Citation:

- OFCCP SUF: Fact 110, 111;
- OEx. 8, Waggoner PMK Dep. 327:24-328:12, 267:21-22.

L) Ms. Waggoner also testified as a PMK that "since 2013, this time period started, we've had incredibly lean corporate bonus budgets" and "[t]he bonus budgets have been very rare and very small when we've had them."

Citation:

- OFCCP SUF: Fact 110, 111;
- OEx. 8, Waggoner PMK Dep. 263:12-14, 276:11-14.

M) For equity grants (aka stocks or RSUs), Oracle caps the amount of people who can receive them at 35% such that Ms. Waggoner identified in her PMK testimony that they primarily go to managers and employees with higher global career levels.

Citation:

- Ex. 84, Email from Stefanie Wittner, dated 5/30/13, ORACLE_HQCA_0000022961 in Vol. 3;
- OEx. 8, Waggoner PMK Dep. 272:20-274:19.

N) Managers were instructed to issue shares of stock to ■■■ to ■■■ managers and to ■■■ to ■■■ individual contributors.

Citation:

- Ex. 84, ORACLE_HQCA_0000022961 in Vol. 3.

O) EVP Loaiza testified that ■■■% of his organization is below the market rate because of the limited budgets.

Citation:

- OFCCP SUF: Fact 129;
- OEx. 11, Loaiza Dep. 283:6–284:22, 305:7–306:3.

P) Oracle’s lean budget years have not extended to Co-CEOs Safra Catz and Mark Hurd who each have earned 1,205 times more in 2018 than the median employee compensation at Oracle, a ratio that ranks them in the 17 highest paid CEOs vis a vis average employee pay.

Citation:

- OEx. 19, New York Times, The Highest-Paid C.E.O.s of 2018: A Year So Lucrative, We Had to Redraw Our Chart, 5/29/19 at <https://www.nytimes.com/interactive/2019/business/highest-paid-ceos-2018.html>.

3) Oracle has a centralized starting pay process for its hires.

A) One example of an employee’s first-line or direct manager not primarily determining the starting pay for new hires is Oracle’s hiring of college graduates, because Oracle’s College Recruiting Organization determines the person’s pay, not the employee’s

direct hiring manager. Ms. Waggoner admitted that Oracle's College Recruiting Organization sets the compensation package for the new hires hired through its program in her PMK *Jewett* deposition.

Citation:

- OEx. 2, Waggoner PMK *Jewett* Dep. ORACLE_HQCA_0000400696-98, 113:13- 115:1.

B) EVP Loaiza also identified in his March 2015 audit interview with OFCCP that Oracle's college recruiting organization set salaries for the people Oracle hires from college: "We hire a lot from universities. Those salaries are set by the university recruiting department. We set compensation for those not coming from universities."

Citation:

- Decl. of Hea Jung Atkins in Opposition to Oracle America, Inc.'s Motion for Summary Judgement (Atkins Opp'n Decl.), ¶ 14, Ex. K, OFCCP's Interview Notes of the Juan Loaiza on March 25, 2015 (Loaiza Interview Notes), DOL 000000522.

C) Oracle's College Recruiting organization sets narrow pay ranges for college hires and makes starting pay determination for them.

Citation:

- OEx. 22, Email from Zeira Singn to many people re LJE approved new college compensation package, dated 8/25/16, ORACLE_HQCA_0000380453.
- OEx. 23, Email from Chantel Dumont to Milton Liu and Les Cundall re Salary Guidelines, dated 9/11/13 (Dumont 9/11/13 Email), ORACLE_HQCA_0000012587;
- OEx. 24, Email from Chantel Dumont to various people re college compensation for FY14, dated 9/24/13, ORACLE_HQCA_0000023717;
- OEx. 25, Email from Katie Rider to James Handley re College Hire Starting Salaries, dated 4/16/15, ORACLE_HQCA_0000380671;
- OEx. 26, email from Chantel Dumont to Duhong Trinh re intern salary rule, dated 9/14/13,

ORACLE_HQCA_0000012204;

- OEx. 27, Email from Les Cundall to Elizabeth Lee re why [REDACTED], dated 3/14/14, ORACLE_HQCA_0000011640;
- OEx. 28, Email from Chantel Dumont to Satarupa Bhattacharya, dated 5/17/13, ORACLE_HQCA_0000012173.

D) Another example of the direct manager not being the primary decision-maker for the starting pay for new hire is the MAP program wherein the “[t]he offer originates from the CEOs [sic] office and it has all the elements of other offers except a specific job position.... Once the offer is accepted the graduate is temporarily assigned to the CEOs [sic] development staff.”

Citation:

- OEx. 29, Emails between Wendy Lee and [REDACTED] re Oracle’s MAP Program created by Larry Ellison dated 10/25/13, ORACLE_HQCA_0000036993-94.

E) EVP Loaiza, at the M8 global career level, testified in his deposition that when he is reviewing a person during the hiring approval process, he is reviewing “the proposed compensation of the person.” He emphasizes this a second time when he states: “What I get is not the current compensation. I get the proposed compensation.” If he is only looking at the *proposed pay* at his high level, then the first level manager, many levels below, could not have already determined the starting pay for a new hire.

Citation:

- OEx. 11, Loaiza Dep. 16:3-16, 17:2-10, 44:16-45:20-18.

F) EVP Loaiza testified in his deposition that the hiring approval process which included the compensation proposal went up the management chain of command to the final approver who was Thomas Kurian for a large majority of them.

Citation:

- OEx. 11, Loaiza Dep. 48:10-49:1.

G) Ms. Waggoner testified that determining the pay of hires is a collaboration between the hiring manager and the recruiting organization with, at times, input by human resources or its

compensation group.

Citation:

- OEx. 17, Waggoner May Dep. 91:24-92:6.

H) Ms. Waggoner’s declaration and deposition testimony lacks foundation because of a lack of personal knowledge since she testified in her July 2018 *Jewett* deposition that she had not been involved with the review process for years.

Citation:

- OEx. 2, Waggoner PMK *Jewett* Dep. ORACLE_HQCA_0000400688-89, 105:1-106:12.

I) Oracle’s Human Resources and Recruiters play significant role in determining an employee’s compensation at hire, as they are the ones instructing hiring managers how employees should be paid.

Citation:

- OEx 20, Powers Decl. ¶11;
- OEx 21, Decl. of Lynn Snyder (Snyder Decl.) ¶ 13.

4) This fact is also disputed on the grounds that direct managers only make pay *recommendations*, not decisions. These pay *recommendations* are subsequently reviewed up the chain of command until the ultimate approver approves them. At intermediate reviews, the reviewing managers can either give their approvals or reject the recommendation. The final approvers for all hirings have to be approved by “CEO(s) & Executive Chairman and CTO,” “Office of the CEO,” the Board of Directors, or Thomas Kurian.

A) Oracle’s Global Approval Matrices state that approvals for base salary increases, bonuses, and stock or stock options grants have to be made at the level of “CEO(s) & Executive Chairman and CTO,” “Office of the CEO,” the Board of Directors, or Thomas Kurian.

Citation:

- OFCCP SUF: Fact 113;
- Ex. 20, Global Approval Matrix, dated 6/11/12, ORACLE_HQCA_0000062725-1 to -2;
- Ex. 20, Global Approval Matrix, dated 2/1/13,

ORACLE_HQCA_0000062732-1 to -2;

- Ex. 20, Global Approval Matrix, dated 11/1/14, ORACLE_HQCA_0000062712-1 to -2;
- Ex. 20, Global Approval Matrix, dated 6/1/15, ORACLE_HQCA_0000062710-1 to -2;
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- Ex. 20, Global Approval Matrix, dated 3/30/17, ORACLE_HQCA_0000062720-1 and -2 all in Vol. 1.
- Fact 4 herein by Oracle for Thomas Kurian's title and position.

B) Oracle's compensation instructions for hiring likewise require managers to make pay recommendations that require approvals at the Executive Level (e.g., CEO. CTO) or their offices.

Citation:

- OFCCP SUF: Fact 116;
- Ex. 28, "Recruit & Hire at Oracle: Module 6: How to Create an Offer in iRecruitment," copyright 2017, slide 11 (notes), ORACLE_HQCA_0000057179-22 in Vol. 2;
- Ex. 13, slide 35 and slide 35 (notes) ORACLE_HQCA_0000056234-65 to -66 in Vol. 1.

5) Oracle's compensation instructions for focals and off-cycle salary increases (e.g., promotions, "dive and saves" used to counter an offer from a competitor) likewise require managers to make pay recommendations that require approvals at the Executive Level (e.g., CEO. CTO) or their offices.

Citation:

- OFCCP SUF: Fact 116;
- Ex. 28, slide 11 (notes), ORACLE_HQCA_0000057179-22 in Vol. 2;
- Ex. 13, slide 35 and slide 35 (notes) ORACLE_HQCA_0000056234-65 to -66 in Vol. 1.

A) The approvals for base salary increases goes all the way up through the CEO's office.

Citation:

- OFCCP SUF: Fact 117;
- OEx. 8, Waggoner PMK Dep. 155:7-25.

B) Oracle’s focal review trainings refer to the managers role as making “recommendations” and state that “[t]his isn’t to say that your recommendations won’t be changed by someone further up in your hierarchy, but it is a way to inform your manager of how you would like to allocate increases to your team.”

Citation:

- Ex. 14, at slide 43 (notes), ORACLE_HQCA_0000382580-84 in Vol. 1.

C) In a 2014 compensation training, managers were instructed: “**Do not communicate** any changes [in compensation] until the ‘Last Approval Action’ shows ‘Larry Ellison.’”

Citation:

- OFCCP SUF: Fact 120;
- Ex. 25, slide 39, ORACLE_HQCA_0000056242-48 (emphasis in original) in Vol. 1.

D) In a 2011 compensation training, managers were instructed: “**You should not communicate any changes until we obtain final approval from LJE.**”

Citation:

- OFCCP SUF: Fact 121;
- Ex. 26, slide 49, ORACLE_HQCA_0000056957-55 (emphasis in original) in Vol. 2.

E) LJE stands for Larry J. Ellison.

Citation:

- OFCCP SUF: Fact 122;
- OEx. 17, Waggoner May Dep. 106:25–107:4.

F) Subsequent to these 2011 and 2014 trainings, Oracle expanded this approval beyond Larry Ellison to include Safra Catz.

Citation:

- OFCCP SUF: Fact 123;

- OEx. 16, Carrelli Dep. 212:9–213:1, 214:12–14.

H) Oracle’s managers cannot communicate any pay changes earlier because changes can happen during the approval process.

Citation:

- OFCCP SUF: Fact 124;
- Ex. 24, slide 39 (notes), ORACLE_HQCA_0000381306-76 in Vol. 1.

I) Even in Oracle’s declarations provided to this Court to support its summary judgment motion, managers acknowledge that they only make pay recommendations in focal reviews. E.g., Christina Kite, a VP, stated: “I am responsible for recommending salary increases and bonuses for my team.”

Citation:

- Decl. of Christina Kite, ¶¶ 3, 11.

J) President Thomas Kurian gave his required approval to off-cycle dive and save requests.

Citation:

- OFCCP SUF: Fact 119;
- Ex. 30, Dive-and-Save Emails between Oracle Managers, July 2014, ORACLE_HQCA_0000432004 in Vol. 2.

6) In addition, OFCCP objects to paragraph 28 of Ms. Waggoner’s declaration because she lacks personal knowledge of the facts about which she testifies, fails to use the best evidence, and proffers an improper summary.

7) Oracle’s Human Resources and Recruiters play significant role in determining an employee’s compensation at hire, as they are the ones instructing hiring managers how employees should be paid.

Citation:

- OEx 20, Powers Decl. ¶11;
- OEx 21, Snyder Decl. ¶ 13.

<p>34. First-line (or direct) managers primarily determine the starting pay for new hires.</p> <p>Alleged Supporting Evidence: Waggoner Decl., ¶ 28, Ex. E (ORACLE_HQCA_0000056234 at 36); Connell Decl., Ex. C (7/19/19 Waggoner PMK Dep. 113:14-114:24; 117:3-11), Ex. H (6/11/19 Cheruvu Dep. 74:22-25); Gill Decl., ¶ 6; Ousterhout Decl., ¶ 16.</p>	<p>Disputed.</p> <p>1) One example of an employee’s first-line or direct manager not primarily determining the starting pay for new hires is Oracle’s hiring of college graduates, because Oracle’s College Recruiting Organization determines the person’s pay, not the employee’s direct hiring manager. Ms. Waggoner admitted that Oracle’s College Recruiting Organization sets the compensation package for the new hires hired through its program in her PMK <i>Jewett</i> deposition.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OEx. 2, Waggoner PMK <i>Jewett</i> Dep. ORACLE_HQCA_0000400696-98, 113:13- 115:1. <p>2) EVP Loaiza also identified in his March 2015 audit interview with OFCCP that Oracle’s college recruiting organization set salaries for the people Oracle hires from college: “We hire a lot from universities. Those salaries are set by the university recruiting department. We set compensation for those not coming from universities.”</p> <p>Citation:</p> <ul style="list-style-type: none"> • Atkins, Opp. Decl., ¶ 7, Ex. 14, Loaiza Interview Notes, DOL 000000522. <p>3) Oracle’s College Recruiting organization sets narrow pay ranges for college hires and makes starting pay determination for them.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OEx. 22, Email from Zeira Singn to many people re LJE approved new college compensation package, ORACLE_HQCA_0000380453. • OEx. 23, Email from Chantel Dumont to Milton Liu and Les Cundall re Salary Guidelines, dated 9/11/13 (Dumont 9/11/13 Email), ORACLE_HQCA_0000012587; • OEx. 24, Email from Chantel Dumont to various people re college compensation for FY14, dated 9/24/13, ORACLE_HQCA_0000023717; • OEx. 25, Email from Katie Rider to James Handley re College Hire Starting Salaries, dated 4/16/15, ORACLE_HQCA_0000380671; • OEx. 26, Email from Chantel Dumont to Duhong Trinh re
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Intern Salary Rule, dated 0/14/13,
ORACLE_HQCA_0000012204;

- OEx. 27, Email from Les Cundall to Elizabeth Lee re University Offer Approval Request, dated 3/14/14, ORACLE_HQCA_0000011640;
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4) Another example of the direct manager not being the primary decision-maker for the starting pay for new hire is the MAP program wherein the “[t]he offer originates from the CEOs [sic] office and it has all the elements of other offers except a specific job position.... Once the offer is accepted the graduate is temporarily assigned to the CEOs [sic] development staff.”

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- OEx. 29, Emails between Wendy Lee and ██████████ regarding Oracle’s MAP Program created by Larry Ellison dated 10/25/13, ORACLE_HQCA_0000036993-94.

5) EVP Loiza, at the M8 global career level, testified in his deposition that when he is reviewing a person during the hiring approval process, he is reviewing “the proposed compensation of the person.” He emphasizes this a second time when he states: “What I get is not the current compensation. I get the proposed compensation.” If he is only looking at the *proposed pay* at his high level, then the first level manager, many levels below, could not have already determined the starting pay for a new hire.

Citation:

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6) EVP Loiza testified in his deposition that the hiring approval process which included the compensation proposal went up the management chain of command to the final approver who was Thomas Kurian for a large majority of them.

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8) Ms. Waggoner's declaration and deposition testimony lacks foundation because of a lack of personal knowledge since she testified in her July 2018 *Jewett* deposition that she had not been involved with the review process for years.

Citation:

- OEx. 2, Waggoner PMK *Jewett* Dep. ORACLE_HQCA_0000400688-89, 105:1-106:12.

9) In addition, OFCCP objects to paragraph 28 of Ms. Waggoner's declaration because she fails to use the best evidence, and proffers an improper summary.

10) Oracle's Human Resources and Recruiters play significant role in determining an employee's compensation at hire, as they are the ones instructing hiring managers how employees should be paid.

Citation:

- OEx. 20, Powers Decl. ¶11;
- OEx. 21, Snyder Decl. ¶ 13.

11) This fact is also disputed on the grounds that direct managers only make pay *recommendations*, not decisions. These pay *recommendations* are subsequently reviewed up the chain of command until the ultimate approver approves them. At intermediate reviews, the reviewing managers can either give their approvals or reject the recommendation. The final approvers for all hirings have to be approved by "CEO(s) & Executive Chairman and CTO," "Office of the CEO," the Board of Directors, or Thomas Kurian.

A) Oracle's Global Approval Matrices state that approvals for base salary increases bonuses, and stock or stock options grants have to be made at the level of "CEO(s) & Executive Chairman and CTO," "Office of the CEO," the Board of Directors, or Thomas Kurian.

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- OFCCP SUF: Fact 113;
- Ex. 20, Global Approval Matrix, dated 6/11/12, ORACLE_HQCA_0000062725-1 to -2;
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- Fact 4 herein by Oracle for Thomas Kurian’s title and position.

B) Oracle’s compensation instructions for hiring likewise require managers to make pay recommendations that require approvals at the Executive Level (e.g., CEO, CTO) or their offices.

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- Ex. 28, “Recruit & Hire at Oracle: Module 6: How to Create an Offer in iRecruitment,” copyright 2017, slide 11 (notes), ORACLE_HQCA_0000057179-22 in Vol. 2;
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C) EVP Loaiza, at the M8 global career level, testified in his deposition that when he is reviewing a person during the hiring approval process, he is reviewing “the proposed compensation of the person.” He emphasizes this a second time when he states: “What I get is not the current compensation. I get the proposed compensation.” If he is only looking at the proposed pay at his high level, then the first level manager, many levels below, could not have already determined the salary increases.

Citation:

- OEx. 11, Loaiza Dep. 17:2-10, 44:16-45:1, 45:20-46:18.

35. Direct managers also primarily determine salary increases.

Alleged Supporting Evidence:

Waggoner Decl., ¶ 27; Fox Decl., ¶ 14; Kite Decl., ¶ 11; Suri Decl., ¶ 16; Chan Decl., ¶ 8.

Disputed.

1) The decisions whether to provide focal salary increases and the budgets or caps allocated for them are more significant in determining employee compensation than the employees' direct managers.

A) Oracle did not have focal reviews in 2013 and 2018 and has them about every 14-18 months. Thus, direct managers have no bearing pm when focal reviews and the potential salary increases that flow from them may occur.

Citation:

- OFCCP SUF: Fact 137, 138;
- OEx. 8, Waggoner PMK Dep. 192:19-193:1, 248:7-17.
- Ex. 34, ORACLE_HQCA_0000434971 in Vol. 2.

B) Ms. Waggoner's PMK testimony also identified that Oracle has had lean budget years such that there is "little to no focal budget." She explained the impact of this situation by stating "if we give little to no focal budget, naturally we're not keeping up with the way the market has grown." She also identified that Oracle has had a lean budget for "the last many years." Thus, the ability to give salary increases is severely limited.

Citation:

- OEx. 8, Waggoner 30b6 Dep. 327:24-328:12, 267:21-22.

C) Oracle's lean budget years have not extended to Co-CEOs Safra Catz and Mark Hurd who each have earned 1,205 times more in 2018 than the median employee compensation at Oracle, a ratio that ranks them in the 17 highest paid CEOs vis a vis average employee pay.

Citation:

- OEx. 19, New York Times, The Highest-Paid C.E.O.s of 2018: A Year So Lucrative, We Had to Redraw Our Chart, 5/29/19 at <https://www.nytimes.com/interactive/2019/business/highest-paid-ceos-2018.html>.

D) In her PMK testimony, Ms. Waggoner further testified that while M1 managers have people reporting to them, they do not have "hire/fire, compensation decision type of authority."

Citation:

- OEx. 8, Waggoner 30b6 Dep. 116:20-117:2.

E) Ms. Waggoner testified further still as the PMK that at times, the budget is not even cascaded down to the M2 manager.

Citation:

- OEx. 8, Waggoner 30b6 Dep. 253:20-254:6.

2) This fact is also disputed on the grounds that when direct managers receive a budget allocation, they only make pay *recommendations*, not decisions. These pay *recommendations* are subsequently reviewed up the chain of command until the ultimate approver approves them. At intermediate reviews, the reviewing managers can either give their approvals or reject the compensation recommendation. The final approvers for all salary increase (focal reviews and off-cycle) have to be approved by “CEO(s) & Executive Chairman and CTO,” “Office of the CEO,” the Board of Directors, or Thomas Kurian. Moreover, to get off-cycle decisions approved, managers are required to submit written justification.

A) Oracle’s Global Approval Matrices state that approvals for base salary increases bonuses, and stock or stock options grants have to be made at the level of “CEO(s) & Executive Chairman and CTO,” “Office of the CEO,” the Board of Directors, or Thomas Kurian.

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- Fact 4 herein for Thomas Kurian’s title and position.

B) Oracle requires that all pay increases be approved by the top of an employee's management chain of command.

Citation:

- OFCCP SUF: Fact 114;
- OEx. 17, Waggoner May Dep. 106:2-4, in Vol. 1.

C) Oracle's instructions for conducting salary reviews (aka focals or focal reviews) and allocating bonuses and stock grants instruct managers on a process by which managers make recommendations that are reviewed by each successive level of management until they are finally approved at the top of the management chain of command or the office of that top executive.

Citation:

- OFCCP SUF: Fact 115;
- Ex. 24, slides 28-39 and associated notes, ORACLE_HQCA_0000381306-52 to -75 in Vol. 1;
- Ex. 25, slides 33-39, ORACLE_HQCA_0000056242-42 to -48 in Vol. 1;
- Ex. 26, slides 3-4, 13, 34-39; ORACLE_HQCA_0000056957-3, -4, -16, -38 to -45 in Vol. 2;
- OEx. 8, Waggoner PMK Dep. 118:18-23.

3) Oracle's compensation instructions for hiring and for off-cycle salary increases (e.g., "dive and saves" used to counter an offer from a competitor) likewise require managers to make pay recommendations that require approvals at the Executive Level (e.g., CEO, CTO) or their offices.

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D) The approvals for base salary increases goes all the way up through the CEO's office.

Citation:

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E) Oracle’s focal review trainings refer to the managers role as making “recommendations” and state that “[t]his isn’t to say that your recommendations won’t be changed by someone further up in your hierarchy, but it is a way to inform your manager of how you would like to allocate increases to your team.”

Citation:

- Ex. 14, at slide 43 (notes), ORACLE_HQCA_0000382580-84 in Vol. 1.

F) In a 2014 compensation training, managers were instructed: “**Do not communicate** any changes [in compensation] until the ‘Last Approval Action’ shows ‘Larry Ellison.’”

Citation:

- OFCCP SUF: Fact 120;
- Ex. 25, slide 39, ORACLE_HQCA_0000056242-48 (emphasis in original) in Vol. 1.

G) In a 2011 compensation training, managers were instructed: “**You should not communicate any changes until we obtain final approval from LJE.**”

Citation:

- OFCCP SUF: Fact 121;
- Ex. 26, slide 49, ORACLE_HQCA_0000056957-55 (emphasis in original) in Vol. 2.

H) LJE stands for Larry J. Ellison.

Citation:

- OFCCP SUF: Fact 122;
- OEx. 17, Waggoner May Dep. 106:25–107:4.

I) Subsequent to these 2011 and 2014 trainings, Oracle expanded this approval beyond Larry Ellison to include Safra Catz.

Citation:

- OFCCP SUF: Fact 123;
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J) Oracle’s managers cannot communicate any pay changes earlier because changes can happen during the approval process.

Citation:

- OFCCP SUF: Fact 124;
- Ex. 24, slide 39 (notes), ORACLE_HQCA_0000381306-76 in Vol. 1.

K) EVP Loaiza, at the M8 global career level, testified in his deposition that when he is reviewing a person during the hiring approval process, he is reviewing “the proposed compensation of the person.” He emphasizes this a second time when he states: “What I get is not the current compensation. I get the proposed compensation.” If he is only looking at the proposed pay at his high level, then the first level manager, many levels below, could not have already determined the salary increases.

Citation:

- OEx. 11, Loaiza Dep. 17:2-10, 44:16-45:1, 45:20-46:18.

L) Even in Oracle’s declarations provided to this Court to support its summary judgment motion, managers acknowledge that they only make pay recommendations in focal reviews. E.g., Christina Kite, a VP, stated: “I am responsible for recommending salary increases and bonuses for my team.”

Citation:

- Decl. of Christina Kite, attached to Oracle’s MSJ (Kite Oracle MSJ Decl.), ¶¶ 3, 11.

K) President Thomas Kurian gave his required approval to off-cycle dive and save requests.

Citation:

- OFCCP SUF: Fact 119;
- Ex. 30, Dive-and-Save Emails between Oracle Managers,

July 2014, ORACLE_HQCA_0000432004 in Vol. 2.

4) Ms. Waggoner's declaration lacks foundation because of a lack of personal knowledge since she testified in her July 2018 PMK *Jewett* deposition that she has "no idea" how frequently base salary recommendations get rejected below the very top approval level.

Citation:

- OEx. 2, Waggoner PMK *Jewett* Dep.
ORACLE_HQCA_0000400718-20, 135:24-137:1.

5) Managers testified that their pay recommendations were not always followed.

Citation:

- OEx. 12, Pandey Decl. ¶14;
- OEx. 10, McGregor Decl. ¶13.

<p>36. Although individual compensation decisions for new hires and promotions are subject to an approval process by more senior management to ensure they are within budget and/or are not wholly unreasonable, those senior managers generally defer to the decisions of the lower-level managers and only rarely are decisions not approved.</p> <p>Alleged Supporting Evidence:</p> <p>Balkenhol Decl., ¶¶ 6-9; Waggoner Decl., ¶ 28; Connell Decl., Ex. C (7/19/19 Waggoner PMK Dep. 113:14-114:24; 117:12-121:18; 155:7-156:10; 161:10-162:13; 164:10-165:1; 167:22-169:8; 170:10-23; 171:4-20; 195:16-198:13); Abushaban Decl., ¶ 15; Hsin Decl., ¶ 11; Ousterhout Decl., ¶ 16; Robertson Decl., ¶ 11; Shah Decl., ¶ 14; Talluri Decl., ¶ 14; Eckard Dec., ¶ 13; Yakkundi Decl., ¶ 19; Suri Dec., ¶ 22; Chan Decl., ¶ 13; Desmond Decl., ¶ 13.</p>	<p>Disputed.</p> <p>Lower levels managers make compensation recommendations, not compensation decisions.</p> <p>1) Compensation <i>recommendations</i> for hiring and salary increases for promotions are reviewed by a person’s management chain until it reaches the final approvers. The final approvers for all salary increases (focal reviews and off-cycle) due to promotions have to be approved by “CEO(s) & Executive Chairman and CTO,” “Office of the CEO,” the Board of Directors, or Thomas Kurian. Moreover, to get off-cycle decisions approved, <i>recommending</i> managers are required to submit written justification. OFCCP is disputing this issue because the lower level managers do not make the compensation <i>decisions</i>, they only make <i>recommendations</i>.</p> <ul style="list-style-type: none"> • Oracle’s Global Approval Matrices state that approvals for base salary increases; bonuses and stock or stock options grants; and hiring have to be made at the level of “CEO(s) & Executive Chairman and CTO,” “Office of the CEO,” the Board of Directors, or Thomas Kurian. <p>Citation:</p> <ul style="list-style-type: none"> • OFCCP SUF: Fact 113; • Ex. 20, Global Approval Matrix, dated 6/11/12, ORACLE_HQCA_0000062725-1 to -2; • Ex. 20, Global Approval Matrix, dated 2/1/13, ORACLE_HQCA_0000062732-1 to -2; • Ex. 20, Global Approval Matrix, dated 11/1/14, ORACLE_HQCA_0000062712-1 to -2; • Ex. 20, Global Approval Matrix, dated 6/1/15, ORACLE_HQCA_0000062710-1 to -2; • Ex. 20, Global Approval Matrix, dated 6/1/16, ORACLE_HQCA_0000062711-1 to -2; Ex. 20, Global Approval Matrix, dated 3/30/17, ORACLE_HQCA_0000062720-1 and -2, in Vol. 1. <p>B) Oracle requires that all pay increases be approved by the top of an employee’s management chain of command.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OFCCP SUF: Fact 114; • OEx. 17, Waggoner May Dep. 106:2–4.
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C) Oracle’s focal reviews instructions require managers to make recommendations that are reviewed by each successive level of management until they are finally approved at the top of the management chain of command or the office of that top executive.

Citation:

- OFCCP SUF: Fact 115;
- Ex. 24, slides 28–39 and associated notes, ORACLE_HQCA_0000381306-52 to -75 in Vol. 1;
- Ex. 25, slides 33–39, ORACLE_HQCA_0000056242-42 to -48 a in Vol. 1;
- Ex. 26, slides 3–4, 13, 34–39, ORACLE_HQCA_0000056957-3, -4, -16, -38 to -45 in Vol. 2;
- OEx. 8, Waggoner PMK Dep. 118:18-23.

D) Oracle’s compensation instructions for hiring and for off-cycle salary increases (e.g., for promotions) likewise require managers to make pay recommendations that require the approvals all the way up to the Executive Level or their offices.

Citation:

- OFCCP SUF: Fact 116;
- Ex. 28, slide 11 (notes), ORACLE_HQCA_0000057179-22, in Vol. 2;
- Ex. 13, slide 35 and slide 35 (notes) ORACLE_HQCA_0000056234-65 to -66 in Vol. 1.

E) The approvals for base salary increase recommendations go all the way up through the CEO’s office wherein the final decision is made.

Citation:

- OFCCP SUF: Fact 117;
- OEx. 8, Waggoner PMK Dep. 155:7-25.

F) In a 2014 compensation training, managers were instructed: “**Do not communicate** any changes [in compensation] until the ‘Last Approval Action’ shows ‘Larry Ellison.’”

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- OFCCP SUF: Fact 120;

- Ex. 25, slide 39, ORACLE_HQCA_0000056242-48 (emphasis in original), in Vol. 1.

G) In a 2011 compensation training, managers were instructed: **“You should not communicate any changes until we obtain final approval from LJE.”**

Citation:

- OFCCP SUF: Fact 121;
- Ex. 26, slide 49, ORACLE_HQCA_0000056957-55 (emphasis in original) in Vol. 2.

H) LJE stands for Larry J. Ellison.

Citation:

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I) Subsequent to these 2011 and 2014 trainings, Oracle expanded this approval beyond Larry Ellison to include Safra Catz.

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J) Oracle’s managers cannot communicate any pay changes earlier because changes can happen during the approval process.

Citation:

- OFCCP SUF: Fact 124;
- Ex. 24, slide 39 (notes), ORACLE_HQCA_0000381306-76, in Vol. 1.

K) EVP Loaiza, at the M8 global career level, testified in his deposition that when he is reviewing a person during the hiring approval process, he is reviewing “the proposed compensation of the person.” He emphasizes this a second time when he states: “What I get is not the current compensation. I get the proposed compensation.” If he is only looking at the proposed pay at his high level, then the first level manager, many levels below, could not have already determined the salary increases.

	<p>Citation:</p> <ul style="list-style-type: none"> • OEx. 11, Loaiza Dep. 17:2-10, 44:16-45:1, 45:20-46:18. <p>L) Managers testified to specific examples of their pay recommendations not being followed.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OEx. 12, Pandey Decl. ¶14; • OEx. 10, McGregor Decl. ¶13. <p>2) Senior levels of management at the VP level and above level do more than just review hiring submissions that contain proposed compensation to see if hiring recommendations are “within budget and/or are not wholly unreasonable.”</p> <p>A) EVP Loaiza, at an M8 global career level, gave a detailed explanation of what he reviewed to determine if he should approve or reject a hiring recommendation containing the proposed compensation. He stated that he looked at: the person’s proposed compensation; whether Oracle hiring in the area of the person’s expertise; a person’s education; the person’s resume; the interview notes by Oracle personnel; the person’s competitive offer by another company, if applicable; and that he would generally review anything in the hiring packet. Thus, contrary to the claim only supported by Ms. Balkenhol’s declaration, senior managers like EVP Loaiza do extensive review of offers</p> <p>Citation:</p> <ul style="list-style-type: none"> • OEx. 11, Loaiza Dep. 44:16-45:19, 46:16-47:2, 47:21-23, 68:19-69:8. <p>B) HR Business Partner and VP Madhawi Cheruvu for seven lines of businesses (LOB) and Thomas Kurian’s Product Development LOB testified that as an approving manager, she looks at a person’s experience (years and type), skills, resume, the other companies the person worked, the similarity between where the person worked and at Oracle, the salary range, the person’s current compensation, the role the person will play, the criticality of the skills, and the deliverables the person will make.</p> <p>Citation:</p>
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C) EVP Loaiza also gave an interview to OFCCP on March 25, 2015, when he identified that he was a Senior Vice President during OFCCP's audit. In the interview summary for him it noted that EVP Loaiza commented extensively on his involvement in the hiring process to include reviewing the proposed compensation and the person's current compensation such that almost a whole typed page, single space, reflected his comments.

Citation:

- Atkins Opp'n Decl. ¶14, Ex. K, Loaiza Interview Notes, DOL0000000522.

D) HR Business Partner and VP Madhawi Cheruvu for seven lines of businesses (LOB) and Thomas Kurian's Product Development LOB also gave an interview that OFCCP summarized that described her extensive involvement in hiring and off-cycle compensation decisions. The interview summary identified that she looks at: resumes, current compensation, the job they are performing, the skills they are bring and how important these skills are to Oracle, the salary ranges involved, the immediate need of the person, the level of market demand for the person's skills, the difference between what the applicant is currently making and the proposed salary, compares what is being offered to current employees, examines what competitors are offering. Thus, contrary to the claim only supported by Ms. Balkenhol's declaration, senior managers like HR Business Partner and VP Cheruvu do extensive review of offers or off-cycle pay adjustments.

Citation:

- Atkins Opp'n Decl. ¶6, Ex. C, OFCCP's Interview Notes of the Madhawi Cheruvu on March 24 & 26, 2015 (Cheruvu Interview Notes), DOL000000535-37.

3) This fact is also disputed because it is unsupported because of lack of foundation on several grounds having more detail below:

- Waggoner's claims are contradicted by her *Jewett* PMK

testimony;

- Balkenhol's claims only concern what happens at the very top for the CEOs and CTO.
- None of the remaining 11 declarations concern promotion salary increases.
- Three declaration concern neither promotion salary increases or starting pay;
- Oracle's cherry picking of the eight remaining declarations are insufficient to establish what happened for three job functions over six years when there was 1,516 managers in these three job functions on January 1, 2014, alone.

A) Ms. Waggoner's declaration and deposition testimony lack foundation because of a lack of personal knowledge since she testified in her July 2018 PMK *Jewett* deposition that she has "no idea" how frequently base salary recommendations get rejected below the very top approval.

Citation:

- OEx. 2, Waggoner PMK *Jewett* Dep.
ORACLE_HQCA_0000400718-20, 135:24-137:1.
- B) Ms. Waggoner's declaration and deposition testimony lacks foundation because of a lack of personal knowledge since she testified in her July 2018 *Jewett* deposition that she had not been involved with the review process for initial salaries for years.

Citation:

- OEx. 2, Waggoner PMK *Jewett* Dep.
ORACLE_HQCA_0000400688-89, 105:1-106:12.
- C) Ms. Balkenhol Decl. is disputed because of a lack of foundation. She only addresses whether rejections occurred at the CEO or CTO level at the apex of the approval levels. She states nothing about any of the approvals at the lower levels.
- D) This is a lack of foundation for the remaining 11 declarations on several grounds. First, none of them addressed salaries increases for promotions. The one that came the closest only address not having his promotion decision changed. This statement did not address whether a salary increase accompanied this promotion, let alone whether it was approved.

	<p>This declaration stated nothing about the salary increase that may have accompanied the promotion. Three of the 11 declarations stated nothing about either starting pay or salary increases for promotions such that this only left eight declarations remaining for perhaps starting pay since one did not address the types of compensation decisions made. The breakdown of these declarations is as follows:</p> <ul style="list-style-type: none"> • ¶ 15 of the Abushaban Decl. only addresses hiring pay and not salary increases for promotions; • ¶ 11 of the Hsin Decl. also only addressed hiring pay and not salary increases for promotions; • ¶ 16 of the Ousterhout Decl. qualifies rejections to just those that occurred that were within the salary range and she never identified whether her other compensation decisions related to promotions; • ¶ 11 of the Robertson Decl. only references hiring pay, not salary increases for promotion and admits to rejecting starting salary recommendations received from below but does not identify the scope of his rejections; • ¶ 14 of the Shah Decl. only references hiring pay and not salary increases for promotions; • ¶ 14 of the Talluri Decl. only references hiring pay, not salary increases for promotion; • ¶ 13 of the Eckard Dec. does not reference the approval process for salary for either hiring or promotions; • ¶ 19 of the Yakkundi Decl. does not reference the approval process for salary for either hiring or promotions; • ¶ 22 of the Suri Dec. does not reference the approval process for salary for either hiring or promotions; • ¶ 13 of the Chan Decl. does not reference the type of compensation decisions she made or reviewed for anyone to evaluate whether she ever had any hiring pay or promotion salary decisions; and • ¶ 13 of the Desmond Decl. does not address starting salaries or increasing salaries for promotions. <p>E) Additionally, on just January 1, 2014 alone, the number of employees at Oracle having the M management global career level in the three job functions at issue in this litigation was 1,516. Making the false assumption that Oracle never added</p>
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any other manager between January 1, 2014, to January 19, 2019, means that these eight declarations represent only 0.53% of Oracle's management work force for these three job functions. Thus, Oracle's claim lacks foundation because the people giving declaration vastly under represent management in these three job functions.

Citation:

- OFCCP SUF: Fact 118;
- Ex. 17, Atkins MSJ Decl., Ex. A (Table 1).

4) OFCCP objects to all of the statements made in all of the declarations Oracle used to support this alleged fact regarding the number of approvals and rejections the declarant made under Rule 1002 Fed. R. Evid. (best evidence). Oracle electronically tracks its approval process as demonstrated in the "Approval History" Section for "Candidate Details." In this Approval History Section, it notes, amongst other things, the order of approvals, the name or organization of the actual approver, the approval status, the date and time down to the second that the action was taken and any comments any person made. Thus, instead of managers relying on their memory and perhaps speculating, Oracle should have provided documentation of the decisions made. To the extent Oracle claims that it was providing a summary, OFCCP objects under Rule 1006 Fed. R. Evid. (improper summary).

Citation:

- OFCCP SUF: Fact 118;
- Ex. 29, iRecruitment Candidate Details for Applicant Number 452780, dated 2/17/14, ORACLE_HQCA_0000001729 in Vol. 2.

5) Lastly, OFCCP disputes this fact because the person making the "individual compensation decisions" was not defined nor was "senior managers" defined.

37. Senior management reviews front-line managers' starting offers and off-cycle compensation decisions, including promotions, transfers, and other off-cycle compensation changes, to ensure that the decisions are reasonable under the circumstances – generally a high level “sanity check,” and not a deep dive into the specifics of any particular decision.

Alleged Supporting Evidence:
Balkenhol Decl., ¶¶ 6, 9, 12.

Disputed.

1) Compensation *recommendations* for hiring and salary off-cycle increases are reviewed by a person's management chain until it reaches the final approvers. The final approvers for all salary increases (focal reviews and off-cycle) due to promotions have to be approved by “CEO(s) & Executive Chairman and CTO,” “Office of the CEO,” the Board of Directors, or Thomas Kurian. Moreover, to get off-cycle decisions approved, *recommending* managers are required to submit written justification. OFCCP is disputing this issue because the lower level managers do not make the compensation *decisions*, they only make *recommendations*.

A) Oracle's Global Approval Matrices state that approvals for base salary increases; bonuses and stock or stock options grants; and hiring have to be made at the level of “CEO(s) & Executive Chairman and CTO,” “Office of the CEO,” the Board of Directors, or Thomas Kurian.

Citation:

- OFCCP SUF: Fact 113;
- Ex. 20, Global Approval Matrix, dated 6/11/12, ORACLE_HQCA_0000062725-1 to -2;
- Ex. 20, Global Approval Matrix, dated 2/1/13, ORACLE_HQCA_0000062732-1 to -2;
- Ex. 20, Global Approval Matrix, dated 11/1/14, ORACLE_HQCA_0000062712-1 to -2;
- Ex. 20, Global Approval Matrix, dated 6/1/15, ORACLE_HQCA_0000062710-1 to -2;
- Ex. 20, Global Approval Matrix, dated 6/1/16, ORACLE_HQCA_0000062711-1 to -2; Ex. 20, Global Approval Matrix, dated 3/30/17, ORACLE_HQCA_0000062720-1 and -2, in Vol. 1.

B) Oracle requires that all pay increases be approved by the top of an employee's management chain of command.

Citation:

- OFCCP SUF: Fact 114;
- OEx. 17, Waggoner May Dep. 106:2–4.

C) Oracle's compensation instructions for hiring and for off-cycle salary increases (e.g., for promotions) likewise require

managers to make pay recommendations that require the approvals all the way up to the Executive Level or their offices.

Citation:

- OFCCP SUF: Fact 116;
- Ex. 28, slide 11 (notes), ORACLE_HQCA_0000057179-22 in Vol. 2;
- Ex. 13, slide 35 and slide 35 (notes) ORACLE_HQCA_0000056234-65 to -66 in Vol. 1.

D) The approvals for base salary increase recommendations go all the way up through the CEO's office wherein the final decision is made.

Citation:

- OFCCP SUF: Fact 117;
- OEx. 8, Waggoner PMK Dep. 155:7-25.

E) In a 2014 compensation training, managers were instructed: “**Do not communicate** any changes [in compensation] until the ‘Last Approval Action’ shows ‘Larry Ellison.’”

Citation:

- OFCCP SUF: Fact 120;
- Ex. 25, slide 39, ORACLE_HQCA_0000056242-48 (emphasis in original) in Vol. 1.

F) In a 2011 compensation training, managers were instructed: “**You should not communicate any changes until we obtain final approval from LJE.**”

Citation:

- OFCCP SUF: Fact 121;
- Ex. 26, slide 49, ORACLE_HQCA_0000056957-55 (emphasis in original) in Vol. 2.

G) LJE stands for Larry J. Ellison.

Citation:

- OFCCP SUF: Fact 122;
- Ex. 7, Waggoner May Dep. 106:25–107:4.

H) Subsequent to these 2011 and 2014 trainings, Oracle expanded this approval beyond Larry Ellison to include Safra Catz.

Citation:

- OFCCP SUF: Fact 123;
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K) EVP Loaiza, at the M8 global career level, testified in his deposition that when he is reviewing a person during the hiring approval process, he is reviewing “the proposed compensation of the person.” He emphasizes this a second time when he states: “What I get is not the current compensation. I get the proposed compensation.” If he is only looking at the proposed pay at his high level, then the first level manager, many levels below, could not have already determined the salary increases.

Citation:

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2) Oracle’s senior management does more than just institute “a high-level ‘sanity check,’ and not a deep dive into the specifics of any particular decision.”

A) EVP Loaiza, at an M8 global career level, gave a detailed explanation of what he reviewed to determine if he should approve or reject a hiring recommendation containing the proposed compensation. He stated that he looked at: the person’s proposed compensation; whether Oracle hiring in the area of the person’s expertise; a person’s education; the person’s resume; the interview notes by Oracle personnel; the person’s competitive offer by another company, if applicable; and that he would generally review anything in the hiring packet. Thus, contrary to the claim only supported by Ms. Balkenhol’s declaration, senior managers like EVP Loaiza do

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Citation:

- Atkins Opp'n Decl. ¶14, Ex. K, Loaiza Interview Notes, DOL0000000522.

D) HR Business Partner and VP Madhawi Cheruvu for seven lines of businesses (LOB) and Thomas Kurian's Product Development LOB also gave an interview that OFCCP summarized that described her extensive involvement in hiring and off-cycle compensation decisions. The interview summary identified that she looks at: resumes, current compensation, the job they are performing, the skills they are bring and how important these skills are to Oracle, the salary ranges involved, the immediate need of the person, the level of market demand for the person's skills, the difference between what the applicant

is currently making and the proposed salary, compares what is being offered to current employees, examines what competitors are offering.

Citation:

- Atkins Opp'n Decl. ¶14, Ex. C, Cheruvu Interview Notes, DOL000000535-37.

3) Ms. Balkenhol's declaration lacks foundation because she has a lack of personal knowledge about what is approved or rejected below her. Ms. Balkenhol only established a foundation for what she reviewed for the CEOs and the CTO. Balkenhol Decl., ¶4.

4) Ms. Balkenhol's declaration in ¶5 is unsupported because she provided no foundation or personal knowledge demonstrating how she knows what direct managers do and did not define this direct manager term. Furthermore, in Oracle's SUF it defined "direct" in Fact 12 as pertaining to "first-line" manager wherein this Fact uses a different term: "front-line" manager."

5) OFCCP objects to all of Ms. Balkenhol's statements regarding the number of approvals and rejections she made under Rule 1002 Fed. R. Evid. (best evidence). Oracle electronically tracks its approval process as demonstrated in the "Approval History" Section for "Candidate Details." In this Approval History Section, it notes, amongst other things, the order of approvals, the name or organization of the actual approver, the approval status, the date and time down to the second that the action was taken and any comments any person made. Thus, instead of managers relying on their memory and perhaps speculating, Oracle should have provided documentation of the decisions made. To the extent Oracle claims that it was providing a summary, OFCCP objects under Rule 1006 Fed. R. Evid. (improper summary).

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6) OFCCP has filed objections to Ms. Balkenhol's declaration on numerous grounds to include lack of personal knowledge and best evidence.

7) Ms. Balkenhol also gave an interview to OFCCP during the audit on March 26, 2015. In OFCCP's interview summary prepared from that

audit, OFCCP documented how Ms. Balkenhol did more than a high-level sanity check. This summary noted that Ms. Balkenhol referred to her job as being like a goalie. Ms. Balkenhol described the many items she reviews for hiring and salary increases. For example, she looks at: the global career level (e.g., IC2, IC3); the person's current pay, resume, experience, education, frequency of job changes, the size of the compensation change, transcripts, skills, amount of competitive offers, etc.

Citation:

- Atkins Opp'n Decl. ¶5, Ex. B, OFCCP's Interview Notes of the Carolyn Balkenhol interview on March 26, 2015 (Balkenhol Interview Notes), DOL000036706-09.

38. Senior management reviews front-line managers' starting offers and off-cycle compensation decisions, including promotions, transfers, and other off-cycle compensation changes, to look for potential errors or outliers that do not seem sensible from a high-level perspective.

Alleged Supporting Evidence:

Balkenhol Decl., ¶¶ 7, 12.

Disputed.

1) Compensation *recommendations* for hiring and salary off-cycle increases are reviewed by a person's management chain until it reaches the final approvers. The final approvers for all salary increases (focal reviews and off-cycle) due to promotions have to be approved by "CEO(s) & Executive Chairman and CTO," "Office of the CEO," the Board of Directors, or Thomas Kurian. Moreover, to get off-cycle decisions approved, *recommending* managers are required to submit written justification. OFCCP is disputing this issue because the lower level managers do not make the compensation *decisions*, they only make *recommendations*.

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Citation:

- Atkins Opp'n Decl. ¶5, Ex. B, Balkenhol Interview Notes, DOL000000511-14.

<p>39. The majority of salary increases occur during a “focal” review, which is a company-wide review process undertaken periodically, as determined by Oracle’s financial performance.</p> <p>Alleged Supporting Evidence: Waggoner Decl., ¶ 28; Connell Decl., Ex. A (ORACLE_HQCA_0000400584 at 177:16-178:25), Ex. C (7/19/19 Waggoner PMK Dep. 187:14-19; 190:5-16; 192:6-193:16), Ex. K (ORACLE_HQCA_0000400313 at 313).</p>	<p>Undisputed.</p>
<p>40. During a focal review, LOB heads receive a budget for salary increases, which they can allocate in their discretion to lower-level managers within their organizations.</p> <p>Alleged Supporting Evidence: Waggoner Decl., ¶ 28; Connell Decl., Ex. C (7/19/2019 Waggoner PMK Dep. at 252:15-253:19); Oden Decl., ¶ 13; Ousterhout Decl., ¶ 17.</p>	<p>Undisputed</p>

<p>41. Lower-level managers within an LOB make further decisions about if and how to “cascade” budget down through the organization, which may involve pushing budgetary authority to different levels in different slices of the same organization.</p> <p>Alleged Supporting Evidence: Waggoner Decl., ¶¶ 15, 28, 29, Ex. A (ORACLE_HQCA_0000380438 at 6); Connell Decl., Ex. C (7/19/19 Waggoner PMK Dep. 252:15-253:19); Oden Decl., ¶ 13.</p>	<p>Disputed.</p> <p>1) This is disputed because lower level managers have to propose to the managers who gave them the budget how the lower level manager recommends to distribute the budget. Moreover, this lower level manager has to obtain feedback from this higher level manager before the lower level manager can distribute it. Thus, lower level managers within an LOB are not making independent decisions about how the budget will be further distributed.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OEx. 11, Loaiza Dep. 53:21-55:24. <p>2) At times, the lower level manager’s proposal (e.g., Senior Vice President) has to go above his higher level manager who allocated him the budget (e.g., Executive Vice President like Andrew Mendelson) to the higher level manager’s manager (e.g. President Thomas Kurian).²</p> <p>Citation:</p> <ul style="list-style-type: none"> • OEx. 11, Loaiza Dep. 53:21-55:24. 56:2-5. <p>3) OFCCP objects to Ms. Waggoner’s declaration at paragraph 15 because she lacks personal knowledge, and at 28 because she lacks personal knowledge, fails to use the best evidence, and proffers an improper summary. OFCCP has separately filed objections to Ms. Waggoner’s declaration.</p>
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² EVP Loaiza in 2015 was a senior VP under Andrew Mendelson who was an EVP under President Thomas Kurian. Atkins Opp’n. Decl., Ex. K, Loaiza Interview Notes, ¶14, DOL0000000521.

42. The manager who is the last recipient of an LOB's allocation distributes that amount in her discretion as raises to individual employees.

Alleged Supporting Evidence:

Waggoner Decl., ¶¶ 16, 29-30; Connell Decl., Ex. C (7/19/19 Waggoner PMK Dep. 195:9-15), Ex. G (5/30/19 Westerdahl Dep. 80:23-81:10); Yakkundi Decl., ¶ 19; Eckard Decl., ¶ 11; Kite Decl., ¶ 11; Suri Decl., ¶ 17.

Disputed.

1) The decisions whether to provide focal salary increases and the budgets or caps allocated for them are more significant in determining employee compensation than the employees' direct managers.

A) Oracle did not have focal reviews in 2013 and 2018 and has them about every 14-18 months. Thus, direct managers have no bearing pm when focal reviews and the potential salary increases that flow from them may occur.

Citation:

- OFCCP SUF: Fact 137, 138;
- OEx. 8, Waggoner PMK Dep. 192:19-193:1, 248:7-17.
- Ex. 34, ORACLE_HQCA_0000434971 in Vol. 2.

B) Ms. Waggoner's PMK testimony also identified that Oracle has had lean budget years such that there is "little to no focal budget." She explained the impact of this situation by stating "if we give little to no focal budget, naturally we're not keeping up with the way the market has grown." She also identified that Oracle has had a lean budget for "the last many years." Thus, the ability to give salary increases is severely limited.

Citation:

- OEx. 8, Waggoner PMK Dep. 327:24-328:12, 267:21-22.

C) Oracle's lean budget years have not extended to Co-CEOs Safra Catz and Mark Hurd who each have earned 1,205 times more in 2018 than the median employee compensation at Oracle, a ratio that ranks them in the 17 highest paid CEOs vis a vis average employee pay.

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- OEx. 19, New York Times, The Highest-Paid C.E.O.s of 2018: A Year So Lucrative, We Had to Redraw Our Chart, 5/29/19 at <https://www.nytimes.com/interactive/2019/business/highest-paid-ceos-2018.html>.

D) In her PMK testimony, Ms. Waggoner further testified that while M1 managers have people reporting to them, they do not have "hire/fire, compensation decision type of authority."

Citation:

- OEx. 8, Waggoner PMK Dep. 116:20-117:2.

E) Ms. Waggoner testified further still as the PMK that at times, the budget is not even cascaded down to the M2 manager.

Citation:

- OEx. 8, Waggoner PMK Dep. at 253:20-254:6.

2) This fact is also disputed on the grounds that when direct managers receive a budget allocation, they only make pay *recommendations*, not decisions. These pay *recommendations* are subsequently reviewed up the chain of command until the ultimate approver approves them. At intermediate reviews, the reviewing managers can either give their approvals or reject the compensation recommendation. The final approvers for all salary increase (focal reviews and off-cycle) have to be approved by “CEO(s) & Executive Chairman and CTO,” “Office of the CEO,” the Board of Directors, or Thomas Kurian. Moreover, to get off-cycle decisions approved, managers are required to submit written justification.

A) Oracle’s Global Approval Matrices state that approvals for base salary increases bonuses, and stock or stock options grants have to be made at the level of “CEO(s) & Executive Chairman and CTO,” “Office of the CEO,” the Board of Directors, or Thomas Kurian.

Citation:

- OFCCP SUF: Fact 113;
- Ex. 20, Global Approval Matrix, dated 6/11/12, ORACLE_HQCA_0000062725-1 to -2;
- Ex. 20, Global Approval Matrix, dated 2/1/13, ORACLE_HQCA_0000062732-1 to -2;
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B) Oracle requires that all pay increases be approved by the top of

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C) Oracle's instructions for conducting salary reviews (aka focals or focal reviews) and allocating bonuses and stock grants instruct managers on a process by which managers make recommendations that are reviewed by each successive level of management until they are finally approved at the top of the management chain of command or the office of that top executive.

Citation:

- OFCCP SUF: Fact 115;
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3) Oracle's compensation instructions for hiring and for off-cycle salary increases (e.g., "dive and saves" used to counter an offer from a competitor) likewise require managers to make pay recommendations that require approvals at the Executive Level (e.g., CEO, CTO) or their offices.

Citation:

- OFCCP SUF: Fact 116;
- Ex. 28, slide 11 (notes), ORACLE_HQCA_0000057179-22 in Vol. 2;
- Ex. 13, slide 35 and slide 35 (notes) ORACLE_HQCA_0000056234-65 to -66 in Vol. 1.

A) The approvals for base salary increases goes all the way up through the CEO's office.

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B) Oracle’s focal review trainings refer to the managers role as making “recommendations” and state that “[t]his isn’t to say that your recommendations won’t be changed by someone further up in your hierarchy, but it is a way to inform your manager of how you would like to allocate increases to your team.”

Citation:

- Ex. 14, at slide 43 (notes), ORACLE_HQCA_0000382580-84 in Vol. 1.

C) In a 2014 compensation training, managers were instructed: “**Do not communicate** any changes [in compensation] until the ‘Last Approval Action’ shows ‘Larry Ellison.’”

Citation:

- OFCCP SUF: Fact 120;
- Ex. 25, slide 39, ORACLE_HQCA_0000056242-48 (emphasis in original) in Vol. 1.

D) In a 2011 compensation training, managers were instructed: “**You should not communicate any changes until we obtain final approval from LJE.**”

Citation:

- OFCCP SUF: Fact 121;
- Ex. 26, slide 49, ORACLE_HQCA_0000056957-55 (emphasis in original) in Vol. 2.

E) LJE stands for Larry J. Ellison.

Citation:

- OFCCP SUF: Fact 122;
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F) Subsequent to these 2011 and 2014 trainings, Oracle expanded this approval beyond Larry Ellison to include Safra Catz.

Citation:

- OFCCP SUF: Fact 123;
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H) Oracle’s managers cannot communicate any pay changes earlier because changes can happen during the approval process.

Citation:

- OFCCP SUF: Fact 124;
- Ex. 24, slide 39 (notes), ORACLE_HQCA_0000381306-76 in Vol. 1.

I) EVP Loaiza, at the M8 global career level, testified in his deposition that when he is reviewing a person during the hiring approval process, he is reviewing “the proposed compensation of the person.” He emphasizes this a second time when he states: “What I get is not the current compensation. I get the proposed compensation.” If he is only looking at the proposed pay at his high level, then the first level manager, many levels below, could not have already determined the salary increases.

Citation:

- OEx. 11, Loaiza Dep. 17:2-10, 44:16-45:1, 45:20-46:18.

J) Even in Oracle’s declarations provided to this Court to support its summary judgment motion, managers acknowledge that they only make pay recommendations in focal reviews. E.g., Christina Kite, a VP, stated: “I am responsible for recommending salary increases and bonuses for my team.”

Citation:

- Oracle MSJ Decl. of Christina Kite, ¶¶ 3, 11.

K) President Thomas Kurian gave his required approval to off-cycle dive and save requests.

Citation:

- OFCCP SUF: Fact 119;
- Ex. 30, ORACLE_HQCA_0000432004, in Vol. 2.

3) This is disputed because lower level managers have to propose to the managers who gave them the budget how the lower level manager

recommends to distribute the budget. Moreover, this lower level manager has to obtain feedback from this higher level manager before the lower level manager can distribute it. Thus, lower level managers within an LOB are not making independent decisions about how the budget will be further distributed.

Citation:

- OEx. 11, Loaiza Dep. 53:21-55:24.

4) At times, the lower level manager's proposal (e.g., Senior Vice President) can go above his higher level manager who allocated him the budget (e.g., Executive Vice President like Andrew Mendelson) to the higher level manager's manager (e.g. President Thomas Kurian).

Citation:

- OEx. 11, Loaiza Dep. 53:21-55:24, 56:2-5.

5) Ms. Waggoner's declaration provides no foundation for her claims regarding the discretion of managers and the approval process. In fact, Ms. Waggoner's declaration and deposition testimony lacks foundation because of a lack of personal knowledge since she testified in her July 2018 *Jewett* deposition that she had not been involved with the review process for years.

Citation:

- OEx. 2, Waggoner PMK *Jewett* Dep. ORACLE_HQCA_0000400688-89, 105:1-106:12.

6) Furthermore, OFCCP objects to paragraph 30 of Ms. Waggoner's declaration because she lacks personal knowledge, fails to use the best evidence, and proffers an improper summary.

7) The declarations by Yakkundi, Eckard, Kite and Suri likewise lack the foundation to support this fact because the information technology job function is not even represented, there is only one person for the product development job function and the lack of scope of these declarations. First, of the four remaining declarations, three are from the support job function (Yakkundi Decl., ¶ 3; Eckard Decl., ¶ 3; Suri Decl., ¶ 3)., one is from the product development job function Kite Decl., ¶ 11; and none are from information technology. Second, their scope is limited because they either have a lower M3 salary grade level (Yakkundi Decl., ¶ 3) or only have a small number of people reporting to them such as 5 (Kite Decl., ¶ 9). Lastly, there were 1,516 managers

on January 1, 2014, (Ex. 17, total of managers in Table I at Exhibit A on January 1, 2014) in Oracle and Oracle only provided four declarations.

Citation:

- Ex. 17, Atkins MSJ Decl. Ex. A (Table 1).

8) Managers testified to specific examples of their pay recommendations not being followed.

Citation:

- OEx. 12, Pandey Decl. ¶14;
- OEx. 10, McGregor Decl. ¶13.

43. In determining salary increases, managers may exercise their own judgment or consult other managers (for example, if they do not directly supervise the employees at issue).

Alleged Supporting Evidence:

Waggoner Decl., ¶ 30; Yakkundi Decl., ¶ 19; Eckard Decl., ¶¶ 11-13; Balkenhol Decl., ¶¶ 9, 12; Hsin Decl., ¶ 11; Fox Decl., ¶¶ 14-15; Kite Decl., ¶ 11; Abushaban Decl., ¶¶ 16-18; Suri Decl., ¶ 17; Chan Decl., ¶ 9.

Disputed.

1) The decisions whether to provide focal salary increases and the budgets or caps allocated for them are more significant in determining employee compensation than the employees' direct managers.

A) Oracle did not have focal reviews in 2013 and 2018 and has them about every 14-18 months. Thus, direct managers have no bearing pm when focal reviews and the potential salary increases that flow from them may occur.

Citation:

- OFCCP SUF: Fact 137, 138;
- OEx. 8, Waggoner PMK Dep. 192:19-193:1, 248:7-17.
- Ex. 34, ORACLE_HQCA_0000434971 in Vol. 2.

B) Ms. Waggoner's PMK testimony also identified that Oracle has had lean budget years such that there is "little to no focal budget." She explained the impact of this situation by stating "if we give little to no focal budget, naturally we're not keeping up with the way the market has grown." She also identified that Oracle has had a lean budget for "the last many years." Thus, the ability to give salary increases is severely limited.

Citation:

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C) Oracle's lean budget years have not extended to Co-CEOs Safra Catz and Mark Hurd who each have earned 1,205 times more in 2018 than the median employee compensation at Oracle, a ratio that ranks them in the 17 highest paid CEOs vis a vis average employee pay.

Citation:

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D) In her PMK testimony, Ms. Waggoner further testified that while M1 managers have people reporting to them, they do not have "hire/fire, compensation decision type of authority."

Citation:

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E) Ms. Waggoner testified further still as the PMK that at times, the budget is not even cascaded down to the M2 manager.

Citation:

- OEx. 8, Waggoner PMK Dep. at 253:20-254:6.

2) This fact is also disputed on the grounds that when direct managers receive a budget allocation, they only make pay *recommendations*, not decisions. These pay *recommendations* are subsequently reviewed up the chain of command until the ultimate approver approves them. At intermediate reviews, the reviewing managers can either give their approvals or reject the compensation recommendation. The final approvers for all salary increase (focal reviews and off-cycle) have to be approved by “CEO(s) & Executive Chairman and CTO,” “Office of the CEO,” the Board of Directors, or Thomas Kurian. Moreover, to get off-cycle decisions approved, managers are required to submit written justification.

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- Fact 4 herein for Thomas Kurian’s title and position.

B) Oracle requires that all pay increases be approved by the top of

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Citation:

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C) Oracle's instructions for conducting salary reviews (aka focals or focal reviews) and allocating bonuses and stock grants instruct managers on a process by which managers make recommendations that are reviewed by each successive level of management until they are finally approved at the top of the management chain of command or the office of that top executive.

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3) Oracle's compensation instructions for off-cycle salary increases (e.g., "dive and saves" used to counter an offer from a competitor) likewise require managers to make pay recommendations that require approvals at the Executive Level (e.g., CEO, CTO) or their offices.

Citation:

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A) The approvals for base salary increases goes all the way up through the CEO's office.

Citation:

- OFCCP SUF: Fact 117;

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B) Oracle’s focal review trainings refer to the managers role as making “recommendations” and state that “[t]his isn’t to say that your recommendations won’t be changed by someone further up in your hierarchy, but it is a way to inform your manager of how you would like to allocate increases to your team.”

Citation:

- Ex. 14, at slide 43 (notes), ORACLE_HQCA_0000382580-84.

C) In a 2014 compensation training, managers were instructed: “**Do not communicate** any changes [in compensation] until the ‘Last Approval Action’ shows ‘Larry Ellison.’”

Citation:

- OFCCP SUF: Fact 120;
- Ex. 25, slide 39, ORACLE_HQCA_0000056242-48 (emphasis in original) in Vol. 1.

D) In a 2011 compensation training, managers were instructed: “**You should not communicate any changes until we obtain final approval from LJE.**”

Citation:

- OFCCP SUF: Fact 121;
- Ex. 26, slide 49, ORACLE_HQCA_0000056957-55 (emphasis in original) in Vol. 2.

E) LJE stands for Larry J. Ellison.

Citation:

- OFCCP SUF: Fact 122;
- Ex. 7, Waggoner May Dep. 106:25–107:4.

G) Subsequent to these 2011 and 2014 trainings, Oracle expanded this approval beyond Larry Ellison to include Safra Catz.

Citation:

- OFCCP SUF: Fact 123;
- OEx. 16, Carrelli Dep. 212:9–213:1, 214:12–14.

H) Oracle’s managers cannot communicate any pay changes earlier because changes can happen during the approval process.

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- OFCCP SUF: Fact 124;
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I) Even in Oracle’s declarations provided to this Court to support its summary judgment motion, managers acknowledge that they only make pay recommendations in focal reviews. E.g., Christina Kite, a VP, stated: “I am responsible for recommending salary increases and bonuses for my team.”

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- Oracle MSJ Decl. of Christina Kite, ¶¶ 3, 11.

J) President Thomas Kurian gave his required approval to off-cycle dive and save requests.

Citation:

- OFCCP SUF: Fact 119;
- Ex. 30, ORACLE_HQCA_0000432004, in Vol. 2.

4) Second, managers do not exercise their “own” judgment. Instead, they consult with at least one managerial level above them as identified by EVP Loiza.

A) Lower level managers after they get the budget allocated to them from a higher level manager have to propose to that manager how the lower level manager proposes to distribute the budget and has to obtain feedback from this higher level managers before the lower level manager can distribute it. Thus, lower level managers within an LOB do not have unfettered discretion for how the budget will be further distributed.

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Citation:

- OEx 11, Loaiza Dep. 56:2-5.

5) Some managers received detailed guidelines as to how their raise pools must be allocated.

Citation:

- OEx. 12, Pandey Decl. ¶ 13.

44. For the vast majority of salary increases, the senior management approval process acts as a check to review whether managers stay within allotted budgets.

Alleged Supporting Evidence:

Waggoner Decl., ¶ 28.

Disputed.

1) The decisions whether to provide focal salary increases and the budgets or caps allocated for them are more significant in determining employee compensation than the employees' direct managers.

A) Oracle did not have focal reviews in 2013 and 2018 and has them about every 14-18 months. Thus, direct managers have no bearing pm when focal reviews and the potential salary increases that flow from them may occur.

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- OFCCP SUF: Fact 122;
- Ex. 17, Waggoner May Dep. 106:25–107:4.

F) Subsequent to these 2011 and 2014 trainings, Oracle expanded this approval beyond Larry Ellison to include Safra Catz.

Citation:

- OFCCP SUF: Fact 123;
- OEx. 16, Carrelli Dep. 212:9–213:1, 214:12–14.

G) Oracle’s managers cannot communicate any pay changes earlier because changes can happen during the approval process.

Citation:

- OFCCP SUF: Fact 124;
- Ex. 24, slide 39 (notes), ORACLE_HQCA_0000381306-76 in Vol. 1.

H) Even in Oracle’s declarations provided to this Court to support its summary judgment motion, managers acknowledge that they only make pay recommendations in focal reviews. E.g., Christina Kite, a VP, stated: “I am responsible for recommending salary increases and bonuses for my team.”

Citation:

- Oracle MSJ Decl. of Christina Kite, ¶¶ 3, 11.

I) President Thomas Kurian gave his required approval to off-cycle dive and save requests.

Citation:

- OFCCP SUF: Fact 119;
- Ex. 30, ORACLE_HQCA_0000432004, in Vol. 2.

4) Second, managers do not exercise their “own” judgment. Instead, they consult with at least one managerial level above them as identified by EVP Loaiza.

A) Lower level managers after they get the budget allocated to them from a higher level manager have to propose to that manager how the lower level manager proposes to distribute the budget and has to obtain feedback from this higher level managers before the lower level manager can distribute it. Thus, lower level managers within an LOB do not have unfettered discretion for how the budget will be further distributed.

Citation:

- OEx. 11, Loaiza Dep. 53:21-55:24.

B) At times, the lower level manager's proposal (e.g., Senior Vice President) can go above his higher level manager who allocated him the budget (e.g., Executive Vice President like Andrew Mendelson) to the higher level manager's manager (e.g. President Thomas Kurian).

Citation:

- OEx 11, Loaiza Dep. 56:2-5.

5) Some managers received detailed guidelines as to how their raise pools must be allocated.

Citation:

- OEx. 12, Pandey Decl. ¶ 13.

6) Carolyn Balkenhol also gave an interview to OFCCP during the audit on March 26, 2015. In OFCCP's interview summary prepared from that audit, OFCCP documented how Ms. Balkenhol did more than just a high-level sanity check that is not a deep dive. This interview summary noted that Ms. Balkenhol referred to her job as being like a goalie. Ms. Balkenhol described the many items she reviews for hiring and salary increases. For example, she looks at: the global career level (e.g., IC2, IC3); the person's current pay, resume, experience, education, frequency of job changes, the size of the compensation change, transcripts, skills, amount of competitive offers, etc.

Citation:

- Atkins Opp'n Decl. ¶5, Ex. B, Balkenhol Interview Notes, DOL000000511-14.

7) EVP Loaiza stated in his March 25, 2015 interview with OFCCP that the process he just stated that he went through to approve a hire is the same process that he went through for focal reviews. In this interview, he identified himself as a Senior Vice President and made extensive comments about all of the different factors that he looked at during his hiring approval process such that they took up almost a whole typed page, single space, reflected his comments.

Citation:

- Atkins Opp'n Decl. ¶14, Ex. K, Loaiza Interview Notes, DOL0000000522-23.

	<p>8) This fact is also disputed because Ms. Waggoner’s declaration lacks foundation because of a lack of personal knowledge since she testified in her July 2018 PMK <i>Jewett</i> deposition that she has “no idea” how frequently base salary recommendations get rejected below the very top approval. Ms. Waggoner also fails to use the best evidence, and provides an improper summary.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OEx. 2, Waggoner PMK <i>Jewett</i> Dep. ORACLE_HQCA_0000400718-20, 135:24-137:1.
<p>45. Bonuses, like salaries, are distributed from a budget within each LOB and can reflect differing allocations to different teams and units based on (among other things) the importance of retaining and motivating employees on that team.</p> <p>Alleged Supporting Evidence: Waggoner Decl., ¶¶ 15, 29; Connell Decl., Ex. C (7/19/19 Waggoner PMK Dep. 265:14-23; 266:2-267:1), Ex. G (5/30/19 Westerdahl Dep. 107:2-19).</p>	<p>Disputed.</p> <p>1) Each LOB does not have bonus budgets. For example, the Corporate Bonus Budget is not distributed to sales organizations.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OEx. 16, Carrelli Dep. 99: 6-9, 231:5-16 in Vol. 1. <p>2) OFCCP objects to paragraph 15 of Ms. Waggoner’s declaration because she does not have personal knowledge of the facts contained therein. Furthermore, Ms. Waggoner admitted that she has not been involved in the approval process for years in her <i>Jewett</i> PMK testimony. This fact further demonstrates that she does not know how the budget process was administered, let alone support claims as to how it was done, why it was done for each LOB in the United States when the United States has its own compensation team to which Ms. Waggoner is not a part.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OEx. 2, Waggoner PMK <i>Jewett</i> Dep. ORACLE_HQCA_0000400688-89, 105:1-106:12; • OEx. 16, Carrelli Dep. 88:15–22, 224:22–225:9; • OEx. 17, Waggoner May Dep. 8:1-4. <p>3) OFCCP also objections to the deposition cited for Ms. Westerdahl. She gave an example for just one LOB that was not her own and did not state that this applied to each LOB at Oracle let alone address different allocations to different teams or the basis for giving them.</p>

46. First- and second-line managers usually play the primary role in making a bonus decision.

Alleged Supporting Evidence:

Waggoner Decl., ¶¶ 29-30;
Connell Decl., Ex. A
(ORACLE_HQCA_0000400584
at 192:4-194:13), Ex. C (7/19/19
Waggoner PMK Dep. 267:2-12;
268:19-25); Fox Decl., ¶ 14;
Suri Decl., ¶ 21; Chan Decl.,
¶ 11.

Disputed.

1) The decisions whether to give bonuses and the budgets allocated for them are more significant in determining employee compensation than employees' direct managers.

A) From January 1, 2013, to January 19, 2019, Oracle only gave bonuses in two years: 2014 and 2018. Thus, senior management was the primary decision makers in four of the six years when they decided to give no bonuses.

Citation:

- Ex. 91, Madden Report at 13 n. 4, 26 n. 15, 38 n. 18 in Vol 3.

B) Ms. Waggoner testified as the PMK that “since 2013, this time period started, we’ve had incredibly lean corporate bonus budgets” and “[t]he bonus budgets have been very rare and very small when we’ve had them.”

Citation:

- OFCCP SUF: Fact 110, 111;
- OEx. 8, Waggoner PMK Dep. 263:12-14, 276:11-14.

C) Oracle’s lean budget years have not extended to Co-CEOs Safra Catz and Mark Hurd who each have earned 1,205 times more in 2018 than the median employee compensation at Oracle, a ratio that ranks them in the 17 highest paid CEOs vis a vis average employee pay.

Citation:

- OEx. 19, New York Times, The Highest-Paid C.E.O.s of 2018: A Year So Lucrative, We Had to Redraw Our Chart, 5/29/19 at <https://www.nytimes.com/interactive/2019/business/highest-paid-ceos-2018.html>.

2) This fact is also disputed on the grounds that when direct managers receive a budget allocation, they only make pay *recommendations*, not decisions. These pay *recommendations* are subsequently reviewed up the chain of command until the ultimate approver approves them. At intermediate reviews, the reviewing managers can either give their approvals or reject the compensation recommendation. The final

approvers for all salary increase (focal reviews and off-cycle) have to be approved by “CEO(s) & Executive Chairman and CTO,” “Office of the CEO,” the Board of Directors, or Thomas Kurian. Moreover, to get off-cycle decisions approved, managers are required to submit written justification.

A) Oracle’s Global Approval Matrices state that approvals for base salary increases bonuses, and stock or stock options grants have to be made at the level of “CEO(s) & Executive Chairman and CTO,” “Office of the CEO,” the Board of Directors, or Thomas Kurian.

Citation:

- OFCCP SUF: Fact 113;
- Ex. 20, Global Approval Matrix, dated 6/11/12, ORACLE_HQCA_0000062725-1 to -2;
- Ex. 20, Global Approval Matrix, dated 2/1/13, ORACLE_HQCA_0000062732-1 to -2;
- Ex. 20, Global Approval Matrix, dated 11/1/14, ORACLE_HQCA_0000062712-1 to -2;
- Ex. 20, Global Approval Matrix, dated 6/1/15, ORACLE_HQCA_0000062710-1 to -2;
- Ex. 20, Global Approval Matrix, dated 6/1/16, ORACLE_HQCA_0000062711-1 to -2;
- Ex. 20, Global Approval Matrix, dated 3/30/17, ORACLE_HQCA_0000062720-1 and -2 all in Vol. 1.
- Fact 4 herein for Thomas Kurian’s title and position.

B) Oracle’s instructions for allocating bonuses instruct managers on a process by which managers make recommendations that are reviewed by each successive level of management until they are finally approved at the top of the management chain of command or the office of that top executive.

Citation:

- OFCCP SUF: Fact 115;
- Ex. 24, slides 28–39 and associated notes, ORACLE_HQCA_0000381306-52 to -75 in Vol. 1;
- Ex. 25, slides 33–39, ORACLE_HQCA_0000056242-42 to -48 in Vol. 1;
- Ex. 26, slides 3–4, 13, 34–39, ORACLE_HQCA_0000056957-3, -4, -16, -38 to -45 in Vol. 2;
- OEx. 8, Waggoner PMK Dep. 118:18-23.

C) In her PMK testimony, Ms. Waggoner testified that while M1 managers have people reporting to them, they do not have “hire/fire, compensation decision type of authority.”

Citation:

- OEx. 8, Waggoner PMK Dep. 116:20-117:2.

D) Ms. Waggoner testified further still as the PMK that at times, the budget is not even cascaded down to the M2 manager.

Citation:

- OEx. 8, Waggoner PMK Dep. at 253:20-254:6.

E) Oracle’s compensation trainings refer to the managers role as making “recommendations” and state that “[t]his isn’t to say that your recommendations won’t be changed by someone further up in your hierarchy, but it is a way to inform your manager of how you would like to allocate increases to your team.”

Citation:

- Ex. 14, at slide 43 (notes), ORACLE_HQCA_0000382580-84 in Vol. 1.

F) In a 2014 compensation training, managers were instructed: “**Do not communicate** any changes [in compensation] until the ‘Last Approval Action’ shows ‘Larry Ellison.’”

Citation:

- OFCCP SUF: Fact 120;
- Ex. 25, slide 39, ORACLE_HQCA_0000056242-48 (emphasis in original) in Vol. 1.

G) In a 2011 compensation training, managers were instructed: “**You should not communicate any changes until we obtain final approval from LJE.**”

Citation:

- OFCCP SUF: Fact 121;
- Ex. 26, slide 49, ORACLE HQCA 0000056957-55

(emphasis in original) in Vol. 2.

H) LJE stands for Larry J. Ellison.

Citation:

- OFCCP SUF: Fact 122;
- OEx. 17, Waggoner May Dep. 106:25–107:4.

I) Subsequent to these 2011 and 2014 trainings, Oracle expanded this approval beyond Larry Ellison to include Safra Catz.

Citation:

- OFCCP SUF: Fact 123;
- OEx. 16, Carrelli Dep. 212:9–213:1, 214:12–14.

J) Oracle’s managers cannot communicate any pay changes earlier because changes can happen during the approval process.

Citation:

- OFCCP SUF: Fact 124;
- Ex. 24, slide 39 (notes), ORACLE_HQCA_0000381306-76 in Vol. 1.

3) It is further disputed because, managers do not exercise their own judgment. Instead, they consult with at least one managerial level above them as identified by EVP Loiza.

A) Lower level managers after they get the budget allocated to them from a higher level manager have to propose to that manager how the lower level manager proposes to distribute the budget and has to obtain feedback from this higher level managers before the lower level manager can distribute it.

Citation:

- OEx. 11, Loiza Dep. 53:21-55:24.

B) At times, the lower level manager’s proposal (e.g., Senior Vice President) can go above his higher level manager who allocated him the budget (e.g., Executive Vice President like Andrew Mendelson) to the higher level manager’s manager (e.g. President Thomas Kurian).

	<p>Citation:</p> <ul style="list-style-type: none"> • OEx. 11, Loaiza Dep. 56:2-5. <p>4) OFCCP objects to paragraph 30 of Ms. Waggoner’s declaration because she lacks personal knowledge, fails to use the best evidence, and presents an improper summary.</p>
<p>47. Bonuses at Oracle are discretionary and are not entitlements; instead, they are designed to reward employees for achieving strategic company goals, such as profitability.</p> <p>Alleged Supporting Evidence: Connell Decl., Ex. K (ORACLE_HQCA_0000400313 at 314).</p>	<p>Undisputed.</p>

48. Managers may award greater compensation—particularly bonuses—to those employees working on products that are particularly complex or for which the labor market is particularly competitive.

Alleged Supporting Evidence:

Waggoner Decl., ¶ 30; Connell Decl., Ex. C (7/19/19 Waggoner PMK Dep. 267:13-25); Gill Decl., ¶¶ 5-8; Fox Decl., ¶ 14; Suri Decl., ¶ 21; Chan Decl., ¶ 11.

Disputed:

1) Ms. Waggoner’s declaration and deposition testimony lack foundation because she lacks personal knowledge since she testified in her July 2018 *Jewett* deposition that she had not been involved with the review process of compensation programs for years.

Citation:

- OEx. 2, Waggoner PMK *Jewett* Dep. ORACLE_HQCA_0000400688-89, 105:1-106:12.

2) FCCP objects to paragraph 30 of Ms. Waggoner’s declaration because she lacks personal knowledge, fails to use the best evidence, and presents an improper summary.

3) Oracle cites to no training policy for the contention that compensation, let alone bonuses should be awarded to employees working on products that are ”particularly complex or for which the labor market is particularly competitive.” Instead, the guidance Oracle provided in both training and in emails is to award performance, especially to top performers. In fact, the first time Ms. Waggoner was deposed by OFCCP, she stated nothing of product, labor market or complexity (e.g., “If you have a limited [bonus] budget and you have five people, the correct way to do things and the way we speak about it as guidelines in training would be that you reward your high performers first.”)

Citation:

- Ex. 8, slide 8 and slide 8 (notes), ORACLE_HQCA_0000056391-15-, -16 in Vol. 1.;
- Ex. 12, slide 7 and slide 7 (notes), ORACLE_HQCA_0000042098-11, -12 in Vol. 1,
- OEx. 11], Loaiza Dep. 147:7-24 (major difference between focal and bonus processes is to focus on accomplishments since last bonus), 130:17-25 (email guidance for focals is to reward top performers.);
- OEx. 17, Waggoner May Dep. 139:11-19.

5) None of the four declarations provided in support state anything about bonuses being given to “to those employees working on products that are particularly complex or for which the labor market is particularly competitive”:

a) The Gill declaration’s only comment for bonuses is that they are

part of the compensation package and she does not specifically link bonuses to “those employees working on products that are particularly complex or for which the labor market is particularly competitive.” Gill Decl., ¶¶ 5-8. In fact, most of the cited paragraphs for her are about hiring. *Id.*

b) The Suri declaration likewise states nothing about bonuses being awarded due to someone “working on products that are particularly complex or for which the labor market is particularly competitive.” Suri Decl., ¶ 21. Instead, she states that she “look[s] to reward a direct report for something critical they performed during a 6-month or 1-year cycle.” *Id.*

c) The Fox declaration for bonuses simply states that she “participat[s] in allocating compensation increases to my direct reports in the form of focals ..., bonuses (one-time merit increase)...” Fox Decl., ¶ 14. She too states nothing about “working on products that are particularly complex or for which the labor market is particularly competitive.” *Id.*

d) The Chan declaration states that she uses bonuses to “reward the superstars on my team.” Chan Decl., ¶ 11. She states nothing about bonuses being given to “to those employees working on products that are particularly complex or for which the labor market is particularly competitive.” *Id.*

6) To have no other managers besides Waggoner make this point out of the over 1500 that were managers as of January 1, 2014, and the 28 other declarations that Oracle crafted for its summary judgment motion speaks volumes of the lack of support.

Citation:

- Ex. 17, Atkins MSJ Decl. Ex. A (Table 1).

7) Ms. Kolotouros testified that the products an employee works on do not determine compensation.

Citation:

- OEx 7. Kolotouros Decl. ¶9.

8) Ms. Kolotorous testified that employees may work on different products throughout their careers at Oracle, but doing so will not determine their compensation.

Citation:

- OEx 7. Kolotouros Decl. ¶9.

49. First-line (or direct) managers primarily determine equity for their reports.

Alleged Supporting Evidence:

Gill Decl., ¶ 6; Robertson Decl., ¶ 12; Fox Decl., ¶ 16; Oden Decl., ¶ 14; Talluri Decl., ¶ 16; Suri Decl., ¶ 21; Chan Decl., ¶ 12; Ousterhout Decl., ¶ 17; Shah Decl., ¶ 15.

Disputed.

- 1) The decisions whether to provide equity and the budgets or caps allocated for them are more significant in determining employee compensation than employees' direct managers.
- 2) Ms. Waggoner testified in her PMK deposition in this matter that "equity is held at a much higher level at Oracle. . . . It doesn't go down like, the [REDACTED] and [REDACTED]. It's generally more [REDACTED] and above, probably who make those decisions because it really is about the retention of our higher-level, critical."

Citation:

- OEx. 8, Waggoner PMK Dep. 272:5-19.

2) Several of the declarations do not support Oracle's assertion that first-line managers determine equity for their direct reports.

Citation:

- Yakkundi Decl., ¶ 19 ("I do not participate in bonus or equity distributions.");
- Suri Decl., ¶ 21 ("I do not typically decide the amount of equity distributions because [REDACTED]");
- OEx. 9, Amit Decl., ¶¶8-9.

3) Oracle submitted 29 non-attorney declarations in support of its motion for summary judgment, but only submitted 9 of those declarations in support of this fact, one of which disputed the fact (Suri Decl., ¶ 21). Oracle had 1,516 managers as of January 1, 2014, alone.

Citation:

- Ex. 17, Atkins MSJ Decl., Ex. A (Table 1).

4) Mr. Sharma testified that he was only permitted to rank his employees for the focal review, he was not permitted to make recommendations, let alone determine, equity for his reports.

Citation:

- OEx 9. A. Sharma Decl. ¶8.

50. Compensation decisions are made on a case-by-case basis and are based on a variety of factors, including performance, skills, experience, duties, and pay equity among team members.

Alleged Supporting Evidence:

Connell Decl., Ex. L (ORACLE_HQCA_0000400403 at 438); Waggoner Decl., Ex. B (ORACLE_HQCA_0000364183 at 21), Ex. E (ORACLE_HQCA_0000056234 at 37); Gill Decl., ¶¶ 6-8; Webb Decl., ¶ 13; Eckard Decl., ¶¶ 11-12; Hsin Decl., ¶¶ 11-12; Fox Decl., ¶ 14; Oden Decl., ¶ 14; Talluri Decl., ¶ 17; Abushaban Decl., ¶¶ 13-16.

Disputed.

1) Compensation decisions is not defined and can include decisions whether to conduct a company-wide focal, bonus, equity grant and the amount allotted for such company-wide program. It also includes all of the cascading down allocations.

A) This fact is disputed on many grounds to include Oracle’s very senior management making the decisions whether to have a company-wide program and the amounts it decides to allocate to these company-wide programs.

B) While, at times, Oracle calls its focal reviews “annual focal reviews,” they are not truly annual because Oracle did not have ones in 2013 and 2018 and has them about every 14-18 months apart.

Citation:

- OFCCP SUF: Facts 137-138;
- OEx. 8, Waggoner PMK Dep. 248:7–17, 192:19-193:1;
- Ex. 34, ORACLE_HQCA_0000434971 in Vol. 2.

C) From January 1, 2013, to January 19, 2019, Oracle only gave bonuses in two years: 2014 and 2018.

Citation:

- Ex. 91, Madden Report at 13 n. 4, 26 n. 15, 38 n. 18 in Vol. 3.

D) Ms. Waggoner testified as Oracle’s PMK that the budget that Oracle provides its managers for salary increases are insufficient to keep up with the market rate and that because of budget pressures, only █% of the employees may get a raise in a year.

Citation:

- OFCCP SUF: Fact 127;
- OEx. 8, Waggoner PMK Dep. 247:4–13, 308:8–24.

E) EVP Loaiza testified that █% of employees in his organization are paid below the market rate because not enough money is provided for them in the budget.

Citation:

- OFCCP SUF: Fact 40, 129;
- OEx. 11, Loaiza Dep. 16:3-12, 283:6–284:22, 305:7–306:3;

F) Ms. Waggoner further testified as the PMK that Oracle has had lean budget years such that there is “little to no focal budget.” She explained the impact of this situation by stating “if we give little to no focal budget, naturally we’re not keeping up with the way the market has grown.” She further testified that Oracle has had a lean budget for “the last many years.”

Citation:

- OFCCP SUF: 110, 111;
- OEx. 8, Waggoner PMK Dep. 327:24-328:12, 267:21-22.

G) Ms. Waggoner testified further still in her PMK testimony that “since 2013, this time period started, we’ve had incredibly lean corporate bonus budgets” and “[t]he bonus budgets have been very rare and very small when we’ve had them.”

Citation:

- OFCCP SUF: Fact 110, 111;
- OEx. 8, Waggoner PMK Dep. at 263:12-14, 276:11-14.

H) Oracle’s lean budget years have not extended to Co-CEOs Safra Catz and Mark Hurd who each have earned 1,205 times more in 2018 than the median employee compensation at Oracle, a ratio that ranks them in the 17 highest paid CEOs vis a vis average employee pay.

Citation:

- OEx. 19, New York Times, The Highest-Paid C.E.O.s of 2018: A Year So Lucrative, We Had to Redraw Our Chart, 5/29/19.

I) In Oracle’s “dive and save” salary requests, senior managers identify that they are unable to comply because they face significant “salary compression” for their employees because of a limited budget and face a “rob Peter to pay Paul” situation.

Citation:

- OEx. 11, Loaiza Dep. 282:15-285:11 (discussing salary compression and robbing Peter to pay Paul);

	<ul style="list-style-type: none"> • <i>Id.</i> at 290:3-12; • Ex. 33, ORACLE_HQCA_0000437696–701 in Vol. 2; • Ex. 34, ORACLE_HQCA_0000434971–72 in Vol. 2. <p>2) This fact is also disputed on the grounds that the compensation decisions to conduct company-wide programs such as focal reviews, bonuses and equity grants are not based upon such as “a variety of factors, including performance, skills, experience, duties, and pay equity among team members. Instead, Oracle’s “CEOs” make the decisions to have them based upon “business conditions and what [it] can afford at the time.” The amounts to be distributed under these programs are developed by using country budgets and a percentage of eligible salaries.</p> <p style="padding-left: 40px;">Citation:</p> <ul style="list-style-type: none"> • OEx. 8, Waggoner PMK Dep. 192:19-194:5. <p>3) Managers testified that they were not asked to consider pay equity.</p> <p style="padding-left: 40px;">Citation:</p> <ul style="list-style-type: none"> • OEx. 9, A. Sharma Decl. ¶ 8; • OEx. 12, Pandey Decl. ¶13.
<p>51. Oracle faces substantial and continuous competition for highly-skilled and talented employees.</p> <p>Alleged Supporting Evidence: Gill Decl., ¶¶ 4-5; Bashyam Decl., ¶ 10; Miranda Decl., ¶ 11; Webb Decl., ¶ 13; Sarwal Decl., ¶ 14.</p>	<p>Undisputed.</p>

<p>52. To compete against other companies for employees, Oracle’s compensation tools include base salary, bonuses, restricted stock awards, and performance stock and stock options (<i>i.e.</i>, equity grants).</p> <p>Alleged Supporting Evidence:</p> <p>Gill Decl., ¶ 6; Balkenhol Decl., ¶¶ 5, 10-11; Waggoner Decl., ¶ 31; Fox Decl., ¶ 16; Chan Decl., ¶ 12.</p>	<p>Undisputed.</p>
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53. Particular teams or projects at Oracle often require highly specialized, rare, and valuable technical skills, and to stay competitive Oracle must actively recruit and retain employees with those specialized skills.

Alleged Supporting Evidence:

Gill Decl., ¶ 5; Yakkundi Decl., ¶ 17; Sarwal Decl., ¶ 14; Fox Decl., ¶ 16.

Disputed.

1) This fact is disputed because it is unsupported.

- A) Oracle only provides four declarations to support this alleged fact. Two are from the support job function (Sarwal and Yakkundi, ¶ 3), one from product development (Fox, ¶ 3) and one from human resources (Gill,)
- B) Ms. Fox’s ¶ 16 just talks in general about her compensation decisions. She states nothing in this paragraph about “projects at Oracle often require highly specialized, rare, and valuable technical skills, and to stay competitive Oracle must actively recruit and retain employees with those specialized skills”
- C) The closest statement in Mr. Yakkundi’s declaration for the cited paragraph to the alleged fact is “I look for candidates with experience with access management products like OAM and will offer a pay premium if needed to hire a candidate with that specific background.” Yakkundi Decl., ¶ 17. Paying a premium for someone’s background does not state anything about a person’s skills, let alone highly-specialized, rare and valuable technical skills.”
- D) The statements in Mr. Sarwal’s declaration for the cited paragraph at least bare some resemblance to the alleged fact. However, his technical analyst claims fall apart and are thus disputed when Oracle’s compensation structure is examined. An examination of OFCCP’s chart that examines the three job functions at issue by Specialty Area and then by job title identifies that all of the technical analyst positions in the support job function have an N salary grade. Ms. Waggoner noted E salary grades mean exempt under the “FLSA” and Ms. Atkins found that the N salary grades corresponded to the non-exempt classification in Oracle’s 2014 snapshot. As such, Sarwal’s technical analysts are not rare and highly skilled employees who command six-figure plus salaries, these are employees who get paid by the hour.

Citation:

- Ex. 17, Atkins MSJ Decl. Exhibit A (Table 1), rows 125-129 for titles in column C having N salary grades in column E, in Vol 1.
- OEx. 8, Waggoner PMK Dep. 110:4-25
- Atkins Opp’n Decl. ¶ 24.

E) Ms. Gill's declaration does not state that "[p]articular teams or projects at Oracle often require highly specialized, rare, and valuable technical skills. Gill Decl., ¶ 5. Instead, she states that Oracle faces competition in every segment of its business which means that Oracle faces competition for people working on old legacy products. Contrary to Ms. Gill's claim, Ms. Waggoner claimed that people working in the old legacy products like those from J.D. Edwards and PeopleSoft were not competitive because there were more people who were able to do that work.

Citation:

- OEx. 8, Waggoner May Dep. 90:25-91:15.

7) Lastly, the people who should know best about particular teams or projects at Oracle that often require highly specialized, rare, and valuable technical skills are the developers or people in product development. But the sole declaration that Oracle provided from product development from more than 30 declarations did not discuss. If this alleged fact was actually true, then surely Oracle should have been able to obtain a declaration stating such from the 1500 plus managers who worked at Oracle on 1/1/14.

Citation:

- Ex. 17, Atkins MSJ Decl. Ex. A (Table 1) in Vol. 1.

2) Employees and Managers testified that they transferred teams and worked on various products throughout their careers at Oracle.

Citation:

- OEx. 7, Kolotouros Decl. ¶¶ 2-5,9;
- OEx. 20, Powers Decl. ¶12;
- OEx. 30, Decl. of Bhavana Sharma (B. Sharma Decl.) ¶¶5-7;
- OEx. 12, Pandey Decl. ¶¶6, 12.

3) Mr. Pandey testified that he obtained new members through internal transfers and these transfers could come from different lines of business. As one example, Mr. Pandey identified ██████████ who came from the ██████████ group to his ██████████ ██████████ and performed a new role in ██████████ without any additional training.

Citation:

	<ul style="list-style-type: none">• OEx. 12, Pandey Decl. ¶ 12. <p>4) Ms. Ng testified that she worked on different products throughout her career without a change in her pay.</p> <p>Citation:</p> <ul style="list-style-type: none">• OEx. 15, Ng Decl. ¶¶6-7. <p>5) Ms. Kolotourous testified that employees may work on different products throughout their careers at Oracle, but doing so will not determine their compensation.</p> <p>Citation:</p> <ul style="list-style-type: none">• OEx. 7, Kolotouros Decl. ¶9.
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54. Oracle's compensation philosophy reflects its business need to recognize individual skills and contributions.

Alleged Supporting Evidence:

Waggoner Decl., ¶¶ 27, Ex. B (ORACLE_HQCA_0000364183 at 5), Ex. C (ORACLE_HQCA_0000364272 at 15), Ex. E (ORACLE_HQCA_0000056234 at 17, 37).

Disputed.

1) Oracle's "compensation philosophy" is located in its compensation training .

Citation:

- OFCCP SUF: Fact 110;
- OEx. 8, Waggoner PMK Dep. 7:12-15, 79:2-20, 81:19-82:4;
- OEx. 2, Waggoner PMK *Jewett* Dep. ORACLE_HQCA_0000400584, 660-62) 7:14-15, 77:3-78:5;
- Ex. 8, slide 5 and slide 5 (notes), ORACLE_HQCA_0000056391-9, -10 in Vol. 1;
- Ex. 12, slide 4 and slide 4 (notes), ORACLE_HQCA_0000042098-6, -7 in Vol. 1;
- Ex. 85, Email from J. Riddel to C. Song in Vol 3.

2) The "compensation philosophy" that Oracle provided to its managers is different from the compensation philosophy that it makes available to its workers via the employee handbook.

Citation:

- *Compare* Ex. 8, slide 5 and slide 5 (notes), ORACLE_HQCA_0000056391-9, -10 in Vol. 1,
- *with* Ex. 12, slide 4 and slide 4 (notes), ORACLE_HQCA_0000042098-6, -7 in Vol. 1 *to* Ex.. 11, DOL000000502 in Vol. 1.

3) Oracle does not identify its "compensation philosophy" on its intranet side nor in its "Compensation Guidelines."

Citation:

- Ex. 9, "Oracle Compensation Guidelines," no date (Ex. 27 at Holman-Harries May Dep.), ORACLE_HQCA_0000380594-96 in Vol. 1;
- Ex. 10, "Global Compensation," www.my.oracle.com, dated 12/18/17 (Ex. 4 to the Waggoner May Dep.), ORACLE_HQCA_0000364301-03 in Vol. 1.

4) Oracle managers are not required to perform formal performance evaluations.

Citation:

- OFCCP SUF: Fact 142;
- OEx 1, Westerdahl Dep. 155:14–18, 158:9–15;
- OEx. 8, Waggoner PMK Dep. 226:16-21, 228:6–9.

5) Entire organizations at Oracle do not do performance reviews.

Citation:

- OFCCP SUF: Fact 143, 144;
- OEx. 11, Loaiza Dep. 114:19–115:3, 17:17–20;
- OEx. 8, Waggoner PMK Dep. 226:16-21.

6) Oracle managers are not required to take an employee's performance into account during focal reviews.

Citation:

- OFCCP SUF: Fact 149;
- OEx. 8, Waggoner May Dep. 118:17–24.

7) With the limited budgets that Oracle provides for focal reviews, it is not able to recognize the individual skills and contributions of its employees.

Citation:

- OFCCP SUF: Fact 133, 134, 136;
- Ex. 33, ORACLE_HQCA_0000437696–701, in Vol. 2;
- Ex. 34, ORACLE_HQCA_0000434971–72, in Vol. 2;
- Ex. 30, ORACLE_HQCA_0000432004–06, in Vol. 2.

8) Promotions at Oracle may be made without a salary increase.

Citation:

- OFCCP SUF: Fact 181;
- Ex. 12, slide 26 (notes), ORACLE_HQCA_0000042098-48, in Vol. 1;
- Ex. 13, slide 26 (notes), ORACLE_HQCA_0000056234-48, in Vol. 1;
- Ex. 8, slide 27 (notes), ORACLE_HQCA_0000056391-52, in Vol. 1;
- Ex. 18, slide 13, 0000000407-24, in Vol. 1;

- Ex. 21, “Managing Compensation,” dated April 2016, slide 16 (notes), ORACLE_HQCA0000380437-32 in Vol. 1.

9) In or around 2011, Oracle recognized that because a promotion without a salary increase can cause internal equity issues, it strongly recommended that promotions without salary increases do not take place unless the individual’s pay is appropriately positioned in the new range and peer group.

Citation:

- OFCCP SUF: 182
- Ex. 18, slide 13 (notes), ORACLE_HQCA_0000000407-25 in Vol. 1.

10) In the Product Development LOB, it was “very rare” to get a salary increase as part of a promotion prior to 2018. Before 2018, it was a “policy” *not* to give salary increases with promotions.

Citation:

- OFCCP SUF: 183
- OEx. 11, Loaiza Dep. 217:19–219:9.

11) An Oracle training instructed managers that a promotion does not necessarily require a simultaneous salary increase, and that the salary increase would normally be taken care of during the salary increase process.

Citation:

- OFCCP SUF: 184
- Ex. 18, slide 5, ORACLE_HQCA_0000000407-8 in Vol. 1.

12) In the Product Development LOB, there are situations where off-cycle promotions did not include raises and managers told employees that they would get them a raise on the next focal cycle.

Citation:

- OFCCP SUF: 185
- OEx. 8, Waggoner PMK Dep. 256:13–17.

13) Oracle’s training materials state that if an employee is positioned very low in their current salary range, or has a salary that is not in line with the peer group in the new role, a promotion without a salary

	<p>increase could cause internal equity issues, and may even cause the employee to fall below the minimum of the new salary range.</p> <p>Citation:</p> <ul style="list-style-type: none">• OFCCP SUF: 186• OEx. 11, Loaiza Dep. 217:19–219:9.
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<p>55. Oracle’s compensation framework strives for equitable pay within teams while recognizing each employee’s unique knowledge, skills, abilities, performance, experience, and contributions.</p> <p>Alleged Supporting Evidence:</p> <p>Waggoner Decl., ¶ 26-27, Ex. B (ORACLE_HQCA_0000364183 at 5), Ex. C (ORACLE_HQCA_0000364272 at 15); Connell Decl., Ex. B (8/1/19 Holman-Harries PMK Dep. 265:23-266:13), Ex. C (7/19/19 Waggoner PMK Dep. 84:25-85:25); Robertson Decl., ¶ 12; Abushaban Decl., ¶¶ 16-18; Chan Decl., ¶¶ 9-12.</p>	<p>Disputed.</p> <p>This fact is disputed on many grounds that show that Oracle’s actions belie its words and that it does not strive for equitable pay through its actions.</p> <p>1) Oracle’s managers are not required to take its compensation training to learn of Oracle’s compensation framework.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OFCCP SUF: Fact 110; • OEx. 8, Waggoner PMK Dep. 7:12-15, 79:2-20, 81:19-82:4; • OEx. 2, Waggoner PMK <i>Jewett</i> Dep. (ORACLE_HQCA_0000400584, 660-62) 7:14-15, 77:3-78:5; • Ex. 85, Email from J. Riddel to C. Song in Vol 3. <p>2) Most of Oracle’s compensation training is not made available to its employees. Instead, they are just for human resources personnel and managers.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OEx. 17, Waggoner May Dep. 140:24-141:24. <p>3) Some of Oracle’s compensation training is not even made available to managers even if they wanted to take it.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OEx. 17, Waggoner May Dep. 141:25-142:15. <p>4) Oracle’s compensation framework itself recognizes that managers will be unable to follow the instructions therein because of an insufficient budget.</p> <ul style="list-style-type: none"> • Oracle warns managers that, during focal reviews, they most likely will not be able to address all compensation problem areas in their organization, so they will have to prioritize. <p>Citation:</p> <ul style="list-style-type: none"> • OFCCP SUF: Fact 106; • Ex. 14, slide 43, ORACLE_HQCA_0000382580-84 in
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Vol. 1;

- Ex. 22, “Global Compensation Training: Compensation Processes,” dated 2011, slide 4 (notes), ORACLE_HQCA_0000364274-7 in Vol. 1.

5) Oracle warns managers that, during the focal review process in particular, the business climate and focal budgets play the biggest role in how managers are able to position employees within their salary range.

Citation:

- OFCCP SUF: Fact 105;
- Ex. 16, slide 11 (notes), ORACLE_HQCA_0000364272-21 in Vol. 1.

6) Oracle repeatedly advised managers that they might not be afforded the budget “to perfectly place all [of their] employees” where they should be in their salary range.

Citation:

- OFCCP SUF: Fact 104;
- Ex. 8, slide 20 (notes), ORACLE_HQCA_0000056391-39 in Vol. 1;
- Ex. 13, slide 17 (notes), ORACLE_HQCA_0000056234-30 in Vol. 1;
- Ex. 21, slide 9 (notes), ORACLE_HQCA_0000380437-18 in Vol. 1.
- *See also* Ex. 12, slide 19 (notes), ORACLE_HQCA_0000042098-35 in Vol. 1.

7) Oracle did not offer an opportunity for a focal review base salary increase in 2013 and 2018.

Citation:

- OFCCP SUF: Fact 138;
- Ex. 34, ORACLE_HQCA_0000434971;
- OFCCP SUF: Fact 137;
- OEx. 8, Waggoner PMK Dep. 248:7–17, 192:19–193:1.

8) Oracle did not offer an opportunity for bonuses in 2013, 2015, 2016, and 2017. This disputes Oracle’s claim that its “compensation framework strives for equitable pay.”

Citation:

- Ex. 91, Madden Report at 13 n. 4, 26 n. 15, 38 n. 18 in Vol. 3.

9) Ms. Waggoner's PMK testimony also identified that Oracle has had lean budget years such that there is "little to no focal budget." She explained the impact of this situation by stating "if we give little to no focal budget, naturally we're not keeping up with the way the market has grown." She also identified that Oracle has had a lean budget for "the last many years." Thus, the ability to give salary increases is severely limited. This disputes Oracle's claim that its "compensation framework strives for equitable pay."

Citation:

- OEx. 8, Waggoner PMK Dep. 327:24-328:12, 267:21-22.

10) Ms. Waggoner further testified in her PMK testimony that "since 2013, this time period started, we've had incredibly lean corporate bonus budgets" and "[t]he bonus budgets have been very rare and very small when we've had them."

Citation:

- OFCCP SUF: Fact 110, 111;
- OEx. 8, Waggoner PMK Dep. at 263:12-14, 276:11-14.

11) Oracle's EVP Loaiza testified that █████% of the employees in his organization are paid below the market rate because not enough money is provided for them in the budget. This disputes Oracle's claim that its "compensation framework strives for equitable pay."

Citation:

- OFCCP SUF: Fact 40, 129;
- OEx. 11, Loaiza Dep. 16:3-12, 283:6-284:22, 305:7-306:3.

12) Oracle had a policy before 2018 not to provide salary increases when it promoted employees even though it recognized at the same time that a promotion without a salary increase "can cause internal equity issues." This disputes Oracle's claim that its "compensation framework strives for equitable pay."

Citation:

- OFCCP SUF: Fact 182, 183;
- Ex. 18, slide 13 (notes), ORACLE_HQCA_0000000407-25;
- OEx. 11, Loaiza Dep. 217:19–219:9.

13) Oracle implemented significant off-cycle salary compensation increases when, amongst other things, it feared losing employees because its managers previously were not ensuring pay equity for its employees.

A) In or around May 2014, Oracle justified a [REDACTED]% off-cycle “dive and save” increase of \$[REDACTED] to prevent someone from going to a competitor when their salary was \$[REDACTED] [REDACTED] dollar amount of the salary range and her direct reports were earning [REDACTED]% to [REDACTED]% more than she was.

Citation:

- OFCCP SUF: Fact 133;
- Ex. 33, ORACLE_HQCA_0000437696–701 in Vol. 2.

B) In or around 2015, Oracle justified a [REDACTED]% off-cycle base salary increase of \$[REDACTED] for a Vice President who was \$[REDACTED] below the minimum dollar amount of the salary range because this vice president did not receive a salary increase when promoted and his managers were unable to rectify this problem over four years of focal reviews. His manager stated that he had tried to pull the employee’s salary up to within the band, but that this is difficult to do with such significant salary compression. He said that he faced a “rob Peter to reward Paul for a promotion” situation and noted that he has additional employees who also face significant salary compression.

Citation:

- OFCCP SUF: Fact 134;
- Ex. 34, Out of Cycle Salary Adjustment Proposal, dated 6/15/15, ORACLE_HQCA_0000434971–72 in Vol. 2.

C) In or around July 2014, Oracle justified a [REDACTED]% off-cycle “dive and save” increase of \$[REDACTED] to prevent an employee from going to a competitor who was in the [REDACTED] quartile of the salary range even though he received outstanding performance evaluations at Oracle for the last five years. As justification, the requesting email stated that, in summary, the employee had been on their radar for correction for the past few years; the employee had been very dedicated, professional and real team

player and has been patiently waiting for a meaningful correction to get him close to the market rate.

Citation:

- OFCCP SUF: Fact 136;
- Ex. 30, ORACLE_HQCA_0000432004-06.

14) Oracle's lean budget years have not extended to Co-CEOs Safra Catz and Mark Hurd who each have earned 1,205 times more in 2018 than the median employee compensation at Oracle, a ratio that ranks them in the 17 highest paid CEOs vis a vis average employee pay.

Citation:

- OEx. 19, New York Times, The Highest-Paid C.E.O.s of 2018: A Year So Lucrative, We Had to Redraw Our Chart, 5/29/19 at <https://www.nytimes.com/interactive/2019/business/highest-paid-ceos-2018.html>.

15) OFCCP objects to paragraph 26 of Ms. Waggoner's declaration because she lacks personal knowledge of the facts contained therein.

56. Oracle empowers its managers, who are familiar with an individual employee's work and how it compares to others to drive the decision-making in Oracle's decentralized process.

Alleged Supporting Evidence:

Waggoner Decl., ¶ 28, Ex. B (ORACLE_HQCA_0000364183 at 21); Abushaban Decl., ¶ 16; Chan Decl., ¶¶ 9-12.

Disputed.

1) The decisions whether to do corporate wide focal salary increases, bonuses, and stock grants and the budgets or caps allocated for them are more significant in determining employee compensation than employees' direct managers.

A) While, at times, Oracle calls its focal, aka focal reviews "annual focal reviews," they are not truly annual because Oracle did not have any in 2013 and 2018 and has them about every 14-18 months apart.

Citation:

- OFCCP SUF: Fact 137, 138;
- OEx. 8, Waggoner PMK Dep. 248:7-17, 192:19-193:1;
- Ex. 34, ORACLE_HQCA_0000434971 in Vol. 2.

B) From January 1, 2013, to January 19, 2019, Oracle only gave bonuses in two years: 2014 and 2018.

Citation:

- Ex. 91, Madden Report at 13 n. 4, 26 n. 15, 38 n. 18 in Vol. 3.

C) In Ms. Waggoner PMK testimony, she stated that Oracle has had lean budget years such that there is "little to no focal budget." She explained the impact of this situation by stating "if we give little to no focal budget, naturally we're not keeping up with the way the market has grown." She further testified that Oracle has had a lean budget for "the last many years."

Citation:

- OFCCP SUF: Fact 110, 111;
- OEx. 8, Waggoner PMK Dep. 327:24-328:12, 267:21-22.

D) Ms. Waggoner also testified as a PMK that "since 2013, this time period started, we've had incredibly lean corporate bonus budgets" and "[t]he bonus budgets have been very rare and very small when we've had them."

Citation:

- OFCCP SUF: Fact 110, 111;

- OEx. 8, Waggoner PMK Dep. 263:12-14, 276:11-14.

E) For equity grants (aka stocks or RSUs), Oracle caps the amount of people who can receive them at 35% such that Ms. Waggoner identified in her PMK testimony that they primarily go to managers and employees with higher global career levels.

Citation:

- Ex. 84, Email from Stefanie Wittner, dated 5/30/13, ORACLE_HQCA_0000022961 in Vol. 3;
- OEx. 8, Waggoner PMK Dep. 272:20-274:19.

F) Managers were instructed to issue shares of stock to ■■■ to ■■■ managers and to ■■■ to ■■■ individual contributors.

Citation:

- Ex. 84, ORACLE_HQCA_0000022961 in Vol. 3.

G) EVP Loaiza testified that ■■■% of his organization is below the market rate because of the limited budgets.

Citation:

- OFCCP SUF: Fact 129;
- OEx. 11, Loaiza Dep. 283:6–284:22, 305:7–306:3.

H) Oracle's lean budget years have not extended to Co-CEOs Safra Catz and Mark Hurd who each have earned 1,205 times more in 2018 than the median employee compensation at Oracle, a ratio that ranks them in the 17 highest paid CEOs vis a vis average employee pay.

Citation:

- OEx. 19, New York Times, The Highest-Paid C.E.O.s of 2018: A Year So Lucrative, We Had to Redraw Our Chart, 5/29/19 at <https://www.nytimes.com/interactive/2019/business/highest-paid-ceos-2018.html>.

2) Oracle has a centralizd starting pay process for its hires.

A) One example of an employee's first-line or direct manager not primarily determining the starting pay for new hires is Oracle's

hiring of college graduates, because Oracle's College Recruiting Organization determines the person's pay, not the employee's direct hiring manager. Ms. Waggoner admitted that Oracle's College Recruiting Organization sets the compensation package for the new hires hired through its program in her PMK *Jewett* deposition.

Citation:

- OEx. 2, Waggoner PMK *Jewett* Dep. ORACLE_HQCA_0000400696-98, 113:13- 115:1.

B) EVP Loaiza also identified in his March 2015 audit interview with OFCCP that Oracle's college recruiting organization set salaries for the people Oracle hires from college: "We hire a lot from universities. Those salaries are set by the university recruiting department. We set compensation for those not coming from universities."

Citation:

- Decl. of Hea Jung Atkins in Opposition to Oracle America, Inc.'s Motion for Summary Judgement (Atkins Opp'n Decl.) ¶14, Ex. K, OFCCP's Interview Notes of the Juan Loaiza on March 25, 2015 (Loaiza Interview Notes), DOL 000000522.

C) Oracle's College Recruiting organization sets narrow pay ranges for college hires and makes starting pay determination for them.

Citation:

- OEx. 22, Email from Zeira Singn to many people re LJE approved new college compensation package, ORACLE_HQCA_0000380453;
- OEx. 23, Email from Chantel Dumont to Milton Liu and Les Cundall re Salary Guidelines, dated 9/11/13 (Dumont 9/11/13 Email), ORACLE_HQCA_0000012587;
- OEx. 24, Email from Chantel Dumont to various people re college compensation for FY14, dated 9/24/13, ORACLE_HQCA_0000023717;
- OEx. 25, Email from Katie Rider to James Handley re College Hire Starting Salaries, dated 4/16/15, ORACLE_HQCA_0000380671;
- OEx. 26, Email from Chantel Dumont to Duhong Trinh

Trinh re Intern Salary Rule, dated 0/14/13,
ORACLE_HQCA_0000012204;

- OEx. 27, Email from Les Cundall to Elizabeth Lee re University Offer Approval Request, dated 3/14/14, ORACLE_HQCA_0000011640;
- OEx. 28, Email from Chantel Dumont to Satarupa Bhattacharya, dated 5/17/13 re University Offer Approval Request, ORACLE_HQCA_0000012173.

D) Another example of the direct manager not being the primary decision-maker for the starting pay for new hire is the MAP program wherein the “[t]he offer originates from the CEOs [sic] office and it has all the elements of other offers except a specific job position.... Once the offer is accepted the graduate is temporarily assigned to the CEOs [sic] development staff.”

Citation:

- OEx. 29, Emails between Wendy Lee and ██████████ regarding Oracle’s MAP Program created by Larry Ellison dated 10/25/13, ORACLE_HQCA_0000036993-94.

E) EVP Loaiza, at the M8 global career level, testified in his deposition that when he is reviewing a person during the hiring approval process, he is reviewing “the proposed compensation of the person.” He emphasizes this a second time when he states: “What I get is not the current compensation. I get the proposed compensation.” If he is only looking at the *proposed pay* at his high level, then the first level manager, many levels below, could not have already determined the starting pay for a new hire.

Citation:

- OEx. 11, Loaiza Dep. 16:3-16, 17:2-10, 44:16-45:20.

F) EVP Loaiza testified in his deposition that the hiring approval process which included the compensation proposal went up the management chain of command to the final approver who was Thomas Kurian for a large majority of them.

Citation:

- OEx. 11, Loaiza Dep. 48:10-49:1.

G) Ms. Waggoner testified that determining the pay of hires is a

collaboration between the hiring manager and the recruiting organization with, at times, input by human resources or its compensation group.

Citation:

- OEx. 17, Waggoner May Dep. 91:24-92:6.

H) Ms. Waggoner’s declaration and deposition testimony lacks foundation because of a lack of personal knowledge since she testified in her July 2018 *Jewett* deposition that she had not been involved with the review process for years.

Citation:

- OEx. 2, Waggoner PMK *Jewett* Dep.
ORACLE_HQCA_0000400688-89, 105:1-106:12.

I) Oracle’s Human Resources and Recruiters play significant role in determining an employee’s compensation at hire, as they are the ones instructing hiring managers how employees should be paid.

Citation:

- OEx 20, Powers Decl. ¶11;
- OEx 21, Snyder Decl. ¶ 13.

3) This fact is also disputed on the grounds that direct managers only make pay *recommendations*, not decisions. These pay *recommendations* are subsequently reviewed up the chain of command until the ultimate approver approves them. At intermediate reviews, the reviewing managers can either give their approvals or reject the recommendation. The final approvers for all hirings have to be approved by “CEO(s) & Executive Chairman and CTO,” “Office of the CEO,” the Board of Directors, or Thomas Kurian.

A) Oracle’s Global Approval Matrices state that approvals for base salary increases bonuses, and stock or stock options grants have to be made at the level of “CEO(s) & Executive Chairman and CTO,” “Office of the CEO,” the Board of Directors, or Thomas Kurian.

Citation:

- OFCCP SUF: Fact 113;
- Ex. 20, Global Approval Matrix, dated 6/11/12,

ORACLE_HQCA_0000062725-1 to -2;

- Ex. 20, Global Approval Matrix, dated 2/1/13, ORACLE_HQCA_0000062732-1 to -2;
- Ex. 20, Global Approval Matrix, dated 11/1/14, ORACLE_HQCA_0000062712-1 to -2;
- Ex. 20, Global Approval Matrix, dated 6/1/15, ORACLE_HQCA_0000062710-1 to -2;
- Ex. 20, Global Approval Matrix, dated 6/1/16, ORACLE_HQCA_0000062711-1 to -2;
- Ex. 20, Global Approval Matrix, dated 3/30/17, ORACLE_HQCA_0000062720-1 and -2 all in Vol. 1.
- Fact 4 herein by Oracle for Thomas Kurian's title and position.

B) Oracle's compensation instructions for hiring likewise require managers to make pay recommendations that require approvals at the Executive Level (e.g., CEO. CTO) or their offices.

Citation:

- OFCCP SUF: Fact 116;
- Ex. 28, "Recruit & Hire at Oracle: Module 6: How to Create an Offer in iRecruitment," copyright 2017, slide 11 (notes), ORACLE_HQCA_0000057179-22 in Vol. 2;
- Ex. 13, slide 35 and slide 35 (notes) ORACLE_HQCA_0000056234-65 to -66 in Vol. 1.

4) Oracle's compensation instructions for focals and off-cycle salary increases (e.g., promotions, "dive and saves" used to counter an offer from a competitor) likewise require managers to make pay recommendations that require approvals at the Executive Level (e.g., CEO. CTO) or their offices.

Citation:

- OFCCP SUF: Fact 116;
- Ex. 28, slide 11 (notes), ORACLE_HQCA_0000057179-22 in Vol. 2;
- Ex. 13, slide 35 and slide 35 (notes) ORACLE_HQCA_0000056234-65 to -66 in Vol. 1.

A) The approvals for base salary increases goes all the way up through the CEO's office.

Citation:

- OFCCP SUF: Fact 117;
- OEx. 8, Waggoner PMK Dep. 155:7-25.

B) Oracle’s focal review trainings refer to the managers role as making “recommendations” and state that “[t]his isn’t to say that your recommendations won’t be changed by someone further up in your hierarchy, but it is a way to inform your manager of how you would like to allocate increases to your team.”

Citation:

- Ex. 14, at slide 43 (notes), ORACLE_HQCA_0000382580-84 in Vol. 1.

C) In a 2014 compensation training, managers were instructed: “**Do not communicate** any changes [in compensation] until the ‘Last Approval Action’ shows ‘Larry Ellison.’”

Citation:

- OFCCP SUF: Fact 120;
- Ex. 25, slide 39, ORACLE_HQCA_0000056242-48 (emphasis in original) in Vol. 1.

D) In a 2011 compensation training, managers were instructed: “**You should not communicate any changes until we obtain final approval from LJE.**”

Citation:

- OFCCP SUF: Fact 121;
- Ex. 26, slide 49, ORACLE_HQCA_0000056957-55 (emphasis in original) in Vol. 2.

E) LJE stands for Larry J. Ellison.

Citation:

- OFCCP SUF: Fact 122;
- OEx. 17, Waggoner May Dep. 106:25–107:4.

F) Subsequent to these 2011 and 2014 trainings, Oracle expanded this approval beyond Larry Ellison to include Safra Catz.

Citation:

- OFCCP SUF: Fact 123;
- OEx. 16, Carrelli Dep. 212:9–213:1, 214:12–14.

H) Oracle’s managers cannot communicate any pay changes earlier because changes can happen during the approval process.

Citation:

- OFCCP SUF: Fact 124;
- Ex. 24, slide 39 (notes), ORACLE_HQCA_0000381306-76 in Vol. 1.

I) Even in Oracle’s declarations provided to this Court to support its summary judgment motion, managers acknowledged that they only make pay recommendations in focal reviews. E.g., Christina Kite, a VP, stated: “I am responsible for recommending salary increases and bonuses for my team.”

Citation:

- Oracle MSJ Decl. of Christina Kite, ¶¶ 3, 11.

J) President Thomas Kurian gave his required approval to off-cycle dive and save requests.

Citation:

- OFCCP SUF: Fact 119;
- Ex. 30, Dive-and-Save Emails between Oracle Managers, July 2014, ORACLE_HQCA_0000432004 in Vol. 2.

5) Mr. Pandey testified to receiving guidelines from HR an/or high level managers that contained instruction as to what percentage of his team could get a raise, as well as the percentage range for raises that could be issued.

Citation:

- OEx. 12. Pandey Decl. ¶13.

6) OFCCP objects to paragraph 28 of Ms. Waggoner’s declaration because she lacks personal knowledge, fails to use the best evidence, and proffers an improper summary.

<p>57. On September 24, 2014, OFCCP initiated the audit of Oracle’s Redwood Shores headquarters that led to this litigation.</p> <p>Alleged Supporting Evidence: Holman-Harries Decl., ¶ 2.</p>	<p>Undisputed.</p>
<p>58. OFCCP issued a Notice of Violation (“NOV”) on March 11, 2016, without first issuing a Predetermination Notice.</p> <p>Alleged Supporting Evidence: Holman-Harries Decl., ¶ 3, Ex. B (NOV).</p>	<p>Undisputed.</p>

59. The NOV was based solely on the results of OFCCP's statistical analyses and other evidence that OFCCP never disclosed to Oracle.

Alleged Supporting Evidence:

Holman-Harries Decl., ¶ 3, Ex. B (NOV).

Disputed.

1) OFCCP contests Oracle's Material Fact 59 because OFCCP communicated to Oracle the evidence that was the basis for the NOV, and most of the evidence came from Oracle.

A) In the NOV, OFCCP communicated to Oracle that the findings of compensation discrimination in the NOV were "[b]ased on the evidence gathered during the compliance review," which included "employment policies, practices, and records"; interviews with "management, human resources, and non-management employees"; "employee complaints"; "individual employee compensation data and other evidence"; and "an onsite inspection of the worksite."

Citation:

- OFCCP SUF Fact 11;
- Ex. 61, NOV at 3, DOL000000945 in Vol. 2;
- *See also id.* at 4–6, DOL000000946–48 in Vol. 2.

B) The results of OFCCP's regression analysis on compensation were attached to the NOV at attachment A.

Citation:

- Ex. 61, NOV, Ex. A, DOL000000952–54 in Vol. 2.

C) The NOV provided Oracle with a list of the variables that had been included in the regression analysis.

Citation:

- OFCCP SUF Fact 23;
- Ex. 61, NOV at 10-12, DOL000000952–53 (noting that the analysis "accounted for differences in employees' national origin, work experience at Oracle, work experience prior to Oracle, full-time/part-time status, exempt status, global career level, job specialty, visa status, and job title"), in Vol. 2.

D) Oracle knew which data fields, from Oracle's data, that OFCCP had used in its standard regression model.

Citation:

- Ex. 70, Oracle America Inc.’s 5/25/16 email and attached Position Statement in response to OFCCP’s 3/11/16 Letter, 15 n.17-18 (In discussing the statistical model OFCCP had described in the NOV, Mr. Siniscalco stated, “we presume ‘work experience at Oracle’ means simply length of time at Oracle since hire or acquisition” and “we presume ‘work experience prior to Oracle’ calculates some amount of time worked elsewhere before joining Oracle.”), in Vol. 2;
- OEx. 31, Dep. of Shauna Holman-Harries under Rule 30(b)(6), dated 8/1/19 (Holman-Harries 30b6 Dep.) 76:20-24, 80:17-97:11) (describing data fields in 2014 compensation snapshot, which included the other variables listed in the NOV--annual salary, gender, race, fulltime/part time status, exempt status, global career level, job specialty and job title);
- Ex. 68 (excerpt of 2014 compensation snapshot, which included data in the columns entitled “Gender,” “Race,” “Job Title,” “Job Function,” “Job Specialty,” “Global Career Level,” “Exempt Status,” “PT/FT,” and “Salary”), in Vol. 2;

E) The employment policies and practices referenced in the NOV included the specific documents that Oracle had itself provided to OFCCP during the compliance review: Oracle’s employee handbook; “Oracle’s Global Compensation Training, Managing Pay Module”; Oracle’s “Compensation Guidelines”; and a compensation document that Oracle created for OFCCP audits, entitled “Compensation Review and Oversight”; and “Affirmative Action Plan for Oracle America.”

Citation:

- OFCCP SUF Facts 50-52;
- Ex. 9, ORACLE_HQCA_0000380594-97 in Vol. 1;
- Ex. 11, ORACLE_HQCA_0000000468 in Vol. 1;
- Ex. 18, ORACLE_HQCA_0000000407 in Vol. 1;
- Ex. 63, “Affirmative Action Plan for Oracle America,” dated January 2014, ORACLE_HQCA_0000004999–5015 in Vol. 2;
- Ex. 73, “Compensation Review & Oversight,” not dated, (Ex. 26 to the Holman-Harries May Dep.), ORACLE_HQCA_0000382618 in Vol. 2;
- Ex. 74, Email from Shauna Holman-Harries to OFCCP sending Oracle’s Handbook, dated 2/9/15, ORACLE_HQCA_0000000443 in Vol. 2;
- Ex. 75, Email from Shauna Holman-Harries to OFCCP, dated 2/26/15, sending Oracle’s Global Compensation

Training in Vol. 2, ORACLE_HQCA_0000000405, in Vol. 2;

- OEx. 5, Holman-Harries May Dep. 171:12–172:20, 183:16–184:7, 198:10–24.

F) Oracle representatives and/or attorneys were present at all of the manager interviews that OFCCP conducted during the compliance review, and Oracle received copies of each of the interview notes documents that OFCCP created from those interviews.

Citation:

- Atkins Opp’n Decl. ¶11, Ex. H, OFCCP’s Interview Notes of the Thomas Kurian interview on March 24, 2015 (Kurian Interview Notes) (noting presence of Liza Snyder, VP Human Resources as “contractor representative”), DOL000000629–637.
- Atkins Opp’n Decl. ¶14, Ex. K, Loaiza Interview Notes (noting presence of Oracle representative Shauna Holman-Harries), Ex. K, DOL000000521-24;
- OEx. 33, OFCCP’s Interview Notes of the John McGinnis interview on March 24, 2015 (noting presence of Oracle representative Neil Bourque), DOL000000525-29;
- OEx. 34, Interview notes from the March 26, 2015 Interview of Marianna Gurovich (noting presence of Oracle representative Ms. Holman-Harries), DOL000000554-558;
- Atkins Opp’n. Decl. ¶6, Ex. C, Cheruvu Interview Notes (noting presence of Oracle representatives Neil Borque and Liz Snyder), DOL000000535-37;
- Atkins Opp’n Decl. ¶16, Ex. M, OFCCP’s Interview Notes of the Peggy (Margaret) Rolly interview on March 26, 2015 (Rolly Interview Notes), DOL000005458-60;
- Atkins Opp’n Decl. ¶18, Ex. O, OFCCP’s Interview Notes of the Vicki Thrasher interview on March 25, 2015 (Thrasher Interview Notes) (noting presence of Oracle representative Elizabeth Snyder), DOL000038520-24;
- Atkins Opp’n Decl. ¶5, Ex. B, Balkenhol Interview Notes, (noting presence of Oracle representative Neil Borque), DOL000000511-14;
- Atkins Opp’n Decl. ¶4, Ex. A, Email from Hoan Luong to Oracle dated 1/4/16, asking Oracle to return signed copies of the interview notes and Ms. Holman-Harries’ return Email on 1/8/15 returning the interview notes unsigned, ORACLE_HQCA_0000000270.

G) OFCCP also based its NOV in part on material it compiled, and which Oracle had either provided or received, associated with the compliance evaluation of Oracle's Pleasanton site, including the sworn statement of Oracle's Director of Compensation, Lisa Gordon.

Citation:

- OFCCP SUF Facts 52, 195-206;
- Ex. 41, Holman-Harries *Jewett* Decl., Ex. A, sworn statement of Lisa Gordon, Oracle Director of Compensation dated 2/11/15, (Lisa Gordon Sworn Statement) in Vol. 2;
- Ex. 42, Email dated 2/10/15, from Shauna Holman-Harries to OFCCP regarding revisions to Lisa Gordon's statement, DOL000039963-40002 in Vol. 2;
- OEx. 5, Holman-Harries May Dep. 226:14-227:10, 227:23-24, 228:2-5, 232:16-233:12, 234:9-12 in Vol. 2;
- Ex. 44, OFCCP interview statement containing Lisa Gordon's revisions that Shauna Holman-Harries sent to OFCCP that was marked as Ex. 33 to Holman-Harries May Dep.;
- Ex. 45, Email dated 2/10/15, from Shauna Holman-Harries to OFCCP with Lisa Gordon's sworn statement, DOL000040003-22 in Vol. 2;

H) OFCCP provided Oracle with additional information about the findings of violation in correspondence between the issuance of the NOV in March 2016 and the issuance of the complaint in January 2017.

Citation:

- OFCCP SUF Facts 16, 24 and 25;
- Ex. 69, OFCCP's 3/29/16 email Response to Oracle America, Inc.'s 3/18/16 email (Ex. 5 (Suhr) at Holman-Harries 30b6 Dep. re: conciliation), ORACLE_HQCA_0000000275-78 in Vol. 2;
- Ex. 67, OFCCP's 4/21/16 Response to Oracle America Inc.'s 4/11/16 Letter (OFCCP 4/21/16 Response) (Ex. 7 (Suhr) at Holman-Harries 30b6 Dep. re: conciliation), ORACLE_HQCA_2067-78 in Vol. 2;
- OEx. 31, Holman-Harries 30b6 Dep. 182:13-183:22.

I) At an approximately 3-hour conciliation meeting on October 6, 2016, Janette Wipper, OFCCP's Regional Director at the time, described the variables used in OFCCP's compensation

	<p>analysis, and additional information about the violations.</p> <p>Citation:</p> <ul style="list-style-type: none">• OFCCP SUF Facts 26, 27, 31;• OEx. 31, Holman-Harries 30b6 Dep. 205:22–208:01, 209:18–25, 222:17–223:19, 214:2–11;• Ex. 71, Consolidated Notes of Oracle employees Charles Nyakundi and Shauna Holman-Harries (Consolidated Notes) (Ex. 131 at Holman-Harries 30b6 Dep. re: conciliation), ORACLE_HQCA_0000607319–25 in Vol. 2. <p>J) OFCCP also based its NOV in part on Oracle’s failure to produce documents showing its compliance with its Affirmative Action plan and related regulations, and its failure to provide access to documents including prior year compensation data.</p> <p>Citation:</p> <ul style="list-style-type: none">• Ex. 61, NOV, at 6–9, DOL000000948–51 in Vol. 2.
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<p>60. The statistical analyses on which the NOV relies do not compare employees who perform similar work because they compare employees by job title, and job titles at Oracle do not account for all the skills, duties, or experience associated with a particular position.</p> <p>Alleged Supporting Evidence:</p> <p>Holman-Harries Decl., ¶ 3, Ex. B (NOV); Waggoner Decl., ¶¶ 17, 22; Bashyam Decl., ¶¶ 7, 14; Webb Decl., ¶¶ 5-6, 8-11; Sarwal Decl., ¶¶ 4-12; Eckward Decl., ¶¶ 9-10; Kottaluru Decl., ¶ 13; Hsin Decl., ¶ 8; Fox Decl., ¶¶ 12-13; Oden Decl., ¶¶ 7-11; Suri Decl., ¶¶ 10-14; Chan Decl., ¶ 8; Adjei Decl., ¶¶ 8-9; Chechik Decl., ¶ 6; Ousterhout Decl., ¶¶ 11-13.</p>	<p>Disputed.</p> <p>1) OFCCP contests Oracle’s Material Fact 60 because it is a legal contention and not a statement of undisputed fact.</p> <p>A) In any case, the NOV provided Oracle with a list of the variables that had been included in the ` analysis, in addition to job title.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OFCCP SUF Fact 23; • Ex. 61, NOV at 10-12, DOL000000952–53 (noting that the analysis “accounted for differences in employees’ national origin, work experience at Oracle, work experience prior to Oracle, full-time/part-time status, exempt status, global career level, job specialty, visa status, and job title”) , in Vol. 2. <p>B) In addition, neither prior to the issuance of the NOV, nor later, during the parties’ conciliation efforts, did Oracle ever suggest any alternative variable to better account for “all the skills, duties, or experience associated with a particular position” in a regression analysis.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OFCCP SUF Fact 25, 30, 35; • OEx. 31, Holman-Harries 30b6 Dep. 185:14–24, 195:1–6 in Vol. 1; • Declaration of Jane Suhr in Support of OFCCP’s Opposition to Oracle America, Inc’s Motion for Summary Judgment or, in the alternative, for partial summary judgment dated 10/31/19 (Suhr Opp’n Decl.) ¶18 & Ex. K, Letter from Gary Siniscalco to OFCCP, dated 5/25/16, at 3 (“OFCCP’s statistical model is defective and no counter-statistical model is warranted. . . . In many cases no two employees at HQCA have the same or similar job, and thus they no or possibly just one or two comparators.”), ORACLE_HQCA_0000002094–2115; • Ex. 66, Show Cause Notice at 2 (noting that “ORACLE has not provided a substantive rebuttal analysis, based upon statistical evidence, to the violations of the Notice”); • Suhr Opp’n Decl. ¶21 & Ex. N, Letter from Hea Jung Atkins to Oracle, dated 9/9/16 (Atkins 9/9/16 Letter), at 2 (noting that “simply attacking OFCCP’s statistical findings, without
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	<p>indicating how the purported errors affect the results, is insufficient”), DOL000039039;</p> <ul style="list-style-type: none"> • Ex. 71, Consolidated Notes of Oracle employees Charles Nyakundi and Shauna Holman-Harries (Consolidated Notes) (Ex. 131 at Holman-Harries 30b6 Dep. re: conciliation), at 4 (noting that at the conciliation meeting, Oracle’s counsel continued to advocate for comparisons of “cohorts,” stating that Oracle’s workforce “defies statistical analysis.”), ORACLE_HQCA_0000607319–25, in Vol. 2; • Suhr Opp’n Decl. ¶31, Ex. T, Letter from Erin Connell to OFCCP, dated 10/31/16, at 6-12 (stating that “generalized statistics that might be probative in assessing employers with large numbers of . . . similar positions are not meaningful here” and not providing any possible variable to account for purported differences in skills or duties); • Suhr Opp’n Decl. ¶32, Ex. U, Letter from Janette Wipper to Oracle, dated 12/9/16, at 1 (stating that “Oracle has not asubmitted additional data, competing statistics, or other evidence explaining the significant statistical disparities in . . . compensation”). <p>2) In addition, OFCCP objects to Oracle’s reliance on Ms. Waggoner’s declaration at paragraph 22 because she submits improper lay opinion.</p>
<p>61. OFCCP’s Regional Director during the 2013-2014 audit period was Janette Wipper.</p> <p>Alleged Supporting Evidence: Connell Decl., Ex. F (7/1/19 Leu Dep. 79:18-80:6; 97:12-24; 102:10-18; 108:25-109:12; 139:9-23).</p>	<p>Disputed.</p> <p>1) Janette Wipper was not the Regional Director of OFCCP during the entire 2013-2014 period.</p> <p>Citation:</p> <ul style="list-style-type: none"> • Suhr Opp’n Decl. ¶ 4.

<p>62. Ms. Wipper provided Dr. Shirong “Andy” Leu, OFCCP’s statistician who prepared the statistical analyses in the NOV, the data for Oracle’s employees and the factors to use for the analyses.</p> <p>Alleged Supporting Evidence:</p> <p>Connell Decl., Ex. F (7/1/19 Leu Dep. 79:18-80:6; 102:10-18; 108:25-109:12; 127:19-128:3; 210:15-24).</p>	<p>Disputed.</p> <p>1) OFCCP contests Oracle’s Material Fact 62 to the extent that it implies the data Dr. Shirong Andy Leu (Dr. Leu) used for the analyses was created by Ms. Wipper. The data Dr. Leu used for the statistical analyses was data in the 2014 compensation snapshot that Oracle provided to OFCCP.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OEx. 32, Dep. of Dr. Shirong Andy Leu, dated 7/1/19 (Leu Dep.) 100:01-101:01, 107:06-16.
<p>63. The factors Dr. Leu used in OFCCP’s regression model for the NOV were only (1) time at Oracle; (2) age; (3) full-time/part-time; (4) and job title (which includes employees’ exempt status, global career level, and job specialty).</p> <p>Alleged Supporting Evidence:</p> <p>Connell Decl., Ex. B (8/1/19 Holman-Harries PMK Dep. 86:14-87:18), Ex. F (7/1/19 Leu Dep. 79:18-80:6; 102:10-18); Waggoner Decl., ¶ 23</p>	<p>Disputed.</p> <p>1) The NOV lists the factors included in the regression analysis.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OFCCP SUF Fact 23; • Ex. 61, NOV, Ex. A, DOL000000952–53 (noting that the analysis “accounted for differences in employees’ [gender/race/national origin], work experience at Oracle, work experience prior to Oracle, full-time/part-time status, exempt status, global career level, job specialty, visa status, and job title”) in Vol. 2. <p>2) The evidence that Oracle cites here does not support its conclusion that job title “includes” employees’ exempt status, global career level, and job specialty.</p>

<p>64. Dr. Leu estimated he spent only five to ten hours in total preparing the regression models in the NOV.</p> <p>Alleged Supporting Evidence: Connell Decl., Ex. F (7/1/19 Leu Dep. 154:1-20).</p>	<p>Disputed.</p> <p>1) OFCCP contests Oracle’s Material Fact 64 because Dr. Leu testified that he did not recall how long he spent preparing the regression models. Dr. Leu estimated that he spent at least five hours on the models, but he did not have a clear enough recollection to estimate the timeframe.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OEx. 32, Leu Dep. 154:24-156:14 (“[Dr. Leu:] To be honest with you, I don't have very clear -- very clear, you know, the numbers in my brain, you know. [] 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.”).
<p>65. Dr. Leu did not determine whether the employee groupings compared employees who perform similar work, or whether the factors used in OFCCP’s regression model are the factors Oracle managers consider when making compensation decisions.</p> <p>Alleged Supporting Evidence: Connell Decl., Ex. F (7/1/19 Leu Dep. 141:25-143:11).</p>	<p>Disputed.</p> <p>1) OFCCP contests Oracle’s Material Fact 65 to the extent that it implies that Dr. Leu should have personally analyzed the evidence in the case. Dr. Leu repeatedly testified that it was not his function in the Oracle matter to analyze the evidence or determine the factors in the OFCCP’s regression analysis, and that instead he was simply tasked with creating a regression analysis using the Oracle’s data and the specific variables within that data as provided to him by Regional Director Wipper.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OEx. 32, Leu Dep. 141:25-143:11, 210:2-211:22.

66. OFCCP issued the Show Cause Notice, which was based on the same statistical analyses as was the NOV, on June 8, 2016.

Alleged Supporting Evidence:

Holman-Harries Decl., Ex. Y (SCN).

Disputed.

1) OFCCP issued the Show Cause Notice on June 8, 2016. However, OFCCP disputes this fact to the extent it suggests that the NOV and SCN were based only on the underlying statistical analyses.

- A) As noted above in Disputed Fact 59, the NOV was also based on the material gathered and interviews conducted by OFCCP during the compliance review.
- B) In addition, both the NOV and the SCN were based on Oracle’s failure to conduct in-depth analyses of its total employment process; failure to implement internal audit and reporting systems; and denial of access to records, including prior year compensation data.

Citation:

- Ex. 61, NOV, at 6–9, DOL000000948–51, in Vol. 2;
- Ex. 66, Show Cause Notice, at 3 (stating that OFCCP’s findings remain unrebutted and enclosing the NOV to reference the “violations at issue”) in Vol. 2.

<p>67. OFCCP understood that Oracle was requesting additional information in order to respond substantively to the NOV.</p> <p>Alleged Supporting Evidence:</p> <p>Connell Decl., Ex. D (6/26/19 Suhr PMK Dep. 41:20-42:6).</p>	<p>Disputed.</p> <p>1) OFCCP did not believe that Oracle was requesting additional info to respond substantively to the NOV.</p> <p>Citation:</p> <ul style="list-style-type: none"> • Connell Decl., Ex. D (6/26/19 Suhr PMK Dep. 41:17-19); • Suhr Opp’n Decl. ¶¶11, 13, 15. <p>2) Oracle declined OFCCP’s offer to meet in person to discuss the NOV until October 6, 2016.</p> <p>Citation:</p> <ul style="list-style-type: none"> • Suhr Opp’n Decl. ¶12 & Ex. E, Email from OFCCP to Oracle, dated 3/29/16, (“Please let us know whether an Oracle representative with decision-making authority and an Oracle representative with the requisite knowledge noted above will be available to meet during the week of April 18, 2016 to conciliate this matter”); • Suhr Opp’n Decl., ¶13, Ex. F, Letter dated 4/11/16 from Gary Siniscalco, at 5 (“[W]e believe the invitation for a face-to-face meeting at this stage would likely be premature.”), ORACLE_HQCA_0000002057-2066; • Suhr Opp’n Decl., ¶20, Ex. M, Letter dated 6/29/16 from Gary Siniscalco to OFCCP, at 2 (“OFCCP asked to meet in person; in response, we explained why we believed such a meeting would be premature and inappropriate.”) & attached email exchange. <p>3) Starting in the compliance review, Oracle took actions that appeared designed to cause delay, and were uncooperative.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OEx. 31, Holman-Harries 30b6 Dep. 71:14-73:13 (Oracle was waiting for OFCCP to provide a basis for requesting the 2013 compensation snapshot before providing it); • Oracle’s Mot. 25 (“Oracle asked why information was being sought”); • Suhr Opp’n Decl. ¶¶7, 9, 11, 13, 17.
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4) Oracle continued this tactic, when it responded to the NOV by asking 57 detailed questions, many of which were not directed to understanding the violations stated in the NOV, but instead invaded the Agency's deliberative process and other privileges, or sought premature, broad discovery.

Citation:

- OEx. 31, Holman-Harries 30b6 Dep. 176:24-177:6, 179:11-180:23;
- Suhr Opp'n Decl. ¶13, Ex. F, Letter dated 4/11/16 from Gary Siniscalco to OFCCP, at Appendix A & B (Oracle asked, at Q. 15, how many different models, iterations and computations had the statistician run besides the three listed in Attachment A?, at Q 30, whether OFCCP would pursue a disparate treatment or disparate impact theory, and at Q 31, for facts supporting each of the alleged violations.), ORACLE_HQCA_0000002057-2066;
- Ex. 67, Letter from Hea Jung Atkins to Gary Siniscalco, dated 4/21/16 (Atkins 4/21/16 Letter), at 3-4 in Vol. 2 & Appendices A & B (responding to Oracle's 57 questions).

5) Oracle's correspondence focused on procedural objections.

Citation:

- Suhr Decl. ¶13, Ex. F, Letter dated 4/11/16 from Gary Siniscalco to OFCCP, ORACLE_HQCA_0000002057-2066 at 1-2;
- Suhr Decl. ¶18, Ex.K, Letter dated 5/25/16 from Gary Siniscalco to OFCCP, attached Position Statement at 1-7ORACLE_HQCA_0000002057-2066;
- Suhr Decl. ¶20, Ex. M, Letter dated 6/29/16 from Gary Siniscalco to OFCCP, at 1-3;

6) OFCCP understood Oracle's requests for additional information (particularly the 57 questions in its April 11, 2016 letter) to be designed to delay conciliation.

Citation:

- Suhr Decl. ¶15 & Ex. H, Letter from OFCCP to Oracle, dated 4/21/16, at 3 n.8 in Vol. 2 ("Instead of responding to the substantive violations at issue, most of the letter focuses upon mischaracterizing communications and the compliance evaluation record, while condemning government officials

	<p>for conducting an audit of Oracle.”);</p> <ul style="list-style-type: none"> • Suhr Decl. ¶21 & Ex. N at 1 (“While Oracle declares its desire to engage in conciliation, its stated desire rings hollow, given that it has refused to meet in person, it continues to emphasize and complain about the audit process and other procedural matters, its demand that OFCCP provide answers to approximately 60 questions, and its failure to make a meaningful, substantive response to OFCCP’s findings”); • Suhr Decl. ¶23 & Ex. P, Letter from Hea Jung Atkins to Oracle, dated 9/21/16 (Atkins 9/21/16 Letter) at 1 n.1 (expressing concern about “attempts to manufacture procedural deficiencies where none exist”); • Suhr Decl. ¶¶7, 9, 11, 13, 17.
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68. As of October 29, 2016, the only information Oracle had received about the alleged violations OFCCP found were from the NOV itself and one subsequent email from an OFCCP employee, which provided no more information than what was already in the NOV.

Alleged Supporting Evidence:

Connell Decl., Ex. D (6/26/19 Suhr PMK Dep. 41:20-42:6); Siniscalco Decl., Ex. C (4/21/16 Atkins Letter).

Disputed.

In addition to providing substantial detail in the NOV itself, OFCCP provided significant information about the violations in the NOV in three subsequent communications on March 29, April 21, and September 9, 2019, and then held a three-hour in-person conciliation meeting on October 6 where the parties discussed the violations in depth.

1) The NOV contained sufficient detail regarding the regression analyses that OFCCP had conducted including: the job functions at issue, the specific data fields from Oracle’s 2014 compensation data that OFCCP included in its standard regression analysis, the classes of employees who were victims, and the results of the regression model.

The NOV explained that the regression analyses “analyzed Oracle employees’ compensation data by Oracle job function by using a model that included the natural log of annual salary as a dependent variable, and accounted for differences in employees’ [gender/race], work experience at Oracle, work experience prior to Oracle, full-time/part-time status, exempt status, global career level, job specialty, visa status, and job title.”

Citation:

- OFCCP SUF Fact 23 (excerpt of 2014 compensation snapshot, which included data in the columns entitled “Gender,” “Race,” “Job Title,” “Job Function,” “Job Specialty,” “Global Career Level,” “Exempt Status,” “PT/FT,” and “Salary”)
- Holman-Harries 30(b)(6) Dep. 76:20-24, 80:17-97:11
- Ex. 61, NOV at 10-12, DOL000000952–53, in Vol. 2
- Suhr Opp’n Decl. ¶18, Ex. K, p. 15 n. 17-18

2) In an email dated March 9, 2016, OFFCP provided Oracle with a specific accounting of the past due requests for information underlying the Affirmative Act, Recordkeeping, and Access violations in the NOV.

Citation:

- Ex. 69, Email dated 3/9/16, from Robert Doles to Shauna Holman-Harries and attachment titled “Pending Information Requests,” ORACLE_HQCA_000000275-278, in Vol. 2.

3) In a letter dated April 21, 2016, OFFCP provided Oracle with significant information regarding the agency’s legal framework for

finding the violation, including that “[a] disparity in treatment that is two standard deviations is acceptable as evidence of discrimination” and specific case citations of the precedential cases on which the agency was relying for its finding of a prima facie case of discrimination.

Citation:

- Ex. 67, Atkins 4/21/16 Letter at 2-3 n.5-7, 9 in Vol. 2; ORACLE_HQCA_000000275-278
- OEx. 31, Holman-Harries 30b6 Dep. 182:13-183:22.

4) In a letter dated September 9, 2016, OFFCP provided Oracle with a list of information that Oracle had still not provided (and which provided bases for the recordkeeping and access violations), including “resumes, applications, requisitions, job postings, and hiring manager information for any positions other than Software Developers 1-5 and student interns, 2013 compensation data and LCAs, as well as starting salary, prior salary, and salary history for 2013 or 2014.”

Citation:

- Suhr Opp’n Decl. ¶21, Ex. N, Atkins 9/9/16 Letter at 2, DOL000039039;

5) In a letter dated September 23, 2016, OFFCP provided significant additional information regarding the agency’s legal framework for finding the violation and what the agency would consider to be sufficient to rebut the finding of violation. The agency explained that Oracle could not simply point to “a range of factors” that Oracle managers describe as relevant, without providing any “evidence demonstrating whether any factor in the ‘range of factors’ would actually change the statistical results in favor of Oracle.”

Citation:

- Suhr Opp’n Decl. ¶24, Ex. Q, Letter from Hea Jung Atkins to Oracle, dated 9/23/16 (Atkins 9/23/16 Letter) at 2 (providing additional case citations to support the Agency’s belief that such evidence was necessary), DOL000039028;

6) When Oracle finally agreed to meet in person with OFCCP to discuss conciliation, OFCCP provided additional information to Oracle about the violations during an approximately 3-hour conciliation meeting on October 6, 2016.

	<p>The parties discussed Oracle’s assertion that the products employees worked on impacted their compensation, and the lack of any data maintained by Oracle showing such product assignments.</p> <p>Citations:</p> <ul style="list-style-type: none"> • OFCCP SUF 26-32; • Ex. 71, Consolidated Notes of Oracle employees Charles Nyakundi and Shauna Holman-Harries (Consolidated Notes) (Ex. 131 at Holman-Harries 30b6 Dep. re: conciliation), ORACLE_HQCA_0000607319–25, in Vol. 2. <p>7) Following the October 6, 2019 meeting, Mr. Siniscalco wrote to Ms. Wipper that “We all feel the conciliation meeting was very productive, and moved both sides in a positive direction.”</p> <p>Citation:</p> <ul style="list-style-type: none"> • Suhr Opp’n Decl. ¶30, Ex. S Email exchange between Gary Siniscalco and Janette Wipper, dated 10/7/16.
<p>69. OFCCP never provided Oracle with a proposed conciliation agreement.</p> <p>Alleged Supporting Evidence: Connell Decl., Ex. D (6/26/19 Suhr PMK Dep. 35:14-21; 50:5-22; 65:7-66:8).</p>	<p>Undisputed.</p> <p>1) However, 41 C.F.R. § 60–1.33 requires a conciliation agreement “if the contractor, subcontractor or bidder is willing to correct the violations and/or deficiencies.” Oracle never indicated that it was willing to correct the violations; instead it maintained the position that no violations or deficiencies existed.</p>

<p>70. OFCCP never explained what non-monetary actions Oracle could take to resolve the alleged violations.</p> <p>Alleged Supporting Evidence: Connell Decl., Ex. D (6/26/19 Suhr PMK Dep. 65:21-66:8).</p>	<p>Disputed.</p> <p>1) In addition to make-whole relief, OFCCP’s NOV stated that Oracle had to agree to take steps to ensure its compensation is nondiscriminatory, including, specifically addressing “salary at the time of placement into roles,” and “annual salary adjustments and incentive compensation.” It also required Oracle to agree to provide training to employees involved in setting and increasing compensation to ensure that the violation does not recur.</p> <p>Citation:</p> <ul style="list-style-type: none"> • Ex. 61, NOV at 4-5, DOL000000952–53, in Vol. 2 <p>2) At the October 6, 2016 meeting Wipper described policy changes that OFCCP wanted as part of the settlement, including salary adjustments (to assure relief would be prospective as well a retrospective), training for Oracle management in how to do pay equity analysis, pay transparency rules for Oracle’s workers (i.e. no prohibitions on sharing salary information), and clear documentation going forward of justifications for for pay discrepancies.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OFCCP SUF Fact: 32; • Ex. 71, Oracle’s Consolidated Notes of the 10/6/16 Conciliation Meeting, ORACLE_HQCA_0000607324, in Vol. 2; • Atkins Opp’n Decl., Hea Jung Atkins Notes of the 10/6/16 Conciliation Meeting (Atkins 10/6/16 Notes), ¶26, Ex. T, DOL000044163; • Ex. 31, Holman-Harries 30b6 Dep. 205:22–208:01, 209:18–25, 222:17–223:19, 231:6–233:16, 235:9–236:19.
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<p>71. OFCCP gave Oracle rough estimates of alleged monetary damages, but not any backup or supporting facts explaining how the estimates were derived.</p> <p>Alleged Supporting Evidence: Connell Decl., Ex. D (6/26/19 Suhr PMK Dep. 68:23-69:13).</p>	<p>Undisputed.</p> <p>1) However, at the October 6, 2016 conciliation meeting, OFCCP provided a breakdown of the \$22 million / year damages estimate, including \$7.7 million for women in Product Development; \$670,000 for woman in IT; \$487,000 for women in Support; \$250,000 for African-American employees, and \$13-14 million for Asian employees. OFCCP provided the exact number of employees who would be eligible for relief.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OFCCP SUF Fact: 32; • Ex. 71, ORACLE_HQCA_0000607324, in Vol. 2. <p>2) At the October 6, 2016 conciliation meeting OFCCP explained that the methodology for coming up with the estimates was formula relief, and OFCCP noted that this methodology is explained in the agency directive on remedies.</p> <ul style="list-style-type: none"> • Suhr Opp’n Decl. ¶ 26, Ex. T, Atkins 10/6/16 Notes, DOL000044162-63; • Ex. 71, (Consolidated Notes), ORACLE_HQCA_0000607324-25, in Vol. 2. <p>3) OFCCP offered to provide even more detail on the methodology by which the estimates were reached if the parties could get through disagreements on liability.</p> <p>Citation:</p> <ul style="list-style-type: none"> • Ex. 71, ORACLE_HQCA_0000607324-25, in Vol. 2. <p>4) Oracle never provided OFCCP with any settlement offer in response.</p> <p>Citation:</p> <ul style="list-style-type: none"> • 5/23/19 Order Den. Summ. J. at 3.
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<p>72. OFCCP is not accusing any managers in Oracle’s Product Development, IT or Support job functions of intentional discrimination or bias.</p> <p>Alleged Supporting Evidence: OFCCP’s August 22, 2019 Position Statement at 8.</p>	<p>Disputed.</p> <p>1) OFCCP disputes Oracle’s Fact 72, unless it is interpreted to mean that OFCCP is not bringing an action against any lower-level Oracle managers.</p> <p>2) As the cited portion of OFCCP’s Position Statement makes clear, the focus of OFCCP’s allegations of wrongdoing by Oracle is “at the top of its management structure, not the bottom.” The statement further states that “[a]llegations of individual discriminatory acts are relevant here only as they shed light on how Oracle’s top leadership responded on a systemic basis[.]”</p>
<p>73. The primary statistical models in the Second Amended Complaint (“SAC”) use the same employee groupings and factors as the NOV, and were developed by OFCCP’s counsel, not the statistician who prepared the model.</p> <p>Alleged Supporting Evidence: Holman-Harries Decl., ¶ 3, Ex. B (NOV); SAC, ¶¶ 13-32; Connell Decl., Ex. S (7/17/19 Brunetti PMK Dep. 25:20-24; 72:7-73:6; 75:22-77:4; 116:5-117:1; 165:19-166:7; 172:17-173:19; 189:2-22; 192:23-193:10), Ex. T (June 11, 2019 Declaration of Jeremiah Miller in Opposition to Oracle’s Motion to Compel OFCCP to Designate and Produce a 30(b)(6) Witness, ¶ 5).</p>	<p>Disputed.</p> <p>1) The alleged supporting evidence does not support the asserted fact, particularly that OFCCP’s counsel “developed” “the primary statistical models in the Second Amended Complaint.” The asserted fact notes that the the employee groupings and factors used in the regression model in the SAC were the same as in the NOV. The alleged supporting evidence does not establish who “developed” those groupings or factors used in the NOV. Furthermore, as Dr. Madden stated in her deposition, the “the standard regression analysis, multiple regression analysis, as it is applied in this case, and every other case that I’ve ever been involved in by both experts and in the research literature,” is “not my model.” Nor is it a model “developed” by OFCCP’s counsel.</p> <p>Citation:</p> <ul style="list-style-type: none"> • Ex. 80, Madden Dep. 79:3-12 in Vol. 3.

74. When the statistical models OFCCP used for the NOV are applied to other job functions at Oracle’s headquarters, they do not yield any statistically significant pay differences adverse to women, Asians, or African-Americans, yet OFCCP did not report those statistically insignificant results.

Alleged Supporting Evidence:

Connell Decl., Ex. M (Saad Report, ¶¶ 23, 94-97).

Disputed.

1) OFCCP contests Material Fact 74 because the application of statistical models used for the NOV, if it occurred to other job functions at Oracle’s headquarters is protected by the deliberative process privilege, and OFCCP makes no “reports” regarding matters considered in its privileged deliberations. Moreover, Oracle failed to provide data requested by OFCCP regarding all job functions covered in OFCCP’s audits, rendering any deliberative analyses prepared by OFCCP incomplete and not supportive of findings or conclusions that statistically significant gender and pay differences did *not* exist.

A) Oracle’s violations nine and ten in the NOV are recordkeeping and access violations of federal regulations 41 C.F.R. 60-1.12(a) and Part 60-3; 41 C.F.R. 60-1.12; 60-1.20; 60-1.43; 60-2.32 and 60-3.4.

Citation:

- Ex. 61, Notice of Violation, DOL000000950;
- Atkins Opp’n Decl. ¶ 23;
- Suhr Opp’n Decl. ¶¶ 7-10.
- OEx. 36, Letter from Erin Connell to Marc Poltin and Laura Bremer re Oracle’s discovery production, dated 10/11/17.
- OEx. 40, Letter from Laura Bremer to Erin Connell dated 2/15/19, re data requests.

B) The data Oracle provided to OFCCP for its NOV analysis did not have W-2 pay data, only included snapshot data of January 1, 2014, failed to include the January 1, 2013, snapshot data requested by OFCCP, and did not include transaction data with employee histories for PRODEV, INFTECH and SUPP. Additionally, the data provided to OFCCP for the NOV analysis included differences in reported race for some of the employees. Had Oracle complied with the regulations it was required to as a federal contractor and provided OFCCP with the same transaction data for the other job functions, OFCCP may have identified additional disparities during the NOV analysis but it never had the opportunity because Oracle failed to provide the transaction data for the other job functions that it was legally required to provide to OFCCP.

Citation:

- Ex. 61, Notice of Violation, DOL000000950;
- Atkins Opp’n Decl. ¶ 23;

	<ul style="list-style-type: none">• Suhr Opp'n Decl. ¶¶ 7-10.• OEx. 36, Letter from Erin Connell to Marc Poltin and Laura Bremer re Oracle's discovery production, dated 10/11/17.• OEx. 40, Letter from Laura Bremer to Erin Connell dated 2/15/19, re data requests.
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75. The analyses and reports of Dr. Janice Madden, OFCCP’s expert for litigation purposes, do not aim to compare the pay of employees who perform similar work.

Alleged Supporting Evidence:

Connell Decl., Ex. P (Madden Rebuttal Report, 10-11), Ex. U (10/10/19 Madden Dep. 14:18-15:6; 43:4-18).

Disputed.

1) OFCCP disputes Material Fact 75 because Dr. Madden not only “aims” to compare the pay of employees who perform similar work, she extensively compares the pay of similarly qualified employees to whom Oracle assigned similar work, as she studied extensively the pay of employees assigned to perform similar work assigned by Oracle to employees in the same job title and she studied the pay of employees to whom Oracle assigned the same global career level (if that assignment is considered as reflective of “similar work” assignments, a point which is disputed by employee witness testimony) as a mechanism for the pay discrimination she found against women, Asians, and African Americans.

A) Curiously, Oracle fails to cite Dr. Madden’s Report because it extensively compares the pay of employees who perform similar work. For example, at column 6 of Tables 1-3, she controls for job as measured by job descriptor (taken from Oracle’s job titles), and her findings in Column 6 compare pay for employees who perform similar work, work classified by Oracle into the same job title.

Citation:

- Ex. 91, Madden Report pp. 16-17, Tables 1(a)-3(a).
- Ex. 92, Madden Rebuttal Report pp. 6-7.

B) Dr. Madden also finds that employees who enter Oracle with equivalent qualifications, including the studies Dr. Madden performed regarding the requisition data utilized by Dr. Saad in his report, are channeled into different global career levels, meaning that these employees are doing similar work but are simply assigned by Oracle into different job codes due to being assigned by Oracle different global career levels. In addition to finding that women and Asians are more likely to be assigned into lower global career levels than that specified in the requisition (for the limited database utilized by Dr. Saad) than men or Whites and less likely to be placed in higher global career levels than men or Whites for higher paid job titles, Dr. Madden finds that gender and race differentials in compensation by year in column 8 (which reports her findings for her regression analysis which controlled for global career levels) are significantly lower than those in column 6. These results show that Oracle’s gender and racial differences in the assignment of global career levels are associated with a significant part, but far from all, of the gender and racial pay differentials.

Citation:

- Ex. 91, Madden Report pp. 50-51, Tables 1(a)-3(a) and 5-7.
- Ex. 92, Madden Rebuttal Report pp. 30-35.

C) Oracle employees, including managers, report being assigned work similar to that of colleagues in higher global career levels than to those which they have been assigned by Oracle.

Citation:

- OEx. 30, Declaration of Bhavana Sharma, ¶¶ 6-8;
- OEx. 15, Declaration of Donna Kit Yee Ng, ¶¶ 7, 12;
- OEx. 38, Declaration of Donna Rosburg, ¶ 6;
- OEx. 13, Declaration of Donna Boross, ¶ 6;
- OEx. 7, Declaration of Christina Kolotouros, ¶ 5;
- OEx.12 , Declaration of Avinash Pandey, ¶ 8.

D) Dr. Madden demonstrates variables that are under the control of Oracle (ie Job Title, Global Career level, specialty, job code) are endogenous and therefore should not be included in a regression model which seeks to identify gender or racial pay differentials. Nevertheless, she developed models that control for job descriptor, management control and global career level and found that there are still statistically significant differences in pay. Dr. Madden states in her Rebuttal:

“Although some of my analyses control for Oracle’s endogenous job assignments, I perform them only to parse out the specific sources or practices that yield differential compensation by gender or race, such as compensation differences within-job versus compensation differences arising from promotion versus compensation differences arising from the initial job assignment.”

Citation:

- Ex. 92, Dr. Janice Madden’s Expert Report, dated 8/16/19 (Madden Rebuttal) at 11, Table 1(a)-3(a).

<p>76. The report and opinions of OFCCP’s expert Dr. Madden do not consider employees’ actual skills, duties or responsibilities.</p> <p>Alleged Supporting Evidence: Connell Decl., Ex. P (Madden Rebuttal Report, 9-11); Ex. U (10/10/19 Madden Dep. 43:4-18; 91:15-24).</p>	<p>Disputed.</p> <p>1) OFCCP disputes Material Fact 76 because Dr. Madden considers employees’ actual skills, duties or responsibilities.</p> <p>A) Dr. Madden designed her models to take account of education, experience, time at Oracle, and Job Function, which controls for the skills, duties and responsibilities associated with Oracle’s job titles. Data which reflects Oracle’s assignments of duties to similarly qualified employees are not appropriately included in an analysis of gender and racial pay differentials and discrimination.</p> <p>Citation:</p> <ul style="list-style-type: none"> • Ex. 91, Madden Report pp. 8, 16-17, Tables 1(a)-3(a).
<p>77. Dr. Madden’s analyses treat all prior work experience equivalently.</p> <p>Alleged Supporting Evidence: Connell Decl., Ex. N (Madden Report, 14).</p>	<p>Disputed.</p> <p>1) Dr. Madden’s analyses do not treat all prior work experience equivalently as she has two different prior work experience controls and her analyses are dependent on the data Oracle maintained and provided.</p> <p>A) Dr. Madden controls for two types of “prior” work experience, a control for work experience prior to hire by Oracle and a control for prior work experience at Oracle. Dr. Madden’s “treatment” of work experience was dictated by the data Oracle maintained regarding experience. Oracle did not maintain, or at least produce to OFCCP, data for each employee which identified variety in work experience of employees either prior to hire at Oracle or even prior work experience at Oracle, as Oracle admits it maintains no data as to specific work assignments, including product assignments, for employees.</p> <p>Citation:</p> <ul style="list-style-type: none"> • Ex. 91, Madden Report pp. 14-16, Tables 1(a)-3(a); • Declaration of Janice F. Madden dated 10/31/19 (Madden Decl.) at ¶8 (filed in OFCCP <i>Daubert</i> Opp., Exh. A).

<p>78. Dr. Madden’s analyses measure prior work experience by treating age as a proxy for experience.</p> <p>Alleged Supporting Evidence: Connell Decl., Ex. N (Madden Report, 14).</p>	<p>Disputed.</p> <p>1) Dr. Madden’s analyses do not treat all prior work experience equivalently as she has two different prior work experience controls and her analyses are dependent on the data Oracle maintained and provided.</p> <p>A) Dr. Madden’s controls for two types of “prior” work experience, a control for work experience prior to hire by Oracle and a control for prior work experience at Oracle. For work experience prior to hire at Oracle, Dr. Madden applied a formula which relied upon age as a proxy for experience. Dr. Madden’s “treatment” of work experience was dictated by the data Oracle maintained regarding experience. Oracle did not maintain, or at least produce to OFCCP, data for each employee which identified variety in work experience of employees either prior to hire at Oracle or even prior work experience at Oracle, as Oracle admits it maintains no data as to specific work assignments, including product assignments, for employees.</p> <p>Citation:</p> <ul style="list-style-type: none"> • Ex. 91, Madden Report pp. 14-16, Tables 1(a)-3(a); • Madden Decl. at ¶8 (filed in OFCCP <i>Daubert</i> Opp., Exh. A).
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<p>79. Dr. Madden analyzes education by using the level of educational degree attained – college, Masters, or Ph.D.</p> <p>Alleged Supporting Evidence: Connell Decl., Ex. N (Madden Report, 15).</p>	<p>Disputed.</p> <p>1) OFCCP contests Material Facts 79 because Dr. Madden analyzed education utilizing the highest degree earned, major, and job descriptor.</p> <p>A) In her Report, Dr. Madden included educational degree and job descriptors which she used to identify people likely to have similar majors and similar types of experiences in her regression analysis.</p> <p>Citation:</p> <ul style="list-style-type: none"> • Ex. 92, Madden Rebuttal p. 11 n. 3 in Vol. 3; • Ex. 91, Madden Report pp. 15-16 in Vol. 3; • Ex. 80, Madden Dep. 175:2-176:18 in Vol. 3; • Ex. 89, Saad Dep. Ex. 9, Madden Decl. (October 11, 2019) ¶¶ 4-5, tables A-1 to A-5 in Vol. 3. <p>B) Dr. Madden also provided testimony analyzing education data which included majors in response to a critique raised by Dr. Saad for the first time in his Rebuttal Report.</p> <p>Citation:</p> <ul style="list-style-type: none"> • <i>Id.</i> ¶¶ 3-5; • Saad Rebuttal Report ¶¶ 48-57.
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<p>80. Dr. Madden coded as “unknown” the education level of over 50% of the employees she analyzed.</p> <p>Alleged Supporting Evidence: Connell Decl., Ex. O (Saad Rebuttal, ¶ 19; n.21).</p>	<p>Disputed.</p> <p>1) OFCCP disputes Material Fact 80 because it specifically requested educational data from Oracle, yet Oracle only provided educational data (highest degree earned) for approximately 40% of the employees in the three job functions at issue, in violation of federal requirements, and Oracle fails to acknowledge that Dr. Madden collected additional information by scraping resumes from resumes and she specifically tested whether the percentage of educational data she utilized affected her findings and found it did not.</p> <p>A) Oracle provided educational data in an electronic format for approximately 40% of the employees being considered. Dr. Madden’s staff obtained educational data for approximately an additional 10% of the employees being considered by manually obtaining degree information from resumes.</p> <p>Citation:</p> <ul style="list-style-type: none"> • Madden Decl., ¶10 (filed in OFCCP <i>Daubert</i> Opp., Exh. A); • Ex. 91, Madden Report at 59-60. <p>B) For the employees for whom Dr. Madden did not have educational data, she entered “unknown” as the value for the highest degree earned as a proxy and ran a regression which yielded the results in Tables 1(a) and 2(a) of her report. Knowing that she did not have complete educational data for Oracle’s employees, Dr. Madden ran the same regression for employees she had degree data. Those analyses are Tables 1(b)-2(b) of her report. What Tables 1(b) and 2(b) show is that limiting the data to those employees Dr. Madden had educational data for made virtually no difference in her results.</p> <p>Citation:</p> <ul style="list-style-type: none"> • Madden Decl. (October 31, 2019) ¶ 10; • Madden Initial Report at 15, 17-20, 30-31, Tables 1(a)-(c); 2(a)-(c).
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<p>81. Dr. Madden created a “job descriptor” variable, not found in Oracle’s records, that aggregates job titles within a particular type or category of job, regardless of career level.</p> <p>Alleged Supporting Evidence:</p> <p>Connell Decl., Ex. N (Madden Report, 15-16 & Appx. A), Ex. U (10/10/19 Madden Dep. 47:3-11, 174:1-15).</p>	<p>Disputed.</p> <p>1) OFCCP contests this fact because Dr. Madden’s “job descriptor” was based upon, and harvested from, Oracle’s “job title.”</p> <p>A) Dr. Madden’s job descriptor is based and harvested from Oracle’s job title.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OFCCP SUF: Facts 236-237, 243; • Ex. 91, Madden Report at 16-17; • Ex. 92, Madden Rebuttal at 11-13; • Ex. 90, Madden Depo. 47:22-48:9. <p>2) OFCCP further contests this fact because Dr. Madden ran a regression analysis which controls for global career level even though she believes career level is an endogenous variable that should only be utilized to identify the mechanism, not the existence of, discrimination.</p> <p>A) Dr. Madden ran regression analyses which controls for global career level, to identify whether global career level operates as a mechanism for pay discrimination. She finds that career level is an endogenous variable that is not properly included in an analysis seeking to detect gender or racial pay disparities.</p> <p>Citation:</p> <ul style="list-style-type: none"> • <i>See, e.g.</i>, Ex. 91, Madden Report pp. 8, 51-52, Tables 1(a)-3(a) and 1(d)-2(d), and Appendix B; • Ex. 92, Madden Rebuttal at 13, 31; • Ex. 90, Madden Dep. 180. <p>B) Dr. Madden also ran regression analyses studying the impact of Oracle’s assignment of global career level at hire and over time.</p> <p>Citation:</p> <ul style="list-style-type: none"> • Ex. 91, Madden Report at 51, Table 5; • Ex. 92, Madden Rebuttal at 31, 36-37, 38, 41, Table R9..
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<p>82. The basis for Dr. Madden’s opinion during deposition that the last columns of the tables in her initial report compare employees doing similar work is her assumption that Oracle’s job codes classify employees doing similar work.</p> <p>Alleged Supporting Evidence: Connell Decl., Ex. U (10/10/19 Madden Dep. 43:19-45:17).</p>	<p>Disputed.</p> <p>1) OFCCP contests this fact because Dr. Madden has extensively explained the comparisons reflected in the last columns of the tables in her initial report and she has neither in her reports or her deposition given an opinion that the last columns of the tables in her initial report compare employees doing similar work.</p> <p>A) Dr. Madden has repeatedly opined that the variables relating to the work assigned by Oracle to similarly qualified employees at time of hire and over time by Oracle, are endogenous variables which are not properly considered in an study of gender and racial pay disparities. The regression analyses she ran, the findings of which are reported in the final columns of the tables in her initial report, are meant to explore and identify whether these variables (assignment of global career level and managerial designation) operate as mechanisms for pay discrimination. Oracle misconstrues Dr. Madden’s deposition testimony.</p> <p>Citation:</p> <ul style="list-style-type: none"> • Madden Report at 8; 13-18, 26-29, 41-45, Tables 1-3; • Madden Rebuttal Report at 13.
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<p>83. Dr. Madden’s initial report does not analyze whether Oracle employees were hired into the career level to which they applied.</p> <p>Alleged Supporting Evidence: Connell Decl., Ex. O (Saad Rebuttal, ¶¶ 65-66).</p>	<p>Disputed.</p> <p>1) OFCCP contests this fact because Dr. Madden’s initial report comprehensively analyzes Oracle’s assignment of career level at hire, as a mechanism of pay discrimination.</p> <p>A) Dr. Madden analyzed Oracle’s compensation data and specifically Oracle’s assignments of career levels and found that, at hire, women and Asians were more likely to be placed in lower global career levels than similarly qualified men or Whites.</p> <p>Citation:</p> <ul style="list-style-type: none"> • Ex. 91, Madden Report at 50-51, Tables 1(a)-(3)(a), 4-7. <p>2) OFCCP further disputes this fact because career levels are frequently not fixed or set at the time an employees applies at Oracle because managers create new requisitions.</p> <p>A) Oracle hiring managers create new requisitions with new career levels when they believe an applicant is better suited to a different career level than the original requisition and career level they applied to.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OFCCP SUF: Fact 156; • OEx. 8, Waggoner PMK Dep. 279:24–280:22; • OEx. 17, Waggoner May Dep. 81:24–82:3; • Ex. 93, Dr. Saad’s Expert Report, p. 112, ¶148. <p>3) OFCCP further disputes this fact because it assumes that employees apply to specific jobs but Oracle uses recruiters to identify and recruit potential employees, who match employees with requisitions rather than employees choosing requisitions.</p> <p>A) Oracle instructs recruiters to search internet, identify and recruit potential employees, and initiate contact, and match employees with requisitions.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OFCCP SUF: Facts 151, 152, 153;
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- Ex. 39, “Oracle Recruiting Program Manager (RPM) Training Manual,” no date but has 2013 examples, ORACLE_HQCA_0000056908;
- Ex. 40, “Oracle College Recruiting,” dated 7/14/14, ORACLE_HQCA_0000020131, 33–39, 43–60;
- Ex. 64, “Welcome to New Recruiter On-boarding!,” copyright 2014, slide 4 (notes) and slide 5, ORACLE_HQCA_0000056566-7 to -8;
- Ex. 60, “NA Talent Advisory,” copyright 2016, slides 1–4 and slide 4 (notes), ORACLE_HQCA_0000056772-2 to -8;
- Ex. 57, “Recruit & Hire at Oracle; Module 1: Introduction to Recruiting & Hiring,” slide 3 (notes), ORACLE_HQCA_0000057181-6.

4) OFCCP further disputes this fact because some employees do not enter Oracle through applying to specific requisitions, but through Oracle’s Employee Referral Program.

A) Oracle instructs recruiters to search for, identify, and recruit potential employees and makes 30% of its placements through its Employee Referral Program.

Citation:

- OFCCP SUF: Facts 154, 155;
- Ex. 64, slide 12 (notes), ORACLE_HQCA_0000056566-21;
- Ex. 60, slide 12 and slide 12 (notes), ORACLE_HQCA_0000056772-23 to -24.

5) OFCCP further contests this fact because employees could not know the career level they are “choosing” when applying for a job.

A) At hire, employees report not having information regarding the global career level for the job to which they have applied or been hired. Employees report not learning about the global career level assigned, if ever, until long after hire. Further, employees who are hired by Oracle due to acquisition do not apply for or choose their career level.

Citation:

- Ex. 8, Waggoner PMK Dep., 361:1-5;
- Ex. 15, Declaration of Donna Kit Yee Ng, ¶ 5;
- Ex. 20, Declaration of Rachel Powers, ¶ 9;
- Ex. 38, Declaration of Donna Rosburg, ¶ 8;
- Ex. 42, Declaration of Dalia Sen, ¶ 5.

<p>84. The majority of applicants are hired into jobs associated with the career level for which they applied.</p> <p>Alleged Supporting Evidence:</p> <p>Connell Decl., Ex. M (Saad Report, ¶¶ 150-156).</p>	<p>Disputed.</p> <p>1) OFCCP contests this fact because Oracle has not provided data regarding the jobs or career levels for all applicants and OFCCP does not know what Oracle or Dr. Saad means when it referring to “jobs associated with” a particular career level.</p> <p>A) The largest data set of requisitions studied by Dr. Saad only included 1,497 job requisitions, a small subset of the requisitions for the relevant time period, meaning that Dr. Saad had no basis for making any findings about the majority of applicants.</p> <p>Citation:</p> <ul style="list-style-type: none"> • Ex. 94, Saad Rebuttal ¶¶ 78-79; • Ex. 92, Madden Rebuttal pp. 32-41, Tables R1-R2, R8-R9. <p>2) OFCCP contests this fact because: Oracle permits managers to set global career levels up one level or down one level from the global career level, if any, identified in the requisition, based at least partially on prior pay, causing women and Asians to be more likely to be placed in lower global career levels than men or Whites.</p> <p>A) Oracle’s compensation trainings for managers advise managers that they can set global career level at hire one level up or down from the global career level identified on the requisition, and that pay at hire must be approved by Oracle’s senior executives and the approval form until late 2017 required managers to collect and consider prior pay in setting pay at hire.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OEx. 8, Waggoner PMK Dep. 279:24-280:22; • OEx. 17, Waggoner May Dep. 81:24-82:3; • Ex. 93, Saad Report ¶148. <p>B) Dr. Madden analyzed and showed that women and Asians were more likely to be placed in a lower level compared to the level identified in the requisition and less likely than men or Whites to be placed in a global career level higher than that identified in the requisition.</p> <p>Citation:</p> <ul style="list-style-type: none"> • Ex. 91, Madden Report, pp. 50-51, Tables 5-7;
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- Ex. 92, Madden Rebuttal, pp. 32-41, Tables R8-9;
- *Id.*, Charts R1-R2;
- Ex. 89, Saad Dep. Ex. 9 (Madden Decl, Para 6, Chart

3) OFCCP further disputes this fact because career levels are frequently not fixed or set at the time an employees applies at Oracle because managers create new requisitions.

A) Oracle hiring managers create new requisitions with new career levels when they believe an applicant is better suited to a different career level than the original requisition and career level they applied to.

Citation:

- OFCCP SUF: Fact 156;
- OEx. 8, Waggoner PMK Dep. 279:24–280:22;
- OEx. 17, Waggoner May Dep. 81:24–82:3;
- Ex. 93, Dr. Saad’s Expert Report, p. 112, ¶148.

4) OFCCP further disputes this fact because it assumes that employees apply to specific jobs but Oracle uses recruiters to identify and recruit potential employees, who match employees with requisitions rather than employees choosing requisitions.

A) Oracle instructs recruiters to search internet, identify and recruit potential employees, and initiate contact, and match employees with requisitions.

Citation:

- OFCCP SUF: Facts 151, 152, 153;
- Ex. 39, “Oracle Recruiting Program Manager (RPM) Training Manual,” no date but has 2013 examples, ORACLE_HQCA_0000056908;
- Ex. 40, “Oracle College Recruiting,” dated 7/14/14, ORACLE_HQCA_0000020131, 33–39, 43–60;
- Ex. 64, “Welcome to New Recruiter On-boarding!,” copyright 2014, slide 4 (notes) and slide 5, ORACLE_HQCA_0000056566-7 to -8;
- Ex. 60, “NA Talent Advisory,” copyright 2016, slides 1–4 and slide 4 (notes), ORACLE_HQCA_0000056772-2 to -8;
- Ex. 57, “Recruit & Hire at Oracle; Module 1: Introduction to Recruiting & Hiring,” slide 3 (notes), ORACLE_HQCA_0000057181-6.

5) OFCCP further disputes this fact because some employees do not enter Oracle through applying to specific requisitions, but through Oracle's Employee Referral Program.

A) Oracle instructs recruiters to search for, identify, and recruit potential employees and makes 30% of its placements through its Employee Referral Program.

Citation:

- OFCCP SUF: Facts 154, 155;
- Ex. 64, slide 12 (notes), ORACLE_HQCA_0000056566-21;
- Ex. 60, slide 12 and slide 12 (notes), ORACLE_HQCA_0000056772-23 to -24.

6) OFCCP further contests this fact because employees could not know the career level they are "choosing" when applying for a job.

A) At hire, employees report not having information regarding the global career level for the job to which they have applied or been hired. Employees report not learning about the global career level assigned, if ever, until long after hire. Further, employees who are hired by Oracle due to acquisition do not apply for or choose their career level.

Citation:

- Ex. 8, Waggoner PMK Dep., 361:1-5;
- Ex. 15, Declaration of Donna Kit Yee Ng, ¶ 5;
- Ex. 20, Declaration of Rachel Powers, ¶ 9;
- Ex. 38, Declaration of Donna Rosburg, ¶ 8;
- Ex. 42, Declaration of Dalia Sen ¶ 5.

85. Dr. Saad analyzed all new hires from 2013 to 2018 in the IC and M career levels and found there is no difference by gender or race in what job applicants were hired into relative to what they applied to.

Alleged Supporting Evidence:

Connell Decl., Ex. M (Saad Report, ¶¶ 150-156), Ex. O (Saad Rebuttal, ¶¶ 65-66).

Disputed.

1) OFCCP disputes this fact because Dr. Saad did not analyze all new hires from 2013 to 2018 in the IC and M career levels, and he did not apply proper controls to identify race or gender differences.

A) “Dr. Saad analyzes fewer than two thirds of these assignments.” Dr. Saad did not apply proper controls (including a control for the global career level identified in the requisition) necessary to identify race or gender differences. Dr. Madden applied the appropriate controls to Dr. Saad’s analyses and found the new hire data supporting her findings of gender and race differentials in setting of career level at hire.

Citation:

- Ex. 92, Madden Rebuttal pp. 32-41, Charts R1-2, R8-9.

2) OFCCP further disputes this fact because Dr. Saad did not consider that managers create new requisitions for applicants rather than applicants applying for a pre-existing requisition.

A) Oracle hiring managers create new requisitions with new career levels when they believe an applicant is better suited to a different career level than the original requisition and career level they applied to.

Citation:

- OFCCP SUF: Fact 156;
- OEx. 8, Waggoner PMK Dep. 279:24–280:22;
- OEx. 17, Waggoner May Dep. 81:24–82:3;
- Ex. 93, Dr. Saad’s Expert Report, p. 112, ¶148.

3) OFCCP further disputes this fact because Dr. Saad did not consider the Oracle’s use of recruiters to identify and recruit potential employees, and match applicants with requisitions rather than applicants choosing to apply to specific requisitions.

A) Oracle instructs recruiters to search internet, identify and recruit potential employees, and initiate contact and match applicants with requisitions and direct applicants to apply for those requisitions.

Citation:

- OFCCP SUF: Facts 151, 152, and 153;
- Ex. 39, “Oracle Recruiting Program Manager (RPM) Training Manual,” no date but has 2013 examples, ORACLE_HQCA_0000056908;
- Ex. 40, “Oracle College Recruiting,” dated 7/14/14, ORACLE_HQCA_0000020131, 33–39, 43–60;
- Ex. 64, “Welcome to New Recruiter On-boarding!,” copyright 2014, slide 4 (notes) and slide 5, ORACLE_HQCA_0000056566-7 to -8;
- Ex. 60, “NA Talent Advisory,” copyright 2016, slides 1–4 and slide 4 (notes), ORACLE_HQCA_0000056772-2 to -8;
- Ex. 57, “Recruit & Hire at Oracle; Module 1: Introduction to Recruiting & Hiring,” slide 3 (notes), ORACLE_HQCA_0000057181-6.

4) OFCCP further disputes this fact because Dr. Saad did not consider Oracle’s Employee Referral Program.

A) Oracle instructs recruiters to search for, identify, and recruit potential employees and makes 30% of its placements through its Employee Referral Program, which provides a hiring process outside that of applications submitted by applicants or recruiters in regard to requisitions.

Citation:

- OFCCP SUF: Facts 154, 155;
- Ex. 64, slide 12 (notes), ORACLE_HQCA_0000056566-21;
- Ex. 60, slide 12 and slide 12 (notes), ORACLE_HQCA_0000056772-23 to -24.

5) OFCCP further contests this fact because employees could not know the career level they are “choosing” when applying for a job.

A) At hire, employees report not having information regarding the global career level for the job to which they have applied or been hired. Employees report not learning about the global career level assigned, if ever, until long after hire. Further, employees who are hired by Oracle due to acquisition do not apply for or choose their career level.

Citation:

- OEx. 8, Waggoner PMK Dep., 361:1-5;
- OEx. 15, Declaration of Donna Kit Yee Ng, ¶ 5;
- OEx. 20, Declaration of Rachel Powers, ¶ 9;

	<ul style="list-style-type: none"> • OEx. 38, Declaration of Donna Rosburg, ¶ 8; • OEx. 42, Declaration of Dalia Sen ¶ 5.
<p>86. Dr. Madden’s rebuttal report shows statistically significant differences in “up-levelling” or “down-levelling” at hire for only a single IC career level for women and two IC career levels for Asians, and does not report any findings for the other four IC career levels or any of the M career levels.</p> <p>Alleged Supporting Evidence: Connell Decl., Ex. P (Madden Rebuttal, ¶ 36, Charts R1, R2); Waggoner Decl., ¶ 24.</p>	<p>Disputed.</p> <p>1) OFCCP disputes this fact because Dr. Madden’s Rebuttal Report discusses an array of studies conducted by Dr. Madden, both in her Initial Report and in support of her Rebuttal Report, regarding differences as to assignment of global career levels at hire (which is how OFCCP understands Oracle’s reference to differences in “up-levelling” or “down-levelling” at hire), and her studies and findings span the three job functions at issue, not the narrow categories asserted in this fact. As to the specific part of the Dr. Madden’s Rebuttal Report referenced by Oracle in this fact, Dr. Madden was providing in these section a response to Dr. Saad’s opinions and thus confined her response to the scope of the study and data he selected.</p> <p>A) Dr. Madden’s rebuttal report was responding to Dr. Saad’s tests and only used the subset of data he used.</p> <p>Citation:</p> <ul style="list-style-type: none"> • Ex. 92, Madden Rebuttal at 35-36, Charts R1 and R2. <p>B) Dr. Madden’s Rebuttal Report discusses an array of studies conducted by Dr. Madden, both in her Initial Report and in support of her Rebuttal Report, regarding differences as to assignment of global career levels at hire, spanning all three job functions at issue.</p> <p>Citation:</p> <ul style="list-style-type: none"> • Ex. 91, Madden Report at 17, 29, 41, 49-52, Tables 1(a)-3(a)(comparing Columns 6 and 8), 4-7; • Ex. 92, Madden Rebutal at 35-37, Charts R1-R2, Table R9.

87. Over 80 percent of applicants are hired into the organizations for which they applied, and there are no statistically significant differences between men, women, Asians, or African-Americans.

Alleged Supporting Evidence:

Connell Decl., Ex. O (Saad Rebuttal Report, ¶¶ 78-79).

Disputed.

1) OFCCP disputes this fact because Oracle did not provide data for all applicants hired by Oracle and the applicant data provided did not identify the organization for which all applicants applied, and far less than 80 percent of applicants are hired into the organizations for which they applied, even according to the limited data and the methodology used by Dr. Saad.

A) Dr. Saad’s calculations are only for experienced hires and he does not include the “more than 25%” that were new college hires in his percentage calculation. Thus, if the number of applicants is increased by “more than 25%,” the percentage calculated would necessarily be far lower than over 80%. However, the specific change in percentage cannot be calculated because Dr. Saad fails to provide the exact number of new college hires and experienced hires.

Citation:

- Ex. 94, Saad Rebuttal ¶ 79.

2) OFCCP further objects to this fact because Dr. Saad does not explain his methodology.

A) Dr. Saad unscientifically fails to explain his methodology or the exact numbers of the data he used to calculate his percentages.

Citation:

- Ex. 94, Saad Rebuttal ¶¶ 78-79.

3) OFCCP further contests this fact because of the small sample sizes he used.

A) Dr. Saad’s data set only included 1,497 job requisitions in the data produced in the case that listed organization.

Citation:

- Ex. 94, Saad Rebuttal ¶¶ 78-79.

4) OFCCP further disputes this fact because Dr. Saad misleadingly states there are no statistically significant differences when he did not conduct a regression analysis and did not calculate standard deviations.

A) Dr. Saad incorrectly describes his findings as lacking statistical significance.

Citation:

- Ex. 94, Saad Rebuttal ¶¶ 78-79.

5) OFCCP further contests this fact because Dr. Saad misstates that experienced hires were hired through a process that involved responding to requisitions that were publicly posted

A) Oracle hiring managers create new requisitions with new career levels when they believe an applicant is better suited to a different career level than the original requisition and career level they applied to.

Citation:

- OFCCP SUF: Fact 156;
- OEx. 8, Waggoner 30b6 Dep. 279:24–280:22;
- OEx. 17, Waggoner May Dep. 81:24–82:3;
- Ex. 93, Dr. Saad’s Expert Report, p. 112, ¶148.

B) Oracle instructs recruiters to search internet, identify and recruit potential employees, and initiate contact.

Citation:

- OFCCP SUF: Facts 151, 152, 153;
- Ex. 39, “Oracle Recruiting Program Manager (RPM) Training Manual,” no date but has 2013 examples, ORACLE_HQCA_0000056908
- Ex. 40, “Oracle College Recruiting,” dated 7/14/14, ORACLE_HQCA_0000020131, 33–39, 43–60;
- Ex. 64, “Welcome to New Recruiter On-boarding!,” copyright 2014, slide 4 (notes) and slide 5, ORACLE_HQCA_0000056566-7 to -8;
- Ex. 60, “NA Talent Advisory,” copyright 2016, slides 1–4 and slide 4 (notes), ORACLE_HQCA_0000056772-2 to -8.
- Ex. 57, “Recruit & Hire at Oracle; Module 1: Introduction to Recruiting & Hiring,” slide 3 (notes), ORACLE_HQCA_0000057181-6.

	<p>C) Oracle instructs recruiters to search for, identify, and recruit potential employees and makes 30% of its placements through its Employee Referral Program.</p> <p>Citation:</p> <ul style="list-style-type: none">• OFCCP SUF: Facts 154, 155;• Ex. 64, slide 12 (notes), ORACLE_HQCA_0000056566-21;• Ex. 60, slide 12 and slide 12 (notes), ORACLE_HQCA_0000056772-23 to -24
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88. Individual front-line managers are the primary decision-makers with respect to which applicant to select for the jobs they post, and whether to adjust the level of the job based on the individual selected.

Alleged Supporting Evidence:

Gill Decl., ¶ 10; Bashyam Decl., ¶ 15; Webb Decl., ¶ 14; Sarwal Decl., ¶ 15; Hsin Decl., ¶ 10; Talluri Decl., ¶ 15.

Disputed.

1) Compensation *recommendations* for hiring are reviewed by a person’s management chain until it reaches the final approvers. The final approvers for all salary increases (focal reviews and off-cycle) due to promotions have to be approved by “CEO(s) & Executive Chairman and CTO,” “Office of the CEO,” the Board of Directors, or Thomas Kurian. Moreover, to get off-cycle decisions approved, *recommending* managers are required to submit written justification. OFCCP is disputing this issue because the lower level managers do not make the compensation *decisions*, they only make *recommendations*.

A) Oracle’s Global Approval Matrices state that approvals for hiring have to be made at the level of “CEO(s) & Executive Chairman and CTO,” “Office of the CEO,” the Board of Directors, or Thomas Kurian.

Citation:

- OFCCP SUF: Fact 113;
- Ex. 20, Global Approval Matrix, dated 6/11/12, ORACLE_HQCA_0000062725-1 to -2;
- Ex. 20, Global Approval Matrix, dated 2/1/13, ORACLE_HQCA_0000062732-1 to -2;
- Ex. 20, Global Approval Matrix, dated 11/1/14, ORACLE_HQCA_0000062712-1 to -2;
- Ex. 20, Global Approval Matrix, dated 6/1/15, ORACLE_HQCA_0000062710-1 to -2;
- Ex. 20, Global Approval Matrix, dated 6/1/16, ORACLE_HQCA_0000062711-1 to -2; Ex. 20, Global Approval Matrix, dated 3/30/17, ORACLE_HQCA_0000062720-1 and -2, in Vol. 1.

B) Oracle’s compensation instructions for hiring likewise require managers to make pay recommendations that require the approvals all the way up to the Executive Level or their offices.

Citation:

- OFCCP SUF: Fact 116;
- Ex. 28, slide 11 (notes), ORACLE_HQCA_0000057179-22 in Vol. 2;
- Ex. 13, slide 35 and slide 35 (notes) ORACLE_HQCA_0000056234-65 to -66 in Vol. 1.

C) EVP Loaiza, at the M8 global career level, testified in his deposition that when he is reviewing a person during the hiring approval process, he is reviewing “the proposed compensation of the person.” He emphasizes this a second time when he states: “What I get is not the current compensation. I get the proposed compensation.” If he is only looking at the proposed pay at his high level, then the first level manager, many levels below, could not have already determined the salary increases.

Citation:

- OEx. 11, Loaiza Dep. 17:2-10, 44:16-45:1, 45:20-46:18.

2) Oracle’s senior management is involved to a significant degree in the hiring of new employees

A) EVP Loaiza, at an M8 global career level, gave a detailed explanation of what he reviewed to determine if he should approve or reject a hiring recommendation containing the proposed compensation. He stated that he looked at: the person’s proposed compensation; whether Oracle hiring in the area of the person’s expertise; a person’s education; the person’s resume; the interview notes by Oracle personnel; the person’s competitive offer by another company, if applicable; and that he would generally review anything in the hiring packet. Thus, contrary to the claim only supported by Ms. Balkenhol’s declaration, senior managers like EVP Loaiza do extensive review of offers

Citation:

- OEx. 11, Loaiza Dep. 44:16-45:19, 46:16-47:2, 47:21-23, 68:19-69:8.

B) HR Business Partner and VP Madhawi Cheruvu for seven lines of businesses (LOB) and Thomas Kurian’s Product Development LOB testified that as an approving manager, she looks at a person’s experience (years and type), skills, resume, the other companies the person worked, the similarity between where the person worked and at Oracle, the salary range, the person’s current compensation, the role the person will play, the criticality of the skills, and the deliverables the person will make.

Citation:

- OEx. 4, Cheruvu Dep. 70:12-71:4, 77:3-78:3, 190:25-191:9, 259:12-22

C) EVP Loaiza also gave an interview to OFCCP on March 25, 2015, when he identified that he was a Senior Vice President during OFCCP's audit. In the interview summary for him it noted that EVP Loaiza commented extensively on his involvement in the hiring process to include reviewing the proposed compensation and the person's current compensation such that almost a whole typed page, single space, reflected his comments.

Citation:

- Atkins Opp'n Decl. ¶14, Ex. K, Loaiza Interview Notes, DOL0000000522.

D) HR Business Partner and VP Madhawi Cheruvu for seven lines of businesses (LOB) and Thomas Kurian's Product Development LOB also gave an interview that OFCCP summarized that described her extensive involvement in hiring and off-cycle compensation decisions. The interview summary identified that she looks at: resumes, current compensation, the job they are performing, the skills they are bring and how important these skills are to Oracle, the salary ranges involved, the immediate need of the person, the level of market demand for the person's skills, the difference between what the applicant is currently making and the proposed salary, compares what is being offered to current employees, examines what competitors are offering.

Citation:

- Atkins Opp'n Decl. ¶14, Ex. C, Cheruvu Interview Notes, DOL0000000535-37.

<p>89. Over half of the allegedly discriminatory initial job “assignments” occurred before January 1, 2013.</p> <p>Alleged Supporting Evidence:</p> <p>Connell Decl., Ex. M (Saad Report, ¶¶ 159-160; Attachment C1). Oracle’s Statement of Uncontested Facts states at footnote 1 that Attachment C1 “shows there are 6,035 women, Asian, or African-American employees implicated by OFCCP’s claims. Paragraphs 159-160 demonstrate that far fewer than half of that number were hired between 2013-2018.”</p>	<p>Disputed.</p> <p>1) OFCCP disputes Material Fact 89 because the evidence cited by Oracle does not support this statement. Oracle misrepresents paragraphs 159-160 and Attachment C1 of Saad’s Report which do not demonstrate that over half of the discriminatory initial job “assignments” occurred before January 1, 2013.</p> <p>A) Paragraph 159 of Saad’s Report does not discuss initial job assignments but discusses experienced hires:</p> <p>159. Among experienced hires, the largest group of new hires, there are no statistically significant pay difference for women in any of the three job functions. Average starting pay for Asian experienced hires and White experienced hires are not statistically significantly different. The difference in starting pay for African-Americans compared to Whites in PRODEV is also not statistically significant. Taken together, I do not see evidence of a pattern of adverse results for any of the protected groups.</p> <p>Citation:</p> <ul style="list-style-type: none"> • Ex. 93, Saad Report ¶ 159. <p>B) Paragraph 160 also does not discuss initial job assignments but discusses college hires in PRODEV:</p> <p>160. There are too few college hires in INFTECH and SUPPORT to analyze separately, but it is possible in PRODEV. Entry level hires from colleges are not hired into specific positions. The regression model thus controls for experience and career level to take differences in degrees earned into account (about 5% are over age 30), and their hire year, but does not control for job title or organization. There are no statistically significant results for any of the protected groups, and in fact, the results are positive for women.</p> <p>Citation:</p> <ul style="list-style-type: none"> • <i>Id.</i> ¶ 160. <p>C) Dr. Saad’s Attachment C1 is a chart that shows employee counts for 2013-2018 at Oracle HQCA.</p> <p>Citation:</p>
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	<ul style="list-style-type: none"> • <i>Id.</i> Attachment C1.
<p>90. Neither the NOV, SCN, Complaint, First Amended Complaint (“FAC”), nor SAC reference or imply a disparate impact claim, or identify a facially-neutral policy or practice that had a disparate impact on women, Asians, or African-Americans.</p> <p>Alleged Supporting Evidence: Holman-Harries Decl., ¶ 3, Ex. B (NOV), Ex. Y (SCN); Complaint; FAC; SAC.</p>	<p>Disputed.</p> <p>1) The SAC did reference and imply an assignment claim of putting females and Asians in lower lower-paid positions relative to other employees at the lower end of the pay range relative to other employees in the same positions.</p> <p>Citation:</p> <ul style="list-style-type: none"> • SAC ¶25. <p>2) The SAC also referenced that Oracle caused females and Asians to remain in lower-paid positions relative to others.</p> <p>Citation:</p> <ul style="list-style-type: none"> • SAC ¶29. <p>3) The SAC further referenced that Oracle caused females and Asians to be paid lower than their male and White counterparts because of Oracle’s reliance on prior pay in setting compensation upon hire..</p> <p>Citation:</p> <ul style="list-style-type: none"> • SAC ¶32.

91. OFCCP has not identified a specific policy or practice causing the statistical disparities it alleges.

Alleged Supporting Evidence:

Connell Decl., Ex. Q (OFCCP’s October 11, 2017 Supplemental Responses to Oracle’s Interrogatories, No. 25), Ex. R (OFCCP’s July 5, 2019 Supplemental Responses to Oracle’s Interrogatories, No. 50).

Disputed.

1) OFCCP disputes this contention. OFCCP objects that this statement is not a factual contention but a legal contention. To contest this contention fully, OFCCP would need to restate almost all of the evidence at issue in this case, which is beyond the scope of the purpose of these Statements.

A) As set forth in OFCCP Opposition brief, OFCCP disputes that it has a burden at this stage in these proceedings to identify specific policy or practices causing the statistical disparities it alleges. In OFCCP’s Motion for Summary Judgment, OFCCP has cited copious facts related to Oracle’s policies and practices related to departing from its own compensation policies based on “budget.”

Citation:

- See OFCCP’s MSJ 9-11 and supporting SUF citations (SUF 104-106, 127-131, 134-136, 142-149, 157-170, 163, 167, 181, 183-185).

B) OFCCP also disputes this fact on the grounds that OFCCP has identified specific practice of not studying and redressing pay disparities.

Citation:

- See OFCCP’s MSJ at 11-12, and supporting SUF citations (SUF 104-106, 207, 211, 212). See also Oracle’s Position Statement on 2.17 at 9-11.

C) OFCCP further disputes this contention on the basis that OFCCP has proffered material statistical evidence and factual evidence showing that Oracle departs from its own compensation policies by considering prior pay and this has an adverse impact on the class.

Citation:

- SUF 157-170;
- Ex. 91, Madden Rpt. at 49-50, Table 4

D) OFCCP further disputes this contention on the basis that OFCCP has proffered statistical evidence and material factual evidence showing that Oracle departs from its own compensation policies through discriminatory placement and retention in career level.

Dr. Madden analyzed Oracle's compensation data and specifically Oracle's assignments of career levels and found that, at hire and over time, women and Asians were more likely to be placed in lower global career levels than similarly qualified men or Whites.

Citation:

- SUF 156;
- OFCCP MSJ;
- Ex. 91, Madden Report at 50-51, Tables 1(a)-(3)(a), 4-7;
- Ex. 92, Madden Rebuttal Report pp. 30-41, Charts R1-R2; Tables R7-8.

92. Oracle never had a policy or practice of basing starting pay on prior pay.

Alleged Supporting Evidence:

Connell Decl., Ex. C (7/19/19 Waggoner PMK Dep. 203:20-204:7); Yakkundi Decl., ¶ 17; Shah Decl., ¶ 13; Gill Decl., ¶ 9; Ousterhout Decl., ¶ 16; Talluri Decl., ¶ 14; Abushaban Decl., ¶ 16.

Disputed.

1) Contrary to Oracle’s claim, it did have a policy or practice of basing starting pay on prior pay because it sought prior pay from applicants and prior pay was one of the factors it considered when determining a person’s starting salary.

A) Prior to October 2017, Oracle considered an employee’s salary in his or her previous employment in setting initial pay at Oracle.

Citation:

- OFCCP SUF: Fact 157;
- Ex. 41, Holman-Harries *Jewett* Decl., Ex. A, (Lisa Gordon Sworn Statement) at 8, question 11b in Vol. 2;
- OEx.4, Cheruvu Dep. 84:22–85:6 in Vol. 1;
- Declaration of Cindy Hsin in support of Oracle’s Motion for Summary Judgment (Hsin Decl.), ¶11.

B) In a document titled “HR Learning Session US Pay Equity Laws and Salary History Bans” under a sub-heading of “What is changing” Oracle stated that the change is not to ask candidates about current or prior salary.

Citation:

- OFCCP SUF: Fact 158;
- Ex. 46, “HR Learning Session US Pay Equity Laws and Salary History Bans,” dated 10/18-19/17, ORACLE_HQCA_0000381126 in Vol. 2.

C) In a document titled “HR Learning Session US Pay Equity Laws and Salary History Bans” under a sub-heading of “What is changing” Oracle stated that it is removing the “current salary field” from the offer form in iRecruitment.

Citation:

- OFCCP SUF: Fact 159;
- Ex. 46, ORACLE_HQCA_0000381126 in Vol. 2.

D) In a document titled “HR Learning Session US Pay Equity Laws and Salary History Bans” under a sub-heading of “what we used to say” Oracle identified that it asked about a person’s current

salary and annual earnings if the person was in sales.

Citation:

- OFCCP SUF: Fact 160;
- Ex. 46, ORACLE_HQCA_0000381127 in Vol. 2.

E) In response to a question about whether Oracle’s employees can ask a candidate about current or prior salary history, Oracle answered by affirming that its employees can “no longer” ask a candidate about his/her current or prior salary.

Citation:

- OFCCP SUF: Fact 161;
- Ex. 47, “US PAY EQUITY FAQ FOR MANAGERS AND HR” dated 1/1/18, ORACLE_HQCA_0000381077, in Vol. 2.

F) Prior to October 2017, a candidate’s compensation information at his or her previous employer was a “**Mandatory**” field in Oracle’s “Candidate Offer Information” document.

Citation:

- OFCCP SUF: Fact 162;
- Ex. 48, “Candidate Offer Information” for [REDACTED] dated 12/22/08, ORACLE_HQCA_0000472274 in Vol. 2;
- Ex. 49, “Candidate Offer Information” for [REDACTED] dated 1/6/15, ORACLE_HQCA_0000464341–44 in Vol. 2.

G) An Oracle recruiter asked a job candidate for this person’s current salary because it was a mandatory field for the offer process.

Citation:

- OFCCP SUF: Fact 163;
- Ex. 50, Emails between a job applicant and an Oracle recruiter regarding the prior salary, dated 2010, DOL000044390–93 in Vol. 2.

H) Prior to October 2017, Oracle’s iRecruitment “Offer Template” had a field for “Candidate’s Current Salary/ATV” and Oracle’s instructions for using this field in this template was to enter numerals only.

Citation:

- OFCCP SUF: Fact 164;
- Ex. 28, slide 12, ORACLE_HQCA_0000057179-23 in Vol. 2;
- Ex. 51, Untitled Oracle Hiring Presentation, copyright 2014, slide 12, ORACLE_HQCA_0000056633-22, has just the template, in Vol. 2.

I) In or around February 2014, Oracle put an employee's current compensation information (e.g., \$[REDACTED] plus an annual bonus of [REDACTED]%) in the "Comments" column for line 1 of the "Approval History" section of its iRecruitment "Candidate Details" form, such that subsequent reviewers like Thomas Kurian and Lawrence Ellison could review the prior compensation information before approving.

Citation:

- OFCCP SUF: Fact 165;
- Ex. 29, ORACLE_HQCA_0000001729-32, in Vol. 2.

J) In or around March 2013, Oracle listed a candidate's compensation (e.g., "[REDACTED] base salary + stock options" and "\$[REDACTED] plus bonus") in the "Current Compensation" field in its "Candidate Profile Summary."

Citation:

- OFCCP SUF: Fact 166;
- Ex. 52, Two Candidate Profile Summaries, from 2013, ORACLE_HQCA_0000029001 & 0000033810, in Vol. 2.

K) Prior to 2017, Oracle notified potential candidates through its iRecruitment requisitions that they would be required to complete a pre-employment screening process that included a salary verification prior to an offer being made.

Citation:

- OFCCP SUF: Fact 167;
- Ex. 53, iRecruitment requisition for "Senior Software Developer – Fusion Lifecycle Management," dated 3/28/12, ORACLE_HQCA_0000027412-2 in Vol. 2;
- Ex. 54, Email exchange between Oracle's Senior Recruiter

Todd Gorman and ██████████ May 2014,
ORACLE_HQCA_0000034108 in Vol. 2;

- Ex. 55, Job Announcement for “Solution Architect,” from Oracle Senior Recruiter Stephanie Nguyen, no date, ORACLE_HQCA_0000033894 in Vol. 2.

L) Oracle instituted a new policy in October 2017 that Oracle employees may no longer request salary history details from external candidates who are interviewing for work in a US location.

Citation:

- OFCCP SUF: Fact 168;
- OEx. 8, Waggoner PMK Dep. 40:10–41:15.

M) In an email dated October 25, 2017, Oracle announced that managers and others acting as agents of Oracle during the hiring process can no longer request salary history details from external candidates who are interviewing for work in a US location.

Citation:

- OFCCP SUF: Fact 169;
- Ex. 56, Emails regarding “Changes to US Hiring Process Effective October 31, 2017,” dated October 2017, ORACLE_HQCA_0000381115 in Vol. 2.

N) In December 2017, Oracle told an employee who asked about possible pay discrimination that there were several business factors contributing to the level of the employee’s salary, including the employee’s starting salary at Oracle.

Citation:

- OFCCP SUF: Fact 170;
- Ex. 32, “Memorandum: Investigation Results,” dated 12/7/17, ORACLE_HQCA_0000416837, in Vol. 2.

93. Since October 2017, Oracle has prohibited managers or recruiters from inquiring about, or relying on, prior pay in setting starting pay.

Alleged Supporting Evidence:

Connell Decl., Ex. C (7/19/19 Waggoner PMK Dep. 40:21-41:4), Ex. H (6/11/19 Cheruvu Dep. 84:22-85:8); Yakkundi Decl., ¶ 17; Gill Decl., ¶ 9; Ousterhout Decl., ¶ 16; Abushaban Decl., ¶ 16; Hsin Decl., ¶ 11.

Disputed.

1) Prohibiting managers or recruiters from inquiring about or relying on, prior pay in setting starting pay would be a compensation policy and Ms. Waggoner testified in her PMK *Jewett* deposition on July 26, 2018, that “we don’t have policies” in response to a question of: “So this is as close as Oracle comes to having compensation policies - - these compensation guidelines.

Citation:

- OEx. 2, Waggoner PMK *Jewett* Dep. ORACLE_HQCA_0000400663) 80:4-9.

<p>94. Oracle’s compensation guidelines and practices are job-related and consistent with business necessity.</p> <p>Alleged Supporting Evidence:</p> <p>Waggoner Decl., ¶¶ 27-36, Exs. A-E; Gill Decl., ¶¶ 4-6; Yakkundi Decl., ¶¶ 17, 19; Sarwal Decl., ¶ 14; Fox Decl., ¶¶ 14-16; Bashyam Decl., ¶ 15; Webb Decl., ¶¶ 13-14; Abushaban Decl., ¶¶ 17-18; Suri Decl., ¶¶ 16-20; Chan Decl., ¶¶ 9-12.</p>	<p>Disputed</p> <p>1) It is a business necessity for Oracle to comply with OFCCP’s regulations and the governing order or otherwise Oracle would put itself at risk of losing “lucrative government contracts.”</p> <p>Citation:</p> <ul style="list-style-type: none"> Ex. 77, “Affirmative Action Training at Oracle” dated October 2015. Slide 5, ORACLE_HQCA_0000416488-9. <p>2) Oracle’s current compensation policies of not training managers on the compensation requirements of the Executive Order’s implementing regulations at 41 C.F.R. Part 60, not conducting in depth compensation analyses, waiting until OFCCP enforcement to start having mandatory training for managers and human resources personnel, human resources personnel still not knowing their affirmative action responsibilities as of 2019, only training managers on hiring affirmative action and not compensation affirmative action, taking no corrective action in response to any pay analysis conducted, are contrary to business necessity and are not related.</p> <p>Citation:</p> <ul style="list-style-type: none"> Ex. 77, “Affirmative Action Training at Oracle” dated October 2015. Slides 3 and 4, and slide 3 and 4 notes, ORACLE_HQCA_0000416488-9; OEx. 3, ORACLE-HQCA_417320-58; Ex. 63, AAP, ORACLE_HQCA_0000005000; Oracle’s 10/13/19 Position Statement, p. 8; Oracle’s 10/3/19 Position Statement, p. 9; Ex. 41, Ex. A, sworn statement of Lisa Gordon, Oracle Director of Compensation dated 2/11/15, p. 17, question 29.
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<p>95. OFCCP has not identified an equally effective alternative policy or practice without an adverse effect that would serve Oracle’s business needs.</p> <p>Alleged Supporting Evidence:</p> <p>Holman-Harries Decl., ¶ 3, Ex. B (NOV), Ex. Y (SCN); Complaint; FAC; SAC; Connell Decl., Ex. Q (OFCCP’s October 11, 2017 Supplemental Responses to Oracle’s Interrogatories, No. 25), Ex. R (OFCCP’s July 5, 2019 Supplemental Responses to Oracle’s Interrogatories, No. 50).</p>	<p>Disputed.</p> <p>1) OFCCP objects to this contention on the grounds that it is a legal contention. As set forth in response to Oracle’s contention in #91 above, OFCCP does not have the burden to establish this at this time. Oracle has failed to assert any purported neutral factor as a defense to the gross disparities in compensation at issue in this case.</p> <p>2) OFCCP claims do not take issue for purposes of this case with Oracle’s basic compensation framework, which, if appropriately implemented, would set compensation based on an employee’s skills, education, and experience. The problems identified by OFCCP is that Oracle fails to accord with its own policies by prioritizing budget. When budget is prioritized over compensating similarly situated employees at the same rate, Oracle maintains no corrective mechanism to ensure pay equity. The effective alternative here would be for Oracle to comply with its own policies, its affirmative action obligations, and to compensate employees based on their skills, education, and experience.</p>
<p>96. In an August 26, 2015 email, OFCCP asked Oracle to “please provide wage information for snapshot date 1/1/13, containing all fields already submitted for snapshot date 1/1/14?”</p> <p>Alleged Supporting Evidence:</p> <p>Holman-Harries Decl., ¶ 20, Ex. Q.</p>	<p>Undisputed.</p>
<p>97. On August 28, 2015, OFCCP added a request that the 1/1/2013 compensation snapshot include 16 additional fields.</p> <p>Alleged Supporting Evidence:</p> <p>Holman-Harries Decl., ¶ 20, Ex. Q.</p>	<p>Undisputed.</p>

<p>98. Shauna Holman-Harries, Oracle’s Senior Director Diversity Compliance, responded to the August 28 request the same day, noting the request was enormous and that Oracle would provide the information as soon as it reasonably could, given OFCCP’s other outstanding requests.</p> <p>Alleged Supporting Evidence:</p> <p>Holman-Harries Decl., ¶ 20, Ex. Q.</p>	<p>Undisputed.</p>
<p>99. On October 29, 2015, Ms. Holman-Harries sent 29 emails providing information sought by OFCCP, explaining that certain information had already been provided, and asking OFCCP why it sought certain information.</p> <p>Alleged Supporting Evidence:</p> <p>Holman-Harries Decl., ¶ 21, Ex. R.</p>	<p>Undisputed.</p> <p>However, in addition, the October 29, 2015 email from Ms. Holman-Harries also stated that certain information was too burdensome to compile and referred to communications about other information that invoked privileges to refuse to produce it.</p>
<p>100. On November 2, 2015, OFCCP’s Acting District Director Robert Doles identified data and documents that OFCCP claimed were not provided.</p> <p>Alleged Supporting Evidence:</p> <p>Holman-Harries Decl., ¶ 22, Ex. S.</p>	<p>Undisputed.</p>

<p>101. OFCCP admits that the November 2, 2015 letter identifies all of the data and documents that form the basis of its claims that Oracle failed or refused to produce documents as alleged in Paragraphs 44 and 45 of the Second Amended Complaint.</p> <p>Alleged Supporting Evidence:</p> <p>Connell Decl., Ex. E (6/26/19 Ratliff PMK Dep. 57:10-60:6; 86:1-13; Ex. 14).</p>	<p>Undisputed.</p>
<p>102. On November 2, 2015, Ms. Holman-Harries sent an email responding to Mr. Doles' letter noting the October 29 production as responsive to his letter.</p> <p>Alleged Supporting Evidence:</p> <p>Holman-Harries Decl., ¶ 23, Ex. T.</p>	<p>Undisputed.</p>
<p>103. On November 2, 2015, OFCCP responded stating that Oracle's October 29 production was not complete.</p> <p>Alleged Supporting Evidence:</p> <p>Holman-Harries Decl., ¶ 23, Ex. T.</p>	<p>Undisputed.</p>

<p>104. On November 6, 2015, Ms. Holman-Harries asked OFCCP to review the materials produced on October 29 and to “let [her] know” if OFCCP “still [had] concerns.”</p> <p>Alleged Supporting Evidence:</p> <p>Holman-Harries Decl., ¶ 24, Ex. U.</p>	<p>Undisputed.</p>
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<p>105. OFCCP did not respond to Ms. Holman-Harries' November 6, 2015 email before issuing the NOV.</p> <p>Alleged Supporting Evidence:</p> <p>Holman-Harries Decl., ¶ 25, Ex. V.</p>	<p>Disputed.</p> <p>1) OFCCP disputes Oracle's Fact 105 to the extent it suggests that OFCCP did not follow up with Oracle at all between the November 6, 2015 email and the NOV. That is not the case.</p> <p>A) On December 16, 2015, OFCCP wrote to Oracle to thank them for submitting a portion of the hiring data that was still outstanding in Oracle's October 29, 2015 email, and requested similar information for another subset of Oracle employees. Oracle responded stating that it "would need to understand better the rationale and basis for this request before committing to such an effort." On December 23, 2015, after OFCCP followed up with an explanation, Oracle responded that the additional information would take 6 to 12 months to complete.</p> <p>Citation:</p> <ul style="list-style-type: none"> • Holman-Harries Decl., Ex. V, at DOL000001029-30. <p>B) On January 4, 2016, OFCCP wrote to Oracle and provided copies of the interview statements made by managers during the on-site interviews, requesting their signatures. On January 8, Oracle responded refusing to either provide corrections to or sign the statements.</p> <p>Citation:</p> <ul style="list-style-type: none"> • Suhr Opp'n Decl. ¶ 8, Ex. B, Email from Hoan Luong to Oracle dated 1/4/16, asking Oracle to return signed copies of the statements, and 1/8/16 response refusing, ORACLE_HQCA_0000000270.
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106. At no point did Oracle refuse to produce to OFCCP a compensation “snapshot” for 2013 containing the fields of data requested by OFCCP.

Alleged Supporting Evidence:

Holman-Harries Decl., ¶ 29; Siniscalco Decl., ¶ 7.

Disputed.

1) OFCCP disputes Oracle’s Material Fact 106 because OFCCP requested the 2013 snapshot in August of 2015, and Oracle did not produce the snapshot until after litigation commenced in 2017—and, even then, did not produce all of the fields OFCCP had requested. To the extent Oracle argues that it did not “refuse” to produce the snapshot even while it admittedly did not produce it, OFCCP disagrees. OFCCP does not interpret the term “refuse” to require an express statement “I refuse.” *See* “Refuse,” Merriam Webster, def. 2 (“[T]o *show* or express unwillingness to do or comply with. Ex. Refused to answer the question.”) (emphasis added).

- Oracle did not provide the 2013 snapshot despite having six and a half months between the time OFCCP requested it on August 26, 2015, and the issuance of the NOV on March 11, 2016.

Citation:

- Oracle Material Fact 96
- Holman-Harries Decl., Ex. Q, Emails from OFCCP to Oracle dated 8/26/15 and 8/28/15, ORACLE_HQCA_000005408-09
- Holman-Harries Decl., Ex. S, Letter dated 11/2/15 from Robert Doles to OFCCP, DOL000001054.
- Holman-Harries Decl., Ex. X, Email from Robert Doles to Oracle dated 3/29/16, listing requested documents still not produced by Oracle, ORACLE_HQCA_0000000278.
- Connell Decl. , Ex. E, Ratliff PMK Dep. 77:6-78:14;
- At her deposition, Ms. Holman-Harries testified that she did not provide the requested 2013 compensation snapshot during the compliance review. She added, as an explanation, that “we asked . . . for the basis for that because that was out of the review period.” Ms. Holman-Harries made a consistent response in her 30(b)(6) deposition on topic of Oracle’s failure to supply documents to OFCCP during the compliance review. Even though she met with her attorneys five additional times, over the course of 20-25 hours, to prepare for her 30(b)(6) deposition, Ms. Holman-Harries later

“corrected” her testimony in her 30(b)(6) deposition to remove her testimony that Oracle was awaiting OFCCP’s response. In any event, OFCCP’s reasons for seeking 2013 compensation data should have been obvious.

Citation:

- OEx 5, Holman-Harries May Dep. 288:14-289:14.;
- Holman-Harries 30(b)(6) Dep. 15:4-19, 71:11-73:13; errata
- Suhr Opp’n Decl. ¶ 7
- *See also, infra*, DF 107.

- Oracle did not provide the 2013 snapshot in the following ten months between the issuance of the NOV on March 11, 2016 and the filing of the complaint on January 17, 2017.

Citation:

- Complaint, filed 1/17/17, ¶12
- Atkins Opp’n Decl. ¶23;
- Bremer Decl. ¶3.

2) OFCCP also disputes this Material Fact because Oracle made material misrepresentations about its ability to produce educational data and data related to employees’ prior pay, which were fields in the requested 2013 snapshot.

- During the compliance review, Oracle stated that it could not producing educational data and prior pay data would be extraordinarily burdensome because it Oracle did not maintain the information in any of its databases. Oracle gave not indication in the email that it would attempt to compile this information.

Citation:

- Holman-Harries Decl., Ex. R, Email from Shauna Holman-Harries to Hoan Long dated 10/29/15, question 2 and response, ORACLE_HQCA_000002235.
- AUF 32;

- Although Oracle had previously stated twice that they did not maintain education data in their database, Ms. Holman-Harries testified in her August 1, 2019 PMK deposition that in fact at least “some of the education” data was in Oracle’s databases.

Citation:

- AUF 36
- OEx. 31, Holman-Harries PMK Dep. 38:25-39:20.

- During litigation, Oracle later produced some educational data in database form.

Citation

- AUF 37
- OEx. 36, Letter from Erin Connell to Marc Poltin and Laura Bremer re Oracle’s discovery production, dated 10/11/17.
- OEx. 40, Letter from Laura Bremer to Erin Connell dated 2/15/19, re data requests.
- Bremer Decl. ¶ 43.

- Although Oracle had previously stated twice that they did not maintain employees’ prior salary information in their database, Oracle later produced some prior salary data in database form during litigation.

Citation:

- AUF 38-43;
- SUF 162
- Madden Rep. 49-52, Table 4
- Ex. 48, “Candidate Offer Information” for ██████████ dated 12/22/08, in Vol. 2, ORACLE_HQCA_0000472274
- Ex. 49, “Candidate Offer Information” for ██████████, dated 1/6/15, in Vol. 2, ORACLE_HQCA_0000464341–44.

3) Oracle still, to date, has not provided the all of the data that would have been encompassed in the 2013 compensation snapshot that had been requested.

Citation:

	<ul style="list-style-type: none">• OEx. 37, Email from Laura Bremer to Erin Connell re visa data, dated 10/11/17• OEx. 39, Letter from John Giansello to Norman Garcia, dated 3/14/19 at 4-5;• Bremer Decl. ¶ 42.
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<p>107. At the time when OFCCP issued the NOV, Oracle was still working on collecting data and documents responsive to OFCCP’s requests.</p> <p>Alleged Supporting Evidence:</p> <p>Holman-Harries Decl., ¶ 3.</p>	<p>Disputed.</p> <p>1) OFCCP contests Oracle’s Material Fact 107 on the basis of Ms. Holman-Harries’ extensive testimony in a PMK capacity about the status of OFCCP’s document requests during the compliance review. She testified, for example, that she couldn’t remember whether certain performance review information had been provided, stating that “I know we were working on I, if – if it hadn’t been provided.” And she stated that she would have to see the last spreadsheet submitted to be able to answer that question. Given that she could have used the spreadsheet to answer that question with specificity in her declaration, the unspecific and unsupported assertion—that Oracle was still working on compiling data and documents when the NOV issued—lacks credibility.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OEx. 31, Holman-Harries PMK Dep. 66:8-67:5. <p>2) The only other documents that Ms. Holman-Harries discussed possibly still compiling is the 2013 snapshot. But the weight of her testimony instead suggests that Oracle had essentially completed compiling the snapshot and was simply refusing to provide it. At her PMK deposition, Ms. Holman-Harries was asked whether Oracle “compil[ed] all of the data fields for the 2013 compensation snapshot[?]” She responded: “We compiled it. We pulled the data, but we were waiting for OFCCP to provide the justification that we asked for in our correspondence with them.”</p> <p>Citation:</p> <ul style="list-style-type: none"> • OEx. 31, Holman-Harries PMK Dep. 66:8-67:5; <p>3) Oracle made changes to Ms. Holman-Harries’ August 1, 2019 PMK deposition transcript and removed her testimony that “we were waiting [to provide the snapshots] for OFCCP to provide the justification that we asked for in our correspondence with them.” And Oracle inserted new testimony that “[w]e were in the process of compiling the data at the time OFCCP issued its NOV.” Oracle claimed this was a correction for accuracy because Ms. Holman-Harries was confusing her answer with another audit.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OEx. 35, Holman-Harries PMK Dep. Errata Sheet, at 1-
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2 for 5/1/19 deposition dated 6/12/19.

4) Oracle's claim of correction is not credible considering Ms. Holman-Harries had been prepared by counsel for 20 to 25 hours for her PMK deposition, and because Oracle did not make these same corrections to Ms. Holman-Harries' similar testimony during her prior May 8, 2019 deposition

Citation:

- OEx. 31, Holman-Harries PMK Dep. 15:8-15:19;
- OEx. 5, Holman-Harries May Dep. 288:14-289:14;
- OEx 35, Holman-Harries Errata Sheet for May Dep.

5) Oracle was not continuing to work on OFCCP's requests for pay equity analysis because Oracle was claiming that all pay equity analyses were privileged. Oracle's response in Ms. Holman-Harries's October 29, 2015 email to Question 1 regarding internal pay equity analyses gives no indication that there is any ongoing work to produce any such analyses. Instead, it refers to the Lisa Gordon interview, in which Ms. Holman-Harries, who was present, stated that self-audits of compensation were conducted "under attorney-client privilege." Oracle's email on October 29, 2015 also refers to a later email Oracle sent to Hea Jung Atkins on June 2, 2015, which refers back to the same interview of Lisa Gordon and also states that pay audits are carried out by outside counsel.

Citation:

- Holman-Harries Decl., Ex. R, Email from Shauna Holman-Harries to Hoan Long dated 10/29/15, question 1 and response, ORACLE_HQCA_000002235;
- Holman-Harries Decl., Ex. M, Email from Shauna Holman-Harries to Hea Jung Atkins, dated 6/2/15; DOL000001212;
- Ex. 41, sworn statement of Lisa Gordon, Oracle Director of Compensation dated 2/11/15, at 13;
- OFCCP SUF 211.

6) Oracle was not continuing to work on OFCCP's request for educational data, resumes, and prior salary because it had claimed that such information was not already in its databases and therefore was too burdensome to recover. Oracle's response in Ms. Holman-Harries's October 29, 2015 email to Question 2 responds to OFCCP's request for data on "Names of school attended" and "Education degree earned" for the 2014 snapshot. Oracle

	<p>responded “We don’t have this data in any database and if it is available in any individual employee’s file it would be extremely burdensome and time consuming to compile.” Oracle gave not indication in the email that it would attempt to compile this information.</p> <p>Citation:</p> <ul style="list-style-type: none"> • Holman-Harries Decl., Ex. R, Email from Shauna Holman-Harries to Hoan Long dated 10/29/15, question 2 and response, ORACLE_HQCA_000002235. <p>7) Oracle was not continuing to work on OFCCP’s request for employee personnel actions containing job and salary history information for all employees because it claimed it was extremely burdensome.</p> <p>Citation:</p> <ul style="list-style-type: none"> • Oracle Material Fact 110; • Holman-Harries Decl., Ex. R, Email from Shauna Holman-Harries to Hoan Long dated 10/29/15, question 4 and response, ORACLE_HQCA_000002235.
<p>108. OFCCP sent Oracle a request for data showing personnel actions providing job and salary information on or around February 11, 2015.</p> <p>Alleged Supporting Evidence:</p> <p>Holman-Harries Decl., ¶ 10, Ex. I.</p>	<p>Undisputed.</p>

<p>109. Subsequent requests from OFCCP, including on April 27, 2015, also sought data showing personnel actions providing job and salary information.</p> <p>Alleged Supporting Evidence:</p> <p>Holman-Harries Decl., ¶¶ 11, 13, Exs. J, K.</p>	<p>Undisputed.</p>
<p>110. On June 16, 2015, Oracle produced a compensation spreadsheet containing some of the job and salary information OFCCP had requested, and informed OFCCP of continuing difficulties in complying with certain aspects of OFCCP’s requests.</p> <p>Alleged Supporting Evidence:</p> <p>Holman-Harries Decl., ¶ 16, Ex. N.</p>	<p>Undisputed.</p>

<p>111. On October 29, 2015, Oracle produced additional job and salary information requested by OFCCP, explained to OFCCP that gathering the additional data requested it is “extremely burdensome and time consuming,” and asked OFCCP to let Oracle know if there were “specific issues/persons about whom you have concern.”</p> <p>Alleged Supporting Evidence:</p> <p>Holman-Harries Decl., ¶ 21, Ex. R.</p>	<p>Undisputed</p> <p>However, OFCCP disputes that the request was “extremely burdensome.” As the request number 4 states, all of the information OFCCP requested here had been initially requested at least six months previously in April 27, 2015. Had Oracle timely begun gathering the information it would not have been burdensome to produce in October 2015.</p> <p>Citation:</p> <ul style="list-style-type: none"> • Holman-Harries Decl., Ex. R, Email from Shauna Holman-Harries to Hoan Long dated 10/29/15, question 4, ORACLE_HQCA_000002236. • Holman-Harries Decl., Ex. I, Email from Brian Mickel to Shauna Holman-Harries, dated 2/10/15, ORACLE_HQCA_0000000597-599; • Holman-Harries Decl., Ex. K, Letter from Brian Mickel to Shauna Holman-Harries, dated 4/27/15, ORACLE_HQCA_0000000597-599.
<p>112. OFCCP did not respond to the question posed by Oracle on October 29, 2015.</p> <p>Alleged Supporting Evidence:</p> <p>Holman-Harries Decl., ¶ 21.</p>	<p>Undisputed.</p>

<p>113. At no point did Oracle refuse to produce to OFCCP data showing personnel actions providing job and history information.</p> <p>Alleged Supporting Evidence:</p> <p>Holman-Harries Decl., ¶ 29; Siniscalco Decl., ¶ 7.</p>	<p>Disputed.</p> <p>1) OFCCP disputes Oracle’s Material Fact 113 because OFCCP requested the data showing personnel actions in February 2015, and Oracle did not produce data providing job history and salary history during the compliance review [cite SHH PMK 109:07-116:14]. To the extent Oracle argues that it did not “refuse” to the produce the job history and salary history data even while it admittedly did not produce it, OFCCP disagrees. OFCCP does not interpret the term “refuse” to require an express statement “I refuse.” <i>See</i> “Refuse,” Merriam Webster, def. 2 (“[T]o <i>show</i> or express unwillingness to do or comply with. Ex. Refused to answer the question.”) (emphasis added).</p> <p>Citation:</p> <ul style="list-style-type: none"> • OEx. 31, Holman-Harries PMK Dep. 109:07-116:14.
<p>114. At the time when OFCCP issued the NOV, Oracle was still working on collecting data responsive to OFCCP’s requests.</p> <p>Alleged Supporting Evidence:</p> <p>Holman-Harries Decl., ¶ 3.</p>	<p>Disputed.</p> <p>1) OFCCP disputes Oracle’s Material Fact 114 because Ms. Holman-Harries testified in her deposition on August 1, 2019 that Oracle was waiting to give OFCCP job history and salary history data until OFCCP allegedly responded to certain questions regarding relevancy.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OEx. 31, Holman-Harries PMK Dep. 109:07-116:14.
<p>115. On November 19, 2014, OFCCP requested from Oracle “[a]ll self-audits/pay equity studies.”</p> <p>Alleged Supporting Evidence:</p> <p>Holman-Harries Decl., ¶ 5, Ex. D.</p>	<p>Undisputed.</p>

<p>116. Oracle did not respond to OFCCP’s November 19, 2014 request because it deems its internal pay equity analyses to be privileged.</p> <p>Alleged Supporting Evidence:</p> <p>Siniscalco Decl., ¶ 4, Ex. B (August 25, 2017 Siniscalco Declaration, ¶¶ 7(e), 10-11, and Ex. A); Waggoner Decl., ¶ 37.</p>	<p>Undisputed.</p>
<p>117. On April 27, 2015, OFCCP asked Oracle to provide the “[d]ates of any internal pay equity analysis conducted during the past three years, as required under 60-2.17,” and further asked Oracle to provide the “[d]ataset used for that analysis” and “[a]ctions taken, if any, as a result of the analysis.”</p> <p>Alleged Supporting Evidence:</p> <p>Holman-Harries Decl., ¶ 13, Ex. K.</p>	<p>Undisputed.</p>

<p>118. On June 2, 2015, Ms. Holman-Harries explained to OFCCP what Oracle does to comply with 41 C.F.R. § 60-2.17 to evaluate its compensation systems, and further explained that “pay equity at Oracle, and ensuring fairness and consistency among or between cohorts, is an-going [<i>sic</i>] process, and an integral part of Oracle’s evaluation of its compensation systems.”</p> <p>Alleged Supporting Evidence:</p> <p>Holman-Harries Decl., ¶ 15, Ex. M.</p>	<p>Disputed.</p> <p>1) OFCCP disputes Oracle’s Material Fact 118 because Oracle did not explain to OFCCP what it does to comply with 41 C.F.R. § 60-2.17 to evaluate its compensation systems in its vaguely worded June 2, 2015 email. Ms. Holman-Harries’ email references a separate interview with Lisa Gordon and describes Oracle’s position regarding how it allegedly sets employee compensation.</p> <p>Citation:</p> <ul style="list-style-type: none"> • Holman-Harries Decl. ¶ 15, Ex. M.
<p>119. On June 2, 2015, Ms. Holman-Harries also explained to OFCCP that “[w]ith regard to pay audits to assess legal compliance with Oracle’s non-discrimination obligations and to further ensure Oracle’s compensation policies and practices are carried out, those are conducted by our outside EEO compliance counsel at Orrick.”</p> <p>Alleged Supporting Evidence:</p> <p>Holman-Harries Decl., ¶ 15, Ex. M.</p>	<p>Undisputed.</p>

<p>120. OFCCP admits that Oracle asserted attorney-client privilege over its pay equity analyses from an early date in the compliance evaluation.</p> <p>Alleged Supporting Evidence:</p> <p>Siniscalco Decl., ¶ 3, Ex. B; Connell Decl., Ex. E (6/26/19 Ratliff PMK Dep. 69:11-73:25, Ex. 14).</p>	<p>Undisputed.</p>
<p>121. At no point did Oracle refuse to produce to OFCCP non-privileged data or documents regarding its activities to comply with 41 C.F.R. § 60-2.17 to evaluate its compensation systems.</p> <p>Alleged Supporting Evidence:</p> <p>Holman-Harries Decl., ¶ 29; Siniscalco Decl., ¶ 7.</p>	<p>Disputed.</p> <p>1) OFCCP disputes Oracle’s Material Fact 121 because during the compliance review Oracle did refuse to produce non-privileged data or documents regarding its activities to comply with 41 C.F.R. § 60-2.17.</p> <p>2) For example, in an April 27, 2015 letter OFCCP sent to Ms. Holman-Harries, it requested “dates of any internal pay equity analysis conducted during the past three years, as required under 60-2.17 [and] [f]or each analysis, include [] data set used for the analysis.” Ms. Holman-Harries’ did not produce this requested data and in response she referred OFCCP to an interviews with Lisa Gordon.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OEx. 5 Holman-Harries May Dep. 204:216-205:01, 208:14-208:25, 270:19-272:21 • OEx. 5 Holman-Harries May Dep. 279:17-281:-4; • Holman-Harries Decl., ¶ 21, Ex. R, Email from Shauna Holman Harries to Hoan Long, dated October 29, 2015, ORACLE_HQCA_0000000695.

<p>122. In its Scheduling Letter and attached Itemized Listing dated September 24, 2014, OFCCP asked Oracle to provide its “Executive Order Affirmative Action Program (“AAP”).”</p> <p>Alleged Supporting Evidence:</p> <p>Holman-Harries Decl., ¶ 2, Ex. A.</p>	<p>Undisputed.</p>
<p>123. Ms. Holman-Harries sent OFCCP Oracle’s AAP and related documents on October 28, 2014, in response to OFCCP’s initial request for documents at the beginning of the compliance review.</p> <p>Alleged Supporting Evidence:</p> <p>Holman-Harries Decl., ¶ 4, Ex. C.</p>	<p>Undisputed.</p>
<p>124. At no point did Oracle refuse to produce to OFCCP any data or documents that are part of its AAP.</p> <p>Alleged Supporting Evidence:</p> <p>Holman-Harries Decl., ¶ 29; Siniscalco Decl., ¶ 7.</p>	<p>Disputed.</p> <p>1) OFCCP disputes Oracle’s Material Fact 124 because Oracle has refused to produce to OFCCP data or documents as part of its AAP.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OEx. 41, Letter from John Giansello to Charles Song re AAP production, dated 05/21/2019, at 5 (noting in response to RFP 80 that Oracle does not intend to produce any further AAP documents to OFCCP). • OEx. 47, Email from OFCCP to Erin Connell re production of AAPs for HQCA, dated 03/11/19 (Oracle refused to produce AAPs for HQCA, responded with boilerplate objections and denying that 41 C.F.R. §§ 60-2.10(b) & (c) require Oracle to maintain AAPs.)

<p>125. OFCCP admits that it has no documents indicating there were any further requests during the compliance evaluation period to Oracle for AAP documentation.</p> <p>Alleged Supporting Evidence:</p> <p>Siniscalco Decl., ¶ 3, Ex. B; Connell Decl., Ex. E (6/26/19 Ratliff PMK Dep., 21:14-25:9; 45:9-47:1); Holman-Harries Decl., Exs. A, C.</p>	<p>Disputed.</p> <p>1) First, as discussed above, OFCCP requested Oracle’s AAP documentation as part of its initial document request at the start of its compliance review.</p> <p>2) Second, regarding additional written requests for AAP documentation, the evidence Oracle relies on does not support Oracle’s allegations that the OFCCP has admitted to not making further requests in writing. In the deposition testimony cited, OFCCP District Director Sean Ratliff states that he could not recall seeing a written request. District Director Ratliff never stated any admissions that the OFCCP never asked for written documents. His testimony clearly states that one of the OFCCP investigators working on the case could have issued a written request for further AAP documentation, but that he had not discussed this with them or personally seen a written request.</p> <p>Citation:</p> <ul style="list-style-type: none"> • Ex E to Siniscalco Decl., Ratliff PMK Dep., 21:14-25:9; 45:9-47:1.
<p>126. In a subsection entitled “Denial of Access,” OFCCP’s Federal Contract Compliance Manual states, “If a contractor denies access to its premises, records or other information necessary to conduct an onsite or offsite review, the CO must issue an SCN or proceed directly to an enforcement recommendation.”</p> <p>Alleged Supporting Evidence:</p> <p>OFCCP Federal Contract Compliance Manual, § 8B02(a) (“Denial of Access”).</p>	<p>Undisputed.</p>

<p>127. OFCCP never brought a right of access case against Oracle before filing the present enforcement action.</p> <p>Alleged Supporting Evidence:</p> <p>Holman-Harries Decl., ¶ 30.</p>	<p>Undisputed.</p>
<p>128. With the exception of allegations related to OFCCP’s college recruiting hiring claim, OFCCP does not allege in the SAC that Oracle destroyed or failed to preserve required records.</p> <p>Alleged Supporting Evidence:</p> <p>SAC, ¶¶ 43-51.</p>	<p>Undisputed.</p>
<p>129. OFCCP and Oracle resolved OFCCP’s college recruiting hiring claim, as well as all record-keeping allegations related to that claim, and it already has been dismissed with prejudice and is no longer part of this action.</p> <p>Alleged Supporting Evidence:</p> <p>April 30, 2019 Order Adopting Consent Findings Regarding College Recruiting Program Allegations.</p>	<p>Undisputed.</p>

<p>130. The requested compensation data for 2013 were, to the extent not produced earlier, produced in the hard-disk drive database produced on October 11, 2017.</p> <p>Alleged Supporting Evidence: Siniscalco Decl., ¶ 5.</p>	<p>Disputed.</p> <p>Oracle still, to date, has not provided the all of the data that would have been encompassed in the 2013 compensation snapshot that had been requested.</p> <p>1)</p> <p>Citation:</p> <ul style="list-style-type: none"> • OEx. 37, Email from Laura Bremer to Erin Connell re visa data, dated 10/11/17 • OEx. 39, Letter from John Giansello to Norman Garcia, dated 3/14/19 at 4-5; • Bremer Decl. ¶ 42.
<p>131. OFCCP admits that the compensation data referenced in SAC ¶ 44(a) were produced in this litigation.</p> <p>Alleged Supporting Evidence: Siniscalco Decl., ¶ 3, Ex. B; Connell Decl., Ex. E (6/26/19 Ratliff PMK Dep., 77:6-15, Ex. 14).</p>	<p>Disputed.</p> <p>1) Oracle still, to date, has not provided the all of the data that would have been encompassed in the 2013 compensation snapshot that had been requested.</p> <p>Citation:</p> <ul style="list-style-type: none"> • OEx. 37, Email from Laura Bremer to Erin Connell re visa data, dated 10/11/17 • OEx. 39, Letter from John Giansello to Norman Garcia, dated 3/14/19 at 4-5; • OEx. 31, Holman-Harries 30b6 Dep. 74:8-76:24 (discussing visa data as part of compensation report, Exhibit 126) • Bremer Decl. ¶ 42.

<p>132. To the extent relevant to OFCCP’s remaining claim for compensation discrimination, Oracle has now produced in the litigation, in response to discovery requests from OFCCP, the data regarding job and salary history that OFCCP claims Oracle refused to produce during the audit.</p> <p>Alleged Supporting Evidence:</p> <p>Siniscalco Decl., ¶ 6.</p>	<p>Undisputed.</p>
<p>133. As it did during the audit, Oracle has continued in this litigation to assert the attorney client privilege and work product protection over certain of its pay equity analyses conducted by or at the direction of legal counsel.</p> <p>Alleged Supporting Evidence:</p> <p>Holman-Harries Decl., ¶ 15, Ex. M; Siniscalco Decl., ¶¶ 3, Ex. B (August 25, 2017 Siniscalco Decl., ¶¶ 7(e), 10-11, and Ex. A).</p>	<p>Undisputed.</p>

EXHIBIT C

JANET M. HEROLD
Regional Solicitor
IAN H. ELIASOPH
Counsel
LAURA C. BREMER
Acting Counsel for Civil Rights
NORMAN E. GARCIA
Senior Trial Attorney
DAVID L. EDELI
Trial Attorney
UNITED STATES DEPARTMENT OF LABOR
90 Seventh St., Rm. 3-700
San Francisco, CA 94103
Tel: (415) 625-7747
Fax: (415) 625-7772
Email: garcia.norman@dol.gov

Attorneys for OFCCP

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

OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS, UNITED STATES DEPARTMENT OF LABOR,	:	
	:	
Plaintiff,	:	Case No. 2017-OFC-00006
	:	
v.	:	
	:	
ORACLE AMERICA, INC.	:	
	:	
Defendant.	:	

**STATEMENT OF ADDITIONAL UNCONTESTED MATERIAL FACTS IN
OPPOSITION TO ORACLE AMERICA, INC.'S MOTION FOR SUMMARY
JUDGMENT OR, IN THE ALTERNATIVE, FOR PARTIAL SUMMARY JUDGMENT**

A. Additional Undisputed Facts Regarding Oracle's Compensation Policies

Fact #	OFCCP's Undisputed Material Facts	Supporting Evidence
1.	Oracle's Affirmative Action Plan (AAP) states that Oracle's affirmative action policy and program are "supported by Oracle's executives, Larry Ellison, Safra Catz, and Mark Hurd."	Ex. 63, Affirmative Action Plan, ORACLE_HQCA_0000005013 in Vol. 2.
2.	Oracle admits that its upper level managers and Human Resources department did not carry out any centralized compensation audits to comply with the Affirmative Action internal audit requirement of 41 CFR § 60-2.17.	OEx. 5, Holman-Harries May Dep. 279:17-281:4; OEx. 5 Holman-Harries May Dep. 243:9-244:3, 249:11-18, 252:5-252:8, 255:2-269:6, Ex. 29.
3.	Oracle admits that the only actions it took to allegedly comply with the Affirmative Action internal audit requirement were to instruct first-level managers to take equity into consideration as they made their salary increase recommendations.	OEx. 5, Holman-Harries May Dep. 279:17-281:4; OEx. 5, Holman-Harries May 243:9-244:3, 249:11-18, 252:5-252:8, 255:2-269:6, Ex. 29.

B. Additional Undisputed Facts Regarding the Issuance of the NOV

Fact #	OFCCP's Undisputed Material Facts	Supporting Evidence
4.	The NOV provided Oracle with a list of the variables, including job title, that had been included in the regression analyses and the results of those analyses.	OFCCP SUF Fact 23 Ex. 61, NOV, Attachment A, at 10-12, DOL000000952-53.
5.	Neither prior to the issuance of the NOV, nor later, during the parties' conciliation efforts, did Oracle ever suggest any alternative variable to better account for "all the skills, duties, or experience associated with a particular position" in a regression analysis.	OFCCP SUF Fact 25, 30, 35 Ex. 5, Holman-Harries 30b6 Dep. 185:14-24, 195:1-6 Decl. of Jane Suhr in support of OFCCP's Opposition to Oracle's Mot. for Summ. J. (Suhr. Decl.) ¶18, Ex. K, Letter from Gary Siniscalco to OFCCP, dated May 25, 2016, at p. 3.

		<p>ORACLE_HQCA_0000002094-2115</p> <p>Ex. 66, Show Cause Notice at 2, attached to Garcia Decl. in Vol. 2</p> <p>Suhr Decl. ¶21, Ex. N, Letter from Hea Jung Atkins to Oracle, dated September 9, 2016, at p. 2;</p> <p>Ex. 71, Consolidated Notes of Oracle employees Charles Nyakundi and Shauna Holman-Harries (Consolidated Notes) (Ex. 131 at Holman-Harries 30b6 Dep. re: conciliation), at p. 4, ORACLE_HQCA_0000607319-25, in Vol. 2;</p> <p>Suhr Decl. ¶31, Ex. T, Letter from Erin Connell to OFCCP, dated October 31, 2016, at pp. 6-12.</p> <p>Suhr Decl. ¶32, Ex. U, Letter from Janette Wipper to Oracle, dated December 9, 2016.</p>
6.	OFCCP identified the data fields it included in its model by using the same titles Oracle used for the data fields in the 2014 snapshot.	<p>Ex. 61, NOV, Ex. A, DOL000000952-53 in Vol. 2</p> <p>OEx. 31, Dep. of Shauna Holman-Harries under Rule 30(b)(6), dated 8/1/19 (Holman-Harries 30b6 Dep.) 76:20-24, 80:17-97:11) (describing data fields in 2014 compensation snapshot, which included the other variables listed in the NOV--annual salary, gender, race, fulltime/part time status,</p>

		<p>exempt status, global career level, job specialty and job title);</p> <p>Ex. 68 (excerpt of 2014 compensation snapshot, which included data in the columns entitled “Gender,” “Race,” “Job Title,” “Job Function,” “Job Specialty,” “Global Career Level,” “Exempt Status,” “PT/FT,” and “Salary”), in Vol. 2.</p>
7.	Oracle did not supply OFCCP with 2013 compensation data during the compliance review, so OFCCP continued with its compliance review based on the limited 2014 compensation data Oracle produced, along with some of Oracle’s compensation policies, and the evidence OFCCP uncovered in its interviews with Oracle’s management, Human Resources, and non-management employees.	Ex. 61, NOV at 3, n. 3; <i>id.</i> at Attachment A, n.1, in Vol. 2.
8.	OFCCP found statistically significant pay disparities based on gender and race by conducting a regression analysis using the 2014 data Oracle provided, even after controlling for job title.	Ex. 61, NOV at 3-5; <i>id.</i> at Attachment A, in Vol. 2.
9.	OFCCP found 8.41 standard deviations in pay between Men and Women in the Product Development job function, and 6.55 standard deviations in pay between Whites and Asians in Product Development – well above the 2 standard deviations from which discrimination can be inferred.	Ex. 61, NOV, Attachment A at 1-2, in Vol. 2.
10.	The NOV stated that OFCCP was charging Oracle with hiring and compensation discrimination, the time periods during which it occurred (beginning on January 1, 2013 and continuing thereafter), the job functions involved (Product Development, Information Technology, and Support), the specific data fields from Oracle’s 2014 compensation data that OFCCP included in its standard regression analysis, and the results of the regression model.	Ex. 61, NOV, in Vol. 2.
11.	The Order to Show Cause stated that OFCCP was charging Oracle with hiring and compensation discrimination, and attached a copy of the NOV, which	Ex. 61, NOV, in Vol. 2;

	included the time periods during which it occurred, the job functions involved, and that OFCCP’s findings were supported by statistical as well as other evidence.	Ex. 66, Order to Show Cause at 3 (stating that OFCCP’s findings remain unrebutted and enclosing the NOV to reference the “violations at issue”), in Vol. 2.
12.	The NOV considered the compensation of employees in “similar roles.”	Ex. 61, NOV at 3-6, in Vol. 2.
13.	Oracle’s compliance attorney represents that he is “extremely well-versed” in “OFCCP’s regulations” and “OFCCP’s audit practices.”	Decl. of Gary Siniscalco in support of Oracle’s Opp’n to Mot. to Compel, dated 8/25/17, at ¶ 6, attached as Ex. B to the Decl. of Gary Siniscalco in support of Oracle’s MSJ, dated 09/20/19.
14.	Oracle’s compliance attorney, Gary Siniscalco, confirmed in his written correspondence that he knew which data fields from Oracle’s data OFCCP included in its standard regression model, as described in the NOV.	Ex. 70, Oracle America Inc.’s 5/25/16 email and attached Position Statement, at p. 15 <u>nn.17-18</u> in Vol. 2
15.	Oracle admits that they carried out pay equity audits to assess their compliance with nondiscrimination obligations at the direction of counsel.	OEx. 5, Homan-Harries May Dep. at 204:23-205:01; Oracle Position Statement re Section 2.17 Compliance, filed 10/3/19, at 9; Letter from Erin Connell, filed with Court on 10/3/19 by Oracle in response to the Court’s 9/19/19 Order, with attached 154-page privilege log.

C. Undisputed Facts Regarding Conciliation

Fact #	OFCCP’s Undisputed Material Facts	Supporting Evidence
16.	Oracle declined OFCCP’s offer to meet in person to discuss the NOV until October 6, 2016.	Suhr Decl. ¶12 & Ex. E; Suhr Decl. ¶13 & Ex. F; Suhr Decl. ¶16 & Ex. I;

		Suhr Decl. ¶21 & Ex. N; Suhr Decl. ¶22 & Ex. O.
17.	On March 29, 2016, OFCCP sent an email inviting Oracle to participate in a face-to-face meeting for conciliation, and requesting a rebuttal position from Oracle detailing how the observed disparities can be explained by legitimate, nondiscriminatory reasons or business necessity.	Suhr Decl. ¶12 & Ex. E.
18.	On April 11, 2016, OFCCP received a letter from Oracle declining to engage in a face-to-face meeting and including an Appendix of 57 questions about the NOV. OFCCP believed that the questions were irrelevant and sought privileged information and were an attempt to delay conciliation.	Suhr Decl. ¶14 & Ex. F. OEx. 31, Holman-Harries 30b6 Dep. 176:24-177:6, 179:11-180:23;
19.	On April 21, 2016, OFCCP sent a letter to Oracle responding to its 57 questions. OFCCP attempted to answer questions it believed to be relevant to conciliation. OFCCP’s response also provided information to Oracle about the relevant legal framework.	Suhr Decl. ¶15 & Ex. H. OEx. 31, Holman-Harries 30b6 Dep. 182:13-183:22.
20.	On September 9, 2016, OFCCP sent a letter to Oracle. In that letter, OFCCP wrote: “While Oracle declares its desire to engage in conciliation, its stated desire rings hollow, given that it has refused to meet in person, it continues to emphasize and complain about the audit process and other procedural matters, its demand that OFCCP provide answers to approximately 60 questions, and its failure to make a meaningful, substantive response to OFCCP’s findings.”	Suhr Decl. ¶21 & Ex. N at p. 1.
21.	In a letter dated September 23, 2016, OFFCP provided significant additional information regarding the agency’s legal framework for finding the violation and what the agency would consider to be sufficient to rebut the finding of violation. The agency explained that Oracle could not simply point to “a range of factors” that Oracle managers describe as relevant, without providing any “evidence demonstrating whether any factor in the ‘range of factors’ would actually change the statistical results in favor of Oracle.”	Suhr Decl. ¶24 & Ex. Q.

22.	At the October 6, 2016 conciliation meeting OFCCP advised Oracle that to the extent Oracle was asserting job assignment was an explanation for the pay disparities, OFCCP was prepared to assert that job assignment was a tainted variable, as such a defense would mean that Oracle's compensation discrimination was driven by steering employees into lower-paying job assignments.	Ex. 71, Consolidated Notes of Oracle employees Charles Nyakundi and Shauna Holman-Harries (Consolidated Notes), at p. 5, ORACLE_HQCA_0000607323 in Vol. 2.
23.	At the October 6, 2016 conciliation meeting Oracle's counsel continued to advocate for comparisons of "cohorts," indicating that Oracle's workforce "defies statistical analysis."	Decl. of Hea Jung Atkins (Atkins Opp'n Decl.) ¶26 & Ex. T, DOL000044161. <i>See also</i> Ex. 71, Consolidated Notes of Oracle employees Charles Nyakundi and Shauna Holman-Harries (Consolidated Notes), at p. 4, ORACLE_HQCA_0000607322 in Vol. 2; Suhr Decl. ¶25.
24.	On October 7, 2016, Mr. Siniscalco wrote to Ms. Wipper: "We all feel the conciliation meeting was very productive, and moved both sides in a positive direction."	Suhr Decl. ¶30 & Ex. S.
25.	On October 31, 2016, Oracle sent OFCCP a letter that did not make a counteroffer or provide a counter-statistical analysis. Oracle instead presented narrative information about individuals.	Suhr Decl. ¶31 & Ex. T, at 9-11.
26.	On December 9, 2016, OFCCP wrote to Oracle, noting that "Oracle still has not provided a competing statistical analysis to rebut OFCCP's regressions," and providing case law on the requirements for comparators under Title VII law.	Suhr Decl. ¶32 & Ex. U, at p. 6.
27.	The parties engaged in 16 months of active mediation after OFCCP filed the complaint in this case.	Decl. of Laura Bremer in support of OFCCP's opposition to Oracle's Mot. for Summ. J, dated 11/1/19 (Bremer Decl.) ¶2.

D. Undisputed Facts Regarding Oracle’s Failure to Produce Documents

Fact #	OFCCP’s Undisputed Material Facts	Supporting Evidence
28.	OFCCP first requested educational data in a letter on November 19, 2014 and another email on February 10, 2015.	Holman-Harries Decl., Ex. D, DOL000001362; Holman-Harries Decl., Ex. I, ORACLE HQCA 0000000598
29.	In an email dated December 11, 2014, Oracle told OFCCP that “we do not maintain education or work experience in our database.”	Holman-Harries Dec., Ex. E, ORACLE_HQCA_0000000296
30.	OFCCP specifically requested the school attended and educational degree for the 2014 snapshot in a letter on April 27, 2015.	Holman-Harries Dec., Ex. K, DOL000001238.
31.	OFCCP made additional requests for the same educational data on May 11, May 19, May 28, and July 30, 2015.	Siniscalco Decl., Ex. A, Letter from Hea Jung Atkins to Gary Siniscalco, dated 7/30/15, question 2, DOL000001128.
32.	In her October 29, 2015 email responding to outstanding document requests, Shauna Holman-Harries responded to OFCCP’s request for data on “Names of school attended” and “Education degree earned” for the 2014 snapshot by stating: “We don’t have this data in any database and if it is available in any individual employee’s file it would be extremely burdensome and time consuming to compile.” In that email, Ms. Holman Harries Oracle did not indicate that Oracle would attempt to compile this information.	Holman-Harries Decl., Ex. R, Email from Shauna Holman-Harries to Hoan Long dated 10/29/15, question 2 and response, ORACLE_HQCA_000002235. OEx. 31, Holman-Harries PMK Dep. 97:12-24.
33.	In a November 2, 2015 letter from Robert Doles to Gary Siniscalco, OFCCP one again requested this educational information.	Holman-Harries Decl., Ex. K, DOL000001053
34.	Oracle admits that it did not produce the requested educational data prior to the issuance of the NOV on March 11, 2016.	OEx. 31, Holman Harries PMK Dep. 45:22-46:9
35.	Oracle did not produce the requested educational data between the filing of the NOV and the filing of the complaint on January 17, 2017.	Bremer Decl. ¶3.
36.	Although Oracle had previously stated twice that they did not maintain education data in their database, Shauna Holman-Harries testified in her August 1, 2019 PMK	OEx. 31, Holman-Harries PMK Dep. 38:25-39:20. <i>See supra</i> AUF 29, 32.

	deposition that in fact at least “some of the education” data was in Oracle’s databases.	
37.	After litigation commenced, in 2018 and 2019, Oracle produced some educational data in database form.	OEx. 40, Letter from Laura Bremer to Erin Connell, dated 2/15/10 at 1.
38.	In her October 29, 2015 email responding to outstanding document requests, Shauna Holman-Harries responded to OFCCP’s request for data on “Prior salary immediately before joining Oracle” by referring to language stating: “We don’t have this data in any database and if it is available in any individual employee’s file it would be extremely burdensome and time consuming to compile.” In that email, Ms. Holman Harries Oracle did not indicate that Oracle would attempt to compile this information.	Holman-Harries Decl., Ex. R, Email from Shauna Holman-Harries to Hoan Long dated 10/29/15, question 2 and response, ORACLE_HQCA_000002235. OEx. 31, Holman-Harries PMK Dep. 97:12-24.
39.	In a November 2, 2015 letter from Robert Doles to Gary Siniscalco, OFCCP once again requested this “prior salary” information.	Holman-Harries Decl., Ex. K, DOL000001053.
40.	Oracle admits that it did not produce the requested prior salary information prior to the issuance of the NOV on March 11, 2016.	OEx. 31, Holman Harries PMK Dep. 45:22-46:9
41.	Oracle did not produce the requested prior salary information between the filing of the NOV and the filing of the complaint on January 17, 2017.	Bremer Decl. ¶3.
42.	After litigation commenced, Oracle produced documents showing that prior to October 2017, a candidate’s compensation information at his or her previous employer was a “Mandatory” field in Oracle’s “Candidate Offer Information” document.	SUF 162 Ex. 48, “Candidate Offer Information” for ██████████ dated 12/22/08, ORACLE_HQCA_0000472274 Ex. 49, “Candidate Offer Information” for ██████████, dated 1/6/15, ORACLE_HQCA_0000464341-44.
43.	After litigation commenced, in 2018 and 2019, Oracle produced some prior salary data in database form.	Ex. 91, Madden Rpt. at 49-50, Table 4, in Vol. 3.

44.	On March 4, 2015, OFCCP requested a listing of Oracle employees who have made discrimination, harassment or retaliation complaints.	OEx. 43, Email dated 3/4/15 from Brian Mickel of OFCCP to Shauna Holman-Harries, p. 1. OEx. 31, Holman-Harries PMK Dep. 135:19-137:3.
45.	On March 19, 2015, OFCCP requested from Oracle all information related to internal complaints of workplace discrimination.	OEx. 44, Email dated 3/19/15 from Brian Mickel of OFCCP to Shauna Holman-Harries, p. 1
46.	On March 20, 2015, OFCCP received a response from OFCCP, stating “None” in response to the request for the listing of employees who had made discrimination complaints.	OEx. 45, Letter from Jane Suhr to Gary Siniscalco, dated 4/15/15, at p. 2 (discussing March 20 email). Email from Shauna Holman-Harries to Brian Mickel, dated 3/20/15, included as an attachment to the 4/15/15 Suhr letter (on p. 9 of the complete document, which was marked as Dep. Ex. 128 to the PMK Dep. of Shauna Holman-Harris). OEx. 31, Holman-Harries PMK Dep. 137:4-138:9.
47.	On April 15, 2015, OFCCP sent a letter to Gary Siniscalco recounting that it had found several EEOC charges filed by Oracle employees at the Redwood Shores facility, and expressing concern about Oracle’s lack of candor about the existence of the complaints.	OEx. 45, Letter from Jane Suhr to Gary Siniscalco dated 4/15/15, pp. 1-2. OEx. 31, Holman-Harries PMK Dep. 138:10-22.
48.	OFCCP then requested “all internal and external complaints of discrimination, harassment or retaliation filed at Oracle headquarters within the past three years.”	OEx. 45, Letter from OFCCP to Gary Siniscalco dated 4/15/15, pp. 1-2. OEx. 31, Holman-Harries PMK Dep. 138:23-139:23.
49.	Oracle admits that during the compliance review, Oracle did not provide the full requested information regarding internal and external discrimination complaints.	OEx. 31, Holman-Harries PMK Dep. 140:22-141:1.

50.	In her PMK Deposition, Shauna Holman-Harries testified that Oracle was waiting for OFCCP to provide a basis for requesting the 2013 compensation snapshot before Oracle would provide it.	OEx. 31, Holman-Harries PMK Dep. 71:14-73:13
51.	Oracle admits that it did not produce the 2013 snapshot of its compensation data prior to the issuance of the NOV on March 11, 2016.	OEx. 5, Holman-Harries May Dep. 288:14-289:14.;
52.	After the complaint was filed, Oracle resisted attempts at discovery regarding persons outside the classes identified in the NOV.	Bremer Decl. ¶39. OEx. 36, Letter from Erin Connell to Laura Bremer dated 10/11/17 at 3.

E. Undisputed Facts Regarding Expert Witnesses' Testimonies, Reports, and Analyses

Fact #	OFCCP's Undisputed Material Facts	Supporting Evidence
53.	Dr. Madden's expert report relies on a multiple regression statistical analysis.	Ex. 91, Dr. Madden's 7/19/19 Report, pp. 9-11.
54.	Dr. Madden's July 2019 Expert Report uses data on employees' salaries at their prior employers, where available, to show that Oracle perpetuated gender and race based compensation disparities in the wider labor market as to its new hires in its headquarters.	Ex. 91, Madden Report, pp. 49-50, Table 4.
55.	Dr. Saad's Rebuttal Report contains an extensive discussion of the use of prior pay in regression analyses.	Ex. 94, Saad Rebuttal, pp. 71-73
56.	Dr. Madden's regression analysis controls for education, which is an important variable under the human capital theory of labor economics.	Ex. 91, Madden Report, pp. 5-11, Tables.
57.	Dr. Saad's Rebuttal Report contains an extensive discussion of the use of education in regression analyses.	Ex. 94, Saad Rebuttal, pp. 13-15, 43-48.

DATED: November 1, 2019

KATE S. O'SCANNLAIN
Solicitor of Labor

JANET M. HEROLD
Regional Solicitor

IAN H. ELIASOPH
Counsel

LAURA C. BREMER
Acting Counsel for Civil Rights

/s/ Norman E. Garcia
NORMAN E. GARCIA
Senior Trial Attorney

DAVID L. EDELI
Trial Attorney

OFFICE OF THE SOLICITOR
U.S. DEPARTMENT OF LABOR
Attorneys for OFCCP

EXHIBIT D

JANET M. HEROLD
Regional Solicitor
IAN H. ELIASOPH
Counsel
LAURA C. BREMER
Acting Counsel for Civil Rights
Office of the Solicitor
UNITED STATES DEPARTMENT OF LABOR
90 7th Street, Suite 3-700
San Francisco, CA 94103
Tel: (415) 625-7757
Fax: (415) 625-7772
Email: bremer.laura@dol.gov

Attorneys for OFCCP

**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

**DECLARATION OF LAURA C. BREMER IN SUPPORT OF OFCCP'S OPPOSITION
TO ORACLE AMERICA, INC.'S MOTION FOR SUMMARY JUDGMENT, OR, IN
THE ALTERNATIVE, FOR PARTIAL SUMMARY JUDGMENT**

I, Laura C. Bremer, state and declare as follows.

1. I am the Acting Counsel for Civil Rights for the Western Region of the Office of the Solicitor, U.S. Department of Labor, and counsel of record for Plaintiff in this action. I submit this declaration in support of OFCCP's Opposition to Oracle America Inc.'s Motion for Summary Judgment, filed October 21, 2019. I have personal knowledge of the matters set forth in this declaration, and I could and would competently testify thereto if called upon to do so.

2. OFCCP and Oracle America, Inc. ("Oracle") engaged in sixteen months of active mediation after OFCCP filed the initial complaint in this case.

3. I reviewed the correspondence between OFCCP and Oracle between OFCCP's issuance of the Notice of Violation and the filing of the complaint, and attended the conciliation meeting on October 6, 2016. Oracle produced no additional data to OFCCP between March 11, 2016 and January 17, 2017.

4. Attached hereto as Exhibit 1 is a true and correct copy of excerpts from the May 30, 2019 deposition of Joyce Westerdahl.

5. Attached hereto as Exhibit 2 is a true and correct copy of excerpts from the July 26, 2019 deposition of Kate Waggoner as person most knowledgeable for Oracle Corp. in the matter of *Jewett v. Oracle Corp. Inc.*, Case No. 17-cv-02669 (Sup. Ct. San Mateo), ORACLE_HQCA_0000400660-62

6. Attached hereto as Exhibit 3 is a true and correct copy of exhibit 55 to the May 24, 2019 deposition of Lynne Carrelli, "Affirmative Action at Oracle," with bates number ORACLE_HQCA_0000417320-58.

7. Attached hereto as Exhibit 4 is a true and correct copy of excerpts from the June 11, 2019 deposition of Madhavi Cheruvu.

8. Attached hereto as Exhibit 5 is a true and correct copy of the May 8, 2019 deposition of Shauna Holman-Harries in her capacity as a percipient witness.

9. Attached hereto as Exhibit 6 is a true and correct copy of the declaration of Kirstin Hanson Garcia, dated September 20, 2019.

10. Attached hereto as Exhibit 7 is a true and correct copy of the declaration of Christina Kolotouros, dated September 19, 2019.

11. Attached hereto as Exhibit 8 is a true and correct copy of excerpts from the July 19, 2019 deposition of Kate Waggoner as person most knowledgeable for Oracle America, Inc.

12. Attached hereto as Exhibit 9 is a true and correct copy of the declaration of Amit Sharma, dated October 25, 2019.

13. Attached hereto as Exhibit 10 is a true and correct copy of the declaration of Wilbur A. Colin McGregor, dated October 29, 2019.

14. Attached hereto as Exhibit 11 is a true and correct copy of excerpts from the June 14, 2019 deposition of Juan Loaiza.

15. Attached hereto as Exhibit 12 is a true and correct copy of the declaration of Avinash Pandey, October 25, 2019.

16. Attached hereto as Exhibit 13 is a true and correct copy of the declaration of Diane Boross, dated October 30, 2019.

17. Attached hereto as Exhibit 14 is a true and correct copy of the declaration of Jill Arehart, dated October 24, 2019.

18. Attached hereto as Exhibit 15 is a true and correct copy of the declaration of Donna Kit Yee Ng, dated October 9, 2019.

19. Attached hereto as Exhibit 16 is a true and correct copy of excerpts from the May 24, 2019 deposition of Lynne Carrelli.

20. Attached hereto as Exhibit 17 is a true and correct copy of the May 1, 2019 deposition of Kate Waggoner in her capacity as a percipient witness.

21. Attached hereto as Exhibit 18 is a true and correct copy of an excerpt from exhibit 22 to the deposition of Anje Dodson, "Position Criteria," dated April 2008, with bates number ORACLE_HQCA_0000360865-66.

22. Attached hereto as Exhibit 19 is a true and correct copy of a news article with title "The Highest-Paid C.E.O.s of 2018: A Year So Lucrative, We Had to Redraw Our Chart," published by the New York Times on May 29, 2019.

23. Attached hereto as Exhibit 20 is a true and correct copy of the declaration of Rachel Powers, dated October 1, 2019.

24. Attached hereto as Exhibit 21 is a true and correct copy of the declaration of Lynn Snyder, dated October 10, 2019.

25. Attached hereto as Exhibit 22 is a true and correct copy of exhibit 53 to the May 24, 2019 deposition of Lynne Carrelli, an email from Zeira Singh regarding Larry Ellison's approval of a new college compensation package, dated August 25, 2016 with bates number ORACLE_HQCA_0000380453.

26. Attached hereto as Exhibit 23 is a true and correct copy of an email from Chantel Dumont to Milton Liu and Les Cundall regarding salary guidelines, dated September 11, 2013 and produced by Oracle with bates number ORACLE_HQCA_0000012598.

27. Attached hereto as Exhibit 24 is a true and correct copy of an email from Chantel Dumont regarding college compensation for FY2014, dated September 24, 2013 and produced by Oracle with bates number ORACLE_HQCA_0000023717.

28. Attached hereto as Exhibit 25 is a true and correct copy of an email from Katie Rider to James Handley regarding college hire starting salaries, dated April 16, 2015 and produced by Oracle with bates number ORACLE_HQCA_0000380671-73.

29. Attached hereto as Exhibit 26 is a true and correct copy of an email from Chantel Dumont to Duhong Trinh re Intern Salary Rule, dated September 14, 2013 and produced by Oracle with bates number ORACLE_HQCA_0000012204-10.

30. Attached hereto as Exhibit 27 is a true and correct copy of an email from Les Cundall to Elizabeth Lee regarding request to approve an offer of employment with specific compensation terms to university student, dated March 14, 2014 and produced by Oracle with bates number ORACLE_HQCA_0000011640-45.

31. Attached hereto as Exhibit 28 is a true and correct copy of an email from Chantel Dumont to Satarupa Bhattacharya regarding approval of an offer of employment with specific compensation terms to a university student, dated May 17, 2013 and produced by Oracle with bates number ORACLE_HQCA_0000012173-83.

32. Attached hereto as Exhibit 29 is a true and correct copy of emails between Wendy Lee and ██████████ regarding Oracle's MAP program created by Larry Ellison, dated October 25, 2013 and produced by Oracle with bates number ORACLE_HQCA_0000036993-94.

33. Attached hereto as Exhibit 30 is a true and correct copy of the declaration of Bhavana Sharma, dated March 24, 2015.

34. Attached hereto as Exhibit 31 is a true and correct copy the August 1, 2019 deposition of Shauna Holman-Harries as person most knowledgeable for Oracle America, Inc.

35. Attached hereto as Exhibit 32 is a true and correct copy of excerpts from the July 1, 2019 deposition of Dr. Shirong Andy Leu.

36. Attached hereto as Exhibit 33 is a true and correct copy of interview notes from the March 25, 2015 interview of John McGinnis, produced by the Department with bates number DOL000000525-29.

37. Attached hereto as Exhibit 34 is a true and correct copy of interview notes from the March 25, 2015 interview of Marianna Gurovich, produced by the Department with bates number DOL000000554-558.

38. Attached hereto as Exhibit 35 is a true and correct copy of the June 10, 2019 errata sheet from the May 8, 2019 deposition of Shauna Holman-Harries in her capacity as a percipient witness.

39. During the litigation of this enforcement action, I have been involved with meeting and conferring with counsel for Oracle regarding discovery disputes. Oracle took the firm position from the beginning of this litigation, that it would not produce information for employees outside the groups alleged in the complaint, which for the compensation claims were the Product Development, Support, and Information Technology job functions. During a meet and confer conversation with Erin Connell, I requested that Oracle produce compensation data for all employees, because our expert had requested such data. She responded that Oracle would not produce compensation data for any employees that were not in the Product Development, Information Technology, and Support job functions. Attached hereto as Exhibit 36 is a true and correct copy of a letter from Erin Connell to Marc Pilotin and Laura Bremer regarding discovery production, dated October 11, 2017, which shows that it only produced compensation data for employees in the Product Development, Support, and Information Technology job functions.

40. Attached hereto as Exhibit 37 is a true and correct copy of a letter from Laura Bremer to Erin Connell regarding visa data discovery, dated October 11, 2017.

41. Attached hereto as Exhibit 38 is a true and correct copy of the declaration of Donna Rosburg, dated October 2, 2019.

42. Attached hereto as Exhibit 39 is a true and correct copy of a letter from John Giansello to Norman Garcia, dated March 14, 2019, indicating that Oracle would not produce visa data that had been included in the 2014 compensation snapshot (ORACLE_HQCA_3616). Other

than reproducing data that Oracle provided during the compliance review, Oracle never produced the visa data that it included in the 2014 compensation snapshot showing employees' visa status (other than H1-B visa status). Further, while the 2014 compensation snapshot had provided data for all Oracle employees, Oracle did not produce compensation data during this litigation for all employees at HQCA; instead, Oracle limited its production of compensation data to employees in the Product Development, Support, and Information Technology job functions.

43. Attached hereto as Exhibit 40 is a true and correct copy of a letter from Laura Bremer to Erin Connell regarding data requests, dated February 15, 2019, in which I requested additional education data that Oracle possessed (since it produced such data in 2017 for employees in the PT1 job group as part of the hiring case), but had not produced in the data pertaining to HQCA employees in the Product Development, Support, and Information Technology job in connection with the compensation claims. Ultimately, Oracle produced the additional education data requested on May 30, 2019.

44. Attached hereto as Exhibit 41 is a true and correct copy of a letter from John Giansello to Charles Song regarding production of discovery related to Oracle's affirmative action plan documents, dated May 21, 2019.

45. Attached hereto as Exhibit 42 is a true and correct copy of the declaration of Dalia Sen, dated October 26, 2019.

46. Attached hereto as Exhibit 43 is a true and correct copy of a letter from Brian Mickel to Shauna Holman-Harries regarding production of employee complaints of discrimination, dated March 4, 2015 and produced by the Department with bates number DOL000001307-08.

47. Attached hereto as Exhibit 44 is a true and correct copy of an email from Brian Mickel to Shauna Holman-Harries regarding the list of employees OFCCP sought to interview

during its onsite visit, dated March 19, 2015 and produced by the Department with bates number DOL000001285-86.

48. Attached hereto as Exhibit 45 is a true and correct copy of a letter from Jane Suhr to Gary Siniscalco, dated April 15, 2015.

49. Attached hereto as Exhibit 46 is a true and correct copy of excerpts from the June 26, 2019 deposition of Jane Suhr.

50. Attached hereto as Exhibit 47 is a true and correct copy of an email from OFCCP to Erin Connell regarding production of its Affirmative Action Plan at HQCA, dated 03/11/19.

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

Executed on November 1, 2019 in San Francisco, California.



LAURA C. BREMER

Exhibit List in Support of OFCCP's Opposition to Oracle's Motion for Summary Judgment

Exhibits to the Declaration of Laura Bremer

Ex. #	Title	Date	BSN
OEx_1	Dep. of Joyce Westerdahl	5/30/19	-
OEx_2	PMK Dep. of Kate Waggoner in <i>Jewett v. Oracle Corp. Inc.</i> , Case No. 17-cv-02669 (Sup. Ct. San Mateo)	7/26/18	ORACLE_HQCA_0000400660-62, various non-sequential
OEx_3	Affirmative Action at Oracle	2015 Copyright	ORACLE HQCA 0000417320-58
OEx_4	Dep. of Madhavi Cheruvu	6/11/19	-
OEx_5	Dep. of Shauna Holman-Harries	5/8/19	
OEx_6	Decl. of Kirstin Hanson Garcia	9/20/19	
OEx_7	Decl. of Christina Kolotouros	9/19/19	
OEx_8	Dep. of Kate Waggoner under Rule 30(b)(6)	7/19/19	-
OEx_9	Decl. of Amit Sharma	10/25/19	
OEx_10	Decl. of Wilbur A. Colin McGregor	10/29/19	
OEx_11	Dep. of Juan Loaiza	6/14/2019	-
OEx_12	Decl. of Avinash Pandey	10/25/19	
OEx_13	Decl. of Diane Boross	10/30/19	
OEx_14	Decl. of Jill Arehart	10/24/19	
OEx_15	Decl. of Donna Kit Yee Ng	10/9/19	
OEx_16	Dep. of Lynne Carrelli	5/24/19	-
OEx_17	Dep. of Kate Waggoner	5/1/19	-
OEx_18	Position Criteria	4/2008	ORACLE HQCA 0000360865
OEx_19	New York Times, The Highest-Paid C.E.O.s of 2018: A Year So Lucrative, We Had to Redraw Our Chart	5/29/19	
OEx_20	Decl. Rachel Powers	10/1/19	
OEx_21	Decl. of Lynn Snyder	10/10/19	
OEx_22	Email from Zeira Singh to many people re LJE approved new college compensation package	8/25/16	ORACLE_HQCA_0000380453
OEx_23	Email from Chantel Dumont to Milton Liu and Les Cundall re Salary Guidelines	9/11/13	ORACLE_HQCA_0000012598
OEx_24	Email from Chantel Dumont to various people re college compensation for FY14	9/24/13	ORACLE_HQCA_0000023717
OEx_25	Email from Katie Rider to James Handley re College Hire Starting Salaries	4/16/15	ORACLE_HQCA_0000380671-73
OEx_26	Email from Chantel Dumont to Duhong Trinh re Intern Salary Rule	9/14/13	ORACLE_HQCA_0000012204-10
OEx_27	Email from Les Cundall to Elizabeth Lee re University Offer Approval Request	3/14/14	ORACLE_HQCA 0000011640-45
OEx_28	Email from Chantel Dumont to Satarupa Bhattacharya re University Offer Approval Request	5/17/13	ORACLE_HQCA_0000012173-83

Exhibit List in Support of OFCCP's Opposition to Oracle's Motion for Summary Judgment

OEx_29	Emails between Wendy Lee and ██████ re Oracle's MAP Program created by Larry Ellison	10/25/13	ORACLE_HQCA_0000036993-94
OEx_30	Decl. of Bhavana Sharma	3/24/15	
OEx_31	Dep. of Shauna Holman-Harries under Rule 30(b)(6)	8/1/19	
OEx_32	Dep. of Dr. Shirong Andy Leu	7/1/19	
OEx_33	Interview notes from Interview of John McGinnis	3/25/15	DOL 000000525-529
OEx_34	Interview notes from Interview of Marianna Gurovich	3/25/15	DOL 000000554-558
OEx_35	Holman-Harries Errata Sheet for 5/8/19 Dep.	6/10/19	
OEx_36	Letter from Erin Connell to Marc Pilotin and Laura Bremer re discovery production	10/11/17	
OEx_37	Email from Laura Bremer to Erin Connell re visa data discovery	10/11/17	-
OEx_38	Decl. Donna Rosburg	10/2/19	-
OEx_39	Letter from John Giansello to Norman Garcia	3/14/19	
OEx_40	Letter from Laura Bremer to Erin Connell re Data Requests	2/15/19	
OEx_41	Letter from John Giansello to Charles Song re AAP production	5/21/19	
OEx_42	Decl. Dalia Sen		
OEx_43	Letter from Brian Mickel to Shauna Holman-Harries re Complaints	3/4/15	DOL000001307-08
OEx_44	Email from Brian Mickel to Shauna Holman-Harries re: HQCA Interview List	3/19/15	DOL000001285-86
OEx_45	Letter from Jane Suhr to Gary Siniscalco	4/15/15	
OEx_46	Dep. of Jane Suhr	6/26/19	
OEx_47	Email from OFCCP to Erin Connell re production of AAPs at HQCA	03/11/19	

EXHIBIT E

EXHIBIT 8
TO
DECLARATION OF
BREMER ISO OFCCCP'S
OPPOSITION TO MSJ

CONFIDENTIAL

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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
v.)
) OFCCP No.
ORACLE AMERICA, INC.,) R00192699
)
Defendant.)
_____)

CONFIDENTIAL VIDEOTAPE RULE 30(B)(6) DEPOSITION OF:
KATE WAGGONER

PURSUANT TO NOTICE, the 30(b)(6)
videotaped deposition of KATE WAGGONER was taken on
behalf of the Plaintiff at U.S. Department of Labor,
1244 Speer Boulevard, Suite 515, Denver, Colorado, on
July 19, 2019, at 9:54 a.m., before K. Michelle Dittmer,
Registered Professional Reporter and Notary Public within
Colorado.

JOB No. 190719HGE

CONFIDENTIAL

1 A P P E A R A N C E S

2 For the Plaintiff:

3 CHARLES C. SONG, ESQ.
4 Senior Trial Attorney
5 U.S. Department of Labor
6 Office of the Solicitor
7 World Trade Center
8 350 South Figueroa Street, Suite 370
9 Los Angeles, California 90071-1202
10 Phone: 213-894-5365
11 Email: song.charles.c@dol.gov

12 NORMAN E. GARCIA, ESQ.
13 Senior Trial Attorney
14 U.S. Department of Labor
15 Office of the Solicitor
16 90 7th Street, Suite 3-700
17 San Francisco, California 94103
18 Phone: 415-625-7747
19 Email: garcia.norman@dol.gov

20 For the Defendant:

21 ERIN M. CONNELL, ESQ.
22 Orrick, Herrington & Sutcliffe L.L.P.
23 The Orrick Building
24 405 Howard Street
25 San Francisco, California 94105-2669
Phone: 415-773-5969
Email: econnell@orrick.com

JESSICA R.L. JAMES, ESQ.
Orrick, Herrington & Sutcliffe L.L.P.
400 Capitol Mall, Suite 3000
Sacramento, California 95814-4497
Phone: 916-329-4909
Email: jessica.james@orrick.com

Videographer: Peter Guinn

1 Q. -- correct?

2 Okay. And are you still the -- I'm sorry,
3 just, what is your -- your current title?

4 MS. CONNELL: Just for the record, she's
5 testifying on behalf of Oracle as to certain specified
6 topics, but I don't --

7 MR. SONG: Okay.

8 MS. CONNELL: -- know what questions
9 you're going to ask her, so I just want to make that
10 clear.

11 MR. SONG: Okay.

12 Q. (By Mr. Song) But can you just give us
13 your title, please.

14 A. Yes. My title is senior director, global
15 compensation.

16 Q. Okay. And you were previously the
17 director of global compensation --

18 A. Yes.

19 Q. -- at Oracle?

20 Okay. And I know you've been through this
21 before as well, but can you just give us a quick summary
22 of your duties?

23 A. Yes. So I am responsible for the -- any
24 program that involves compensation that has a global
25 focus, so my team runs the annual equity grant process

1 A. Okay.

2 Q. Yeah, that's pretty sufficient. Thank
3 you.

4 A. Yes.

5 Q. And who do you report to?

6 A. I report to Phil Jenish.

7 Q. Okay. And who are your reports?

8 A. I have -- I actually recently just gained
9 a large team from Romania, so I have another 24 that I
10 don't even know their names yes, because I've been on
11 vacation the last couple of weeks.

12 Q. Yeah.

13 A. But my -- my main direct reports for the
14 last many years are Shannon Montgomery, Nicki Hussain,
15 Qwynh Phan, Kris Crawford, and Amie Santone, and they all
16 take care of -- they all handle one of those different
17 areas. They work with me on different areas; each of
18 them has kind of a specialty of the topics that I
19 discussed. They have a specialty area that they --

20 Q. Okay.

21 A. -- that they work in.

22 Q. Okay. And have you -- have you been
23 deposed in this case before?

24 A. I have.

25 Q. Okay. Do you remember when?

1 Q. Okay.

2 MS. CONNELL: For the record, Counsel, you
3 have the errata for the transcripts, so . . .

4 MR. SONG: I just wanted to see what the
5 witness remembered.

6 Q. (By Mr. Song) How are compensation rules
7 set at Oracle?

8 MS. CONNELL: Objection. Assumes facts.
9 Vague and ambiguous. Lacks foundation.

10 A. What do you mean by "compensation rules"?

11 Q. (By Mr. Song) Okay. How about
12 compensation policies?

13 MS. CONNELL: Objection. Assumes facts.
14 Vague and ambiguous. Lacks foundation.

15 A. We don't really have compensation
16 policies. Our one policy related to compensation is the
17 prior pay policy.

18 Q. (By Mr. Song) Uh-huh.

19 A. Other than that, we do not have policies
20 at Oracle about compensation.

21 Q. Okay. So the one policy -- one
22 compensation policy you have at Oracle is regarding prior
23 pay. So can we talk about that?

24 A. Sure.

25 Q. Can you tell me what that policy is,

1 I named in the committee before.

2 Q. Okay. And these guidelines are
3 communicated and -- communicated to staff and managers
4 through trainings, correct?

5 A. Through the trainings, yes.

6 Q. Okay. And is there any other way that
7 they're implemented?

8 MS. CONNELL: Objection. Vague.

9 A. So not -- no, except that the -- I
10 would -- I would say that the -- the -- in consultation
11 with, the managers consult with their HR business
12 partners often when they're making -- making decisions
13 related to pay.

14 Q. (By Mr. Song) Okay.

15 A. And so as far as, you know, an official
16 implementation, other than the trainings themselves, not
17 really. But then when they go to consult with their HR
18 business partner, their HR business partner would speak
19 to what's also in the trainings as part of their guidance
20 when they have their conversations with the managers.

21 Q. Okay.

22 A. So not really implemented, but how it's
23 enforced and how it gets used --

24 Q. Okay.

25 A. -- would be via their consultation with HR

1 Q. Uh-huh.

2 A. We're now up in the 2018/2019. And so in
3 the last year, we absolutely did another campaign,
4 actually, on May 1, to say: These trainings are
5 available. Please make sure you use them. They contain
6 very valuable information for you in compensation-related
7 topics.

8 Q. Okay. And what do you mean by "campaign"?

9 A. By campaign, I mean, like, the marketing
10 of it. Like making sure --

11 Q. Okay.

12 A. -- we're out and loud and let everybody
13 know that it's available and direct them to where they
14 can go. That's what I mean by campaign. Like a
15 marketing campaign to say: --

16 Q. Okay.

17 A. -- Use this, it contains valuable
18 information.

19 Q. Okay. And are managers required to take
20 these trainings on guidelines?

21 A. The trainings are not required, no.

22 Q. Okay.

23 MS. CONNELL: For the record, you mean the
24 compensation guidelines, correct?

25 MR. SONG: Yes. Yeah. We're talking --

1 A. Yes.

2 MR. SONG: -- about compensation.

3 A. Sorry. Compensation guidelines. They are
4 not required to take the trainings, no.

5 Q. (By Mr. Song) Okay. And do you -- does
6 Oracle know what the participation rate is for managers?

7 A. Under -- in the -- in this 2011 version,
8 we do not know. We were not able to track that.

9 In the version that was released on May 1,
10 I am able to track that. I can see how many active users
11 have been in there and how many we have -- it -- like I
12 said, we moved up to 2018/2019 technology.

13 Q. Okay.

14 A. So I now can see how many have seen it,
15 how many have reviewed it --

16 Q. Okay.

17 A. -- and actively engaged in it, yes.

18 Q. Okay. And they're all done just
19 individually on -- on their own computers?

20 A. Correct.

21 Q. Okay. Does Oracle have group trainings,
22 like at, like, 10:00 a.m. on a Monday, everybody gets
23 together somewhere and has a training?

24 A. On those particular topics --

25 Q. Yes.

1 generally do not have that hire/fire, that kind of
2 authority.

3 Q. Oh, I see.

4 A. So M-1s, probably not. They -- they might
5 have people roll up to them, but we don't view them as
6 hire/fire manager types. That starts at M-2.

7 Q. Okay. M-2.

8 A. Uh-huh.

9 Q. All right. And can an M-1 decide
10 somebody's compensation or raise or --

11 MS. CONNELL: Objection. Incomplete
12 hypothetical. Calls for speculation.

13 A. Could an M-1 decide? I don't -- I don't
14 know. I don't know of specific scenarios. I suppose if
15 they have reviewed -- have been the main interviewer of a
16 candidate --

17 Q. (By Mr. Song) Uh-huh.

18 A. -- they could make that recommendation.
19 But that's not typically part of an M-1's responsibility.

20 Q. Okay. So it really starts at M-2 where
21 they decide compensation?

22 MS. CONNELL: Objection. Misstates her
23 testimony.

24 A. Like I said, the M-1 may have some input
25 into it, but generally, we don't -- as that supervisor

1 level is defined, they don't tend to have that hire/fire,
2 compensation decision type of authority.

3 Q. (By Mr. Song) All right. M-2s would have
4 the compensation authority --

5 MS. CONNELL: Objection --

6 Q. (By Mr. Song) -- or do have the
7 compensation authority?

8 MS. CONNELL: -- incomplete hypothetical.
9 Asked and answered.

10 A. Yes. That's the first-line manager when
11 they're hiring somebody.

12 Q. (By Mr. Song) Okay. If an M- -- so let's
13 say an M-2 makes a compensation decision. How many
14 levels of a review -- review, sorry, does it go up?

15 MS. CONNELL: Objection. Calls for
16 speculation. Incomplete hypothetical.

17 A. The -- anything regarding pay --

18 Q. (By Mr. Song) Uh-huh.

19 A. -- really would -- prior to -- we had the
20 accelerated hiring experience. I don't know if you're
21 familiar with that. That is one of the exhibits that are
22 here.

23 But in 2013, when this started up, until
24 fairly recently with the accelerated hiring experience,
25 it would go up every level. It would first go to an HR

1 representative, and then it would go to a compensation
2 person, and it would go up the whole chain, up to the
3 very top.

4 But once you reach, you know, the -- once
5 it goes through, like, HR and comp and then maybe one
6 level of manager, it's really -- it goes to the -- the
7 sanity check piece: Like, does this pass the sniff test?
8 They're not doing any real deep diving into anything. It
9 really is what that first-line manager has submitted --

10 Q. Okay.

11 A. -- just continues on up the road.

12 Q. Okay.

13 A. With accelerated hiring, it skips, now,
14 compensation and tends to go all the way up so that the
15 process happens as -- as it indicates, accelerated
16 hiring, everything moves much quicker.

17 Q. Uh-huh.

18 A. And so it goes up, but again, to the -- to
19 the CEO office. But again, it's really that sanity check
20 of making sure -- we've had -- we've had situations, for
21 example, where the CEO office realizes they missed a
22 comma, and then the salary they offered was, like, \$2,000
23 instead of 200,000 -- like, just things that --

24 Q. Yeah.

25 A. -- if they look too quickly --

1 A. Yeah, I do.

2 Q. Okay. And can you tell us what it is,
3 very quickly?

4 A. So it just outlines the approval levels
5 required for various kinds of changes submitted in
6 Workflow.

7 Q. Okay. And are approvals required for
8 compensation decisions?

9 A. Well, yes.

10 MS. CONNELL: Objection. Compound,
11 but . . .

12 A. It -- so on here, the -- when it comes to,
13 like, the assignment, one of -- about halfway down the
14 page, the assignment when it comes to some -- like job
15 change, I think in -- in my capacity here, the job codes
16 and the job changes would be part of compensation-ish,
17 and, you can see, it's one level up and then an HR is
18 required.

19 But when it comes to any changes in pay,
20 there's the -- when it -- dollars at the bottom of the
21 page.

22 Q. (By Mr. Song) Uh-huh.

23 A. All of this -- you'll see some of them --
24 so base salary increase goes all the way up through the
25 CEO office. But again, that's a cursory, a sanity

1 A. No.

2 Q. No?

3 A. No.

4 Q. When --

5 A. It varies.

6 Q. Okay. And how is it decided what time
7 they're going to happen?

8 A. It has to do with business conditions and
9 budget and when we can afford to do it.

10 Q. Okay. But it is annual?

11 A. Not necessarily.

12 Q. Okay. So what's the -- is it typically
13 annual?

14 A. No.

15 Q. No?

16 A. It's not.

17 Q. Okay.

18 A. It's not.

19 Q. Then what's the average kind of time frame
20 of when you guys do focals?

21 MS. CONNELL: Objection. Assumes facts
22 and vague.

23 A. I would say in the 14 to 18 months, maybe.
24 We've had a lot of different effective dates in the time
25 that I have been here, and we have had other years where

1 we have not had anything at all.

2 Q. (By Mr. Song) Okay. And then who decides
3 when to have them?

4 A. Our CEOs.

5 Q. And do you know how they decide?

6 A. It has to do with business conditions and
7 what we can afford at the time.

8 Q. Just those -- just those two things?
9 Like --

10 A. I don't know what else goes into their
11 head.

12 Q. Okay.

13 A. But that's what --

14 Q. Okay.

15 A. They are looking at Oracle globally and
16 what is in the best interest of the company.

17 Q. Okay. So once they decide they're going
18 to have a -- Oracle's going to have a focal review, what
19 do they do next? How do they implement it or how do they
20 get it done?

21 A. They let me know that we're going to do
22 it, and we -- we actually are -- we propose to them
23 country budgets, to say: Around the world, this is what
24 the budget should be per country, as a percentage of
25 eligible salaries.

1 A. I'm not sure of the word used for 1, if
2 it's "Unsatisfactory," or --

3 Q. Okay.

4 A. -- "Does not" -- might be "Does not meet."

5 Q. Does not meet.

6 Okay. And how are performance reviews
7 conducted at Oracle?

8 MS. CONNELL: Objection. Beyond the scope
9 of her PMK topics. Vague and ambiguous. Calls for
10 speculation.

11 You can answer, if you know, in your
12 personal capacity.

13 THE WITNESS: Yeah.

14 A. So will you repeat that question?

15 Q. (By Mr. Song) Sure.

16 I'm trying to learn more about performance
17 reviews and how they're conducted at Oracle.

18 MS. CONNELL: Same objections.

19 A. Performance -- so performance reviews,
20 first of all, aren't centrally mandatory. Some
21 organizations do them and some don't.

22 Typically, they would be done at the end
23 of a fiscal year, and our fiscal year ends May 31 of each
24 year. And managers may or may not conduct a formal
25 review and enter a rating for their employees and have a

1 A. Yeah. I would argue not necessarily,
2 because I know whether my employees are performing well
3 or not without doing a formal performance review. I, as
4 a manager, know whether they're good at their job or not
5 without having to do a -- document a formal review.

6 Q. (By Mr. Song) Okay. So performance
7 reviews are not required --

8 A. They are not.

9 Q. -- at Oracle?

10 Okay. Then who decides whether to do
11 performance reviews or not?

12 MS. CONNELL: Same objection. Outside the
13 scope.

14 A. That is kind of team-specific. Some teams
15 do them, some teams don't. Sometimes you might have an
16 M-6 who says their whole organization will do them.
17 Sometimes an M-3 may decide that they're going to do them
18 for their team. It is totally up to the discretion of
19 the leader.

20 Q. (By Mr. Song) Okay. And is there a
21 certain -- is there a certain time when performance
22 reviews are supposed to be conducted, like annually or
23 biannually or . . .

24 MS. CONNELL: Same objection. Outside the
25 scope. Assumes facts.

1 different reasons for it.

2 But I can't -- I can't get inside this
3 manager's head for why there wasn't more done.

4 Q. (By Mr. Song) Okay. And then just going
5 back to focal reviews for a minute.

6 You said some -- some employees get raises
7 during focal reviews and some don't. Do you have any
8 idea what the percentages are?

9 A. I really -- I really don't. Some years --
10 depending on the size of the budget, some years, it might
11 be ■■■■■ of our population; other years, it might
12 get up to ■■■■■ of the population. It can vary
13 quite drastically.

14 Q. Okay. Is that tracked?

15 A. Yes. Our -- our workforce compensation
16 tool does tell us what percentage was touched.

17 Q. Okay. And do you know, in 2019, what the
18 percentage was?

19 A. In this most recently completed?

20 Q. Yeah. Or yeah, I'm sorry. Maybe it
21 didn't happen in '19.

22 Maybe '18, or the most recent one?

23 A. Okay. The most recent one, I want to say
24 it was ■■■■■ ■■■■■ I don't know off the top of my head.

25 Q. Okay. And do you remember any previous

1 years or previous focal reviews?

2 A. Not off the top of my head --

3 Q. Okay.

4 A. -- I don't.

5 Q. But you think [REDACTED] for the most recent one?

6 A. I do think so.

7 Q. Okay. You think that was '18 or '19?

8 A. No, we just did it. It was effective
9 June 1 of this year. We didn't have one in 2018.

10 Q. Okay.

11 A. I'm sorry. We had an increase effective
12 June 1 of 2018. The process was -- the whole going
13 through the process was done in late 2017 --

14 Q. Okay.

15 A. -- for effective January 1 of 2018. And
16 then during 2018, we did not have a process at all. We
17 didn't start one again until this spring of 2019.

18 Q. Okay. And then you mentioned budgets,
19 like lean budgets and things like that. So I wanted to
20 talk about the role of budgets in setting pay for
21 employees.

22 So can you tell us about the budget
23 process for -- for paying employees?

24 MS. CONNELL: Objection. Assumes facts.
25 Lacks foundation. And she's already testified about the

1 A. Say her top -- her overall percentage
2 globally is 3.8 percent.

3 Q. Okay.

4 A. Depending on the area that we're talking
5 about, she might say -- you know, or actually, what I --
6 what I usually start to do for her is model -- go back
7 into the countries, because she might have a leader who
8 has a much larger population in India where that country
9 percentage was 9 percent, and so maybe she would say,
10 "Give them 5.7 because they've got U.S., they've got
11 India, they've got people all over the world."

12 So she makes the decision for the next
13 level down --

14 Q. Okay.

15 A. -- what their budget would be, and then
16 those reports make their decision for the next level
17 down.

18 Q. Okay.

19 A. It goes, usually, one level at a time.

20 Q. Okay. So if you're at the bottom level,
21 like the M-2 or M-1, you don't have any say in, like
22 changing the budget or anything like that?

23 MS. CONNELL: Objection. Misstates --

24 Q. (By Mr. Song) You're stuck with it?

25 MS. CONNELL: Objection. Misstates her

1 testimony.

2 A. I wouldn't say you're stuck with it.

3 Q. (By Mr. Song) Okay.

4 A. Some -- sometimes -- and the budget
5 cascading might stop at varying levels. Sometimes an M-2
6 will get a budget, sometimes they won't.

7 Sometimes -- they can enter in increases
8 for people without having a budget in their -- in their
9 module. They could make recommendation. They could
10 enter that in without having -- having a budget given to
11 them.

12 Because sometimes you might get to, like,
13 say the director level and they're going to say, "My
14 budget is \$100,000. I'm going to hold it at my level,
15 but let everybody else make the input. And then in the
16 end, it's going to all work within my budget."

17 So it varies at what level they get them.

18 Q. Uh-huh.

19 A. When you say, "Is the M-2 then stuck with
20 that budget," not necessarily, because many of the
21 leaders hold some in reserve, knowing --

22 Q. Oh, okay.

23 A. -- that they will have people who say, "I
24 have this situation, and the budget you gave me isn't
25 going to be enough to rectify the situation. Could I

1 at Oracle.

2 A. Okay.

3 Q. Is that -- I guess my first question, is
4 that part of the focal process as well? Because we saw
5 it in one of the forms.

6 A. Yeah. The bonus is -- so for most
7 employees in product development for the -- and for -- in
8 IT and support, it's for the employees who are not
9 eligible for overtime. There is what's called -- what we
10 call the corporate bonus program, and that is another one
11 that is funded based on fiscal year results.

12 And since the 2013, this time period
13 started, we've had incredibly lean corporate bonus
14 budgets.

15 Q. Okay.

16 A. We don't know for --

17

18

19 Q. Okay.

20 A. There wasn't one for FY '18. There was a
21 tiny one for FY '17.

22 Q. And does performance or product, any of
23 those things, factor into bonuses?

24 MS. CONNELL: Objection. Incomplete
25 hypothetical.

1 more.

2 Q. Okay. And at the -- at the manager level,
3 when they're actually making the bonus decisions, how are
4 they doing that? Is it just up to their discretion?

5 MS. CONNELL: Objection. Calls for
6 speculation.

7 A. The -- the corporate bonus program is a
8 discretionary program. It's manager input.

9 Q. (By Mr. Song) Okay. So the -- the manager
10 gets to decide how much to -- how much and who to give it
11 to?

12 A. Yes.

13 Q. Okay. And are there guidelines for the
14 manager on how to, you know, distribute bonuses?

15 A. In our compensation guidelines and when
16 we've had bonuses, we do speak to being sure --
17 refreshing managers on how they should really focus on
18 the people who had an outstanding year or maybe they
19 contributed to a really critical project that year, but
20 just sort of highlighting -- our guidelines highlight for
21 them, especially in years of lean budget -- which is what
22 we've had for the last many years -- specifying for them,
23 "Remember to focus on the people who are" -- done -- so
24 who contributed in that particular fiscal year to the
25 most important things.

1 Q. The -- so the same managers who are doing
2 the salary and the bonus?

3 A. So let me -- let me rephrase -- let me
4 step back.

5 So it's the same program, it's the same
6 workforce compensation module. Equity is held at a much
7 higher level at Oracle. We don't -- while everyone IC-1
8 and above is eligible to receive equity, it's only about
9 20 percent of our global population actually get equity
10 and so the budgets --

11 Q. Okay.

12 A. -- and the decisions are made much higher.

13 Q. Okay.

14 A. It doesn't go down to, like, the [REDACTED] and
15 the [REDACTED]. It's generally more [REDACTED] and above, probably,
16 who make those decisions because it really is about the
17 retention of our higher-level, critical,
18 key-to-maintain -- or key-to-retain employees that end up
19 getting equity.

20 Q. Okay. And are all employees eligible for
21 equity?

22 A. Yes.

23 Q. Okay. So it doesn't matter if your IC
24 or --

25 A. IC-1 and above.

1 Q. Okay.

2 A. Not IC-0s. IC-1 and above, they're
3 eligible to receive it.

4 Q. And do you know if IC-1s do get stock
5 options?

6 A. We have some of them who do.

7 Q. Okay. And do you know -- have any idea
8 what the percentage is?

9 A. [REDACTED].

10 Q. [REDACTED]

11 A. [REDACTED] Our IC-1s, I will say most of the
12 IC-1s that we see who get it are the -- like the
13 [REDACTED] of some of our [REDACTED].

14 Q. Okay.

15 A. Because they are pretty critical-to-retain
16 employees, so . . .

17 Q. Okay.

18 A. And they fall into that IC-1 category.

19 Q. Okay. What level do employees really
20 start to take -- take advantage of the stock options?

21 MS. CONNELL: Objection. Vague. Calls
22 for speculation.

23 A. What do you mean at what level do they
24 start --

25 Q. (By Mr. Song) So -- so --

1 A. -- to take advantage?

2 Q. -- you said at IC-1, it's a [REDACTED]
3 percentage?

4 A. Uh-huh.

5 Q. Is it at a IC-4 where, you know, maybe 50,
6 60 percent start getting --

7 MS. CONNELL: Object --

8 Q. (By Mr. Song) -- the stock options?

9 MS. CONNELL: Objection. Assumes facts --

10 Q. (By Mr. Song) Just --

11 MS. CONNELL: -- vague and ambiguous.

12 A. So it depends.

13 Q. (By Mr. Song) Okay.

14 A. It very much depends on the function and
15 what the role is. In some organizations, they might --
16 it's only [REDACTED]s and [REDACTED] and then [REDACTED] and above. In
17 other organizations, they may decide they've got some
18 critical retain -- critical retentions down at the [REDACTED]
19 level. It really depends. It varies drastically.

20 Q. All right. And for bonuses and stocks, do
21 you guys do trainings on those programs?

22 A. Yes.

23 Q. Okay. And there are specific guidelines
24 that you're training about during those trainings?

25 A. Yes.

1 bonus.

2 Q. Oh, okay. What about in terms --

3 A. And --

4 Q. -- of just general -- generally -- so what
5 about just generally?

6 MS. CONNELL: Objection. Vague and beyond
7 the scope of the topics for which she's been designated
8 to testify.

9 A. So if we're talking about focal and
10 equity -- or focal and bonus budgets, focal budgets have
11 been fairly lean, too. We've had a good last few years
12 of at least having something.

13 Q. (By Mr. Song) Uh-huh.

14 A. The bonus budgets have been very rare and
15 very small when we've had them.

16 Q. Okay. And this has been since about 2013?

17 A. I -- like I said, I don't recall --

18 Q. Okay.

19 A. -- off the top of my head. It -- it
20 probably predates 2013 even.

21 Q. All right. You also mentioned robbing
22 Peter to pay Paul?

23 A. Yeah.

24 Q. And I -- I've heard and seen that before.

25 A. Yes.

1 just know, you know, of the -- when we have had focals in
2 the U.S. in the last decade --

3 Q. (By Mr. Song) Uh-huh.

4 A. -- a [REDACTED] percent -- or [REDACTED]
5 [REDACTED] budget is really all we've been getting.

6 Q. Okay.

7 A. So [REDACTED]

8 Q. Okay. So if some -- if the [REDACTED] -- or the
9 budget was [REDACTED], would most employees be
10 getting [REDACTED]

11 MS. CONNELL: Objection. Misstates her
12 testimony. Assumes facts.

13 And I want to designate this section as
14 confidential.

15 A. No, because I stated that not everybody
16 gets a focal.

17 Q. (By Mr. Song) Okay.

18 A. I believe I said it was in the --

19 Q. Yes.

20 A. -- [REDACTED] -- [REDACTED] or --

21 Q. That's correct.

22 A. -- I forget what my range was. [REDACTED]
23 over the course of how many years. So if somebody gets
24 [REDACTED] obviously that means a couple people get nothing.

25 Q. Uh-huh.

1 dependent on both the -- or partly dependent on both the
2 market survey, as well as kind of internal peer groups,
3 comparison to internal peer groups?

4 A. No.

5 MS. CONNELL: Objection. Misstates her
6 testimony.

7 Q. (By Mr. Song) Okay. I'm sorry. Then --

8 A. The salary range is only based on market
9 data.

10 Q. Only market data. Okay.

11 A. Our salary ranges are built specifically
12 using market data.

13 Q. Okay. So then in deciding the -- the
14 salary to offer, that's where you take into consideration
15 the internal peer groups?

16 A. Correct.

17 Q. Okay. All right.

18 A. Yeah.

19 Q. I think -- I think I got it. Sorry.

20 So you mentioned that there were lean
21 years. You weren't sure exactly how far it went back,
22 but the last couple of years, there have been some lean
23 years.

24 Has Oracle been able to -- to keep pace
25 with market rates in those lean years?

1 MS. CONNELL: Objection. Vague and
2 ambiguous. Beyond the scope of the PMK topics.

3 A. I guess what -- what -- I'm not sure where
4 you're getting -- what do you mean by that?

5 Q. (By Mr. Song) So because Oracle was
6 experiencing some lean years, were they able to continue,
7 you know, paying its employees at market rates? Or did
8 they have to go below market rates because of the lean
9 years?

10 MS. CONNELL: Same objections.

11 A. Well, what I mean by "lean years" is
12 little to no focal budget.

13 Q. (By Mr. Song) Uh-huh.

14 A. So if you give -- if we give little to no
15 focal budget, naturally we're not keeping up with the way
16 the market has grown.

17 Q. Okay. And in -- in making a job offer
18 to -- a salary offer -- or a salary offer to a new hire,
19 is there a cap on what Oracle will offer?

20 A. A cap in what? Like, what do you mean?

21 Q. So, for example, is there a percentage cap
22 over what that employee -- that potential new hire's
23 current salary is?

24 MS. CONNELL: Objection. Incomplete
25 hypothetical.

1 STATE OF COLORADO)
) ss.
2 CITY & COUNTY OF DENVER)

3 I, K. Michelle Dittmer, a Registered
4 Professional Reporter and Notary Public within the State
5 of Colorado, do hereby certify that previous to the
6 commencement of the examination, the said deponent was
7 duly sworn or affirmed by me to testify to the truth.

8 I further certify this deposition was taken in
9 shorthand by me at the time and place herein set forth
10 and thereafter reduced to typewritten form, and that the
11 foregoing transcript constitutes a true and correct
12 record.

13 I further certify that I am not related to,
14 employed by, nor of counsel for any of the parties or
15 attorneys herein, nor otherwise interested in the result
16 of the within action.

17 My commission expires: April 13, 2020.

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25

K. Michelle Dittmer
Registered Professional Reporter
Notary Public

EXHIBIT F

EXHIBIT 10
TO
DECLARATION OF
BREMER ISO OFCCCP'S
OPPOSITION TO MSJ

1 JANET M. HEROLD
Regional Solicitor
2 LAURA C. BREMER
Acting Counsel for Civil Rights
3 IAN H. ELIASOPH
Counsel
4 M. Ana Hermosillo
Trial Attorney
5 United States Department of Labor
6 Office of the Solicitor
300 5th Street, Suite 1120
7 Seattle, WA 98104
Telephone: (206) 757-6751
8 Facsimile: (206) 757-6761
9 Email: Hermosillo.Mary.A@dol.gov

10 Attorneys for Plaintiff, Eugene Scalia, Secretary
United States Department of Labor

12 **OFFICE OF FEDERAL CONTRACT) Case No.: 2017-OFC-00006**
13 **COMPLIANCE PROGRAMS, UNITED)**
14 **STATES DEPARTMENT OF LABOR) DECLARATION OF WILBUR A. COLIN**
14 **MCGREGOR**
15 Plaintiff,)
15 V.)
16 **ORACLE AMERICA, INC.)**
17 Defendant.)
18)
19)
20)

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1 I, Wilbur A. Colin McGregor, state and declare as follows.

2 1. I am providing this declaration pursuant to a request from the U.S.
3 Department of Labor, Office of the Solicitor.

4 2. I identify as a Black male of mixed descent and I worked for Oracle America,
5 Inc. at the Redwood Shores facility from approximately the summer of 1993 to the present. I
6 have personal knowledge of the matters stated herein and, if necessary, I could and would
7 testify to the facts stated below.

8
9 3. I generally go by my middle name Colin.

10 4. I obtained a Bachelor's degree from the Massachusetts Institute of
11 Technology. While I majored in computer science, I also obtained a minor in writing.

12
13 5. I originally came to Oracle through its college recruiting program. Prior to
14 being hired by Oracle, I had worked for a little less than a year as a software developer at an
15 investment bank.

16
17 6. I was hired by Oracle as a Technical Writer, an IC 2 position. In around 1997,
18 I was promoted to Senior Technical Writer, an IC 3 position. I was promoted to Technical
19 Writer Manager I, an M2 position in 2002. I became a Technical Writer Senior Manager, an
20 M3 position, in around 2006. In 2014, I was promoted to Technical Writer Director, an M4
21 position. In around 2016, my job duties expanded in scope, whereas before I was
22 responsible for managing documentation, I became responsible for managing documentation,
23 curriculum and other learning assets. I currently hold the position of Director of User
24 Assistance, a position I have held since early 2019. All of my positions have been within
25 Product Development.

26 7. As a User Assistance Director, I manage content development for Oracle
27 database products, including Oracle database, autonomous database, and recovery appliance.

1 As User Assistance Director my duties generally include: ensuring that my team develops
2 new feature content according to product release milestones; managing special projects that
3 expose our content to customers; hiring new employees, administering employee appraisals,
4 issuing performance improvement plans in consultation with Human Resources and upper
5 management; and providing guidance to my upper management team as to the current
6 internal processes and how these processes may be improved.

7
8 8. As a manager, I have managed anywhere between four and twelve people.
9 Currently, I have approximately eight employees reporting to me. The employees under me
10 were traditionally referred to as technical writers. However, in around 2018, their titles were
11 changed to User Assistance Developers. Generally speaking, these employees are
12 responsible for creating technical content, which includes documentation, curriculum,
13 tutorials, and other learning assets. I typically use a program called ST Project to delegate
14 which Oracle database features a particular UA developer on my team will work on. ST
15 Project is a project tracking tool that lets employees know their assignments, and lets me
16 know their progress on those assignments.

17 9. While I did not receive an appraisal every year, when I did, I would normally
18 receive an overall rating of four – exceeds expectation or five – outstanding. However,
19 despite my well-received work as a manager, I am not the highest paid individual on my
20 team. Currently, two of the employees who report to me are paid more: [REDACTED] and
21 [REDACTED]. Up until in around June of 2019, a third employee who I supervise was also
22 paid more than me: [REDACTED]. After 2019 focal, [REDACTED] and [REDACTED] continued earn than me.
23 Currently, [REDACTED] earns approximately \$2,600 more than me. [REDACTED] earns approximately
24 \$1,100 more than me. Prior to the 2019 focal review, [REDACTED] earned approximately \$3,100
25 more than me. [REDACTED] started earning more than me in 2017. I only started managing [REDACTED]
26 and [REDACTED] and that was when I became aware of their pay. [REDACTED] and [REDACTED] were
27 [REDACTED] from a different [REDACTED] team. Their titles and their pay did not change

1 upon transfer to my team. I have the skills and abilities to do the work that [REDACTED] and
2 [REDACTED] currently do. [REDACTED] and [REDACTED] are primarily responsible for [REDACTED]. I
3 used to write [REDACTED] when I was a Senior Technical Writer. [REDACTED] has created some
4 [REDACTED] as part of his work, but I assisted him in doing this. I also have written code to
5 develop documentation production tools to augment our tooling in User Assistance. In
6 comparison to [REDACTED] and [REDACTED] my ability to code is the most utilized to my knowledge.
7 [REDACTED] are [REDACTED]

8
9 10. Up until approximately 2016, I did not recommend who on my team would
10 receive a raise. I was merely told who was getting a raise and how much. The pools for
11 raises on my team was typically around \$8,000 or less, and the raises were only distributed to
12 the top performers on my team, usually three or four people. It was my job to rate the
13 members of my team, before the pool was allocated. I could see in the system that only three
14 or four employees received raises. I could also tell that these individuals were the employees
15 to whom I had given the highest ratings.

16 11. After 2016 until 2019, the raise pool stayed about the same, but I was given
17 the authority to recommend who on my team should receive a raise, and how much of the
18 pool. I remember getting guidance that I could not give a raise that was less than \$1,000. I
19 was told that they wanted to avoid peanut butter spreading – where you try to evenly
20 distribute the raise to all or most of the team. This was something I heard from my upper
21 managers prior to 2016.

22 12. During all time I was a manager, except for this year, the raise pool was small
23 and not determined by me. I did not have the ability to recommend a pay raise that would fix
24 an employee's pay if their pay was too low either in my opinion given the work they
25 performed and/or as indicated by their compensation ratio given by Oracle's compensation
26 application. For example, in the past I had employees who were below their range for their
27

1 positions. Distributing a small raise of \$2,000 was not going to bring these employees within
2 the range.

3
4 13. This year, 2019, during the focal review, I was given a much larger pool than I
5 normally get to distribute. The 2019 pool for my team started as \$30,000. In addition, there
6 was no guidance as to how many employees or the minimum amount any employee should
7 receive as their had been in the past. After I entered my raise into the system, I noticed that
8 the raise distributions I had recommended changed. In fact, this happened twice. I noticed
9 that [REDACTED], who was already paid more than me, and who I recommended receive over a
10 \$5,000 raise, received more money, not once, but twice as the approvals went up the chain.
11 In the end, [REDACTED] raise had almost doubled my recommendation and was just \$500 less than
12 the raise I received this year. I also noticed that the pool of money to be distributed had
13 grown. By the time the raises had received final approval, approximately \$6,000 had been
14 added to the pool.

15 14. I want to be clear that I am glad that the raise pool this year was so big. I
16 think the ability to recommend sizeable raises, and to be able to recommend distribution
17 across all of my team is a good thing. I sincerely hope this continues.

18 15. During the focal review this year, I raised the issue of [REDACTED] being paid more
19 than me to my manager, Senior Director User Assistance Roland McLeod. After I learned
20 what my raise was going to be, and learned the final raise amount for [REDACTED] I brought up the
21 issue of my pay as it compared to my direct reports. He responded: If it were me, I would
22 have given you the extra four thousand that went to [REDACTED]

23
24 16. I have been trying to get a promotion for the last few years. As I understand
25 it, in order to get a promotion, I need to manage other managers. I also wanted to increase
26 the size of the team. One of my proposals was to have my team merge with that of JF
27 Verrier, another manager out of Oracle's office in France because we work on similar

1 technologies. I wanted to lead the merged team. Instead, I was effectively demoted and put
2 under another manager.. I noticed however, one of my white peers was not effectively
3 demoted as his reporting structure stayed the same. I found this move strange because I was
4 moved under a manager who was not directly involved in core Oracle database content
5 development. It would have made more sense, at a minimum, for me to me to manage JF
6 and his team. I was told that the reason for this move was being made because Roland
7 wanted to combine all of Autonomous Database User Assistance together under one roof.
8 Since I was already managing Autonomous Transaction Processing Content Development,
9 this could have been done by moving the Autonomous Data Warehousing Content
10 Development to my team, instead of my entire team going to a different team.

11 17. In my 26 years at Oracle, I can only recall having known of three other Black
12 employees to work in Technical Writing.

13
14 18. I declare under penalty of perjury under the laws of the United States that the
15 foregoing is true and correct.

16 Executed on October 29, 2019, in San Jose, California,

17
18 

19 _____
20 Wilbur A. Colin McGregor

EXHIBIT B
NOTICE OF RIGHTS AND AGREEMENT TO ORDER REGARDING MATERIAL
DESIGNATED CONFIDENTIAL

The U.S. Department of Labor's Office of Federal Contract Compliance Programs ("OFCCP") has filed a lawsuit against Oracle America, Inc. ("Oracle") alleging that Oracle has engaged in discriminatory employment practices at its Redwood Shores facility on account of race and sex. Specifically, OFCCP alleges that, with respect to certain specific job categories, Oracle has discriminated against its female, African American, and Asian employees in compensation and has discriminated against its African American, Hispanic and White applicants in hiring.

You have been provided information that Oracle has disclosed as part of that lawsuit and has designated as "Confidential" because the company believes the information constitutes (1) trade secrets or confidential commercial information; or (2) personnel records the disclosure of which would be an invasion of personal privacy. This information is subject to the attached Order by the U.S. Department of Labor Office of Administrative Law Judges. By signing below, you declare under penalty of perjury that you have read the attached Protective Order, that you agree to comply with and to be bound by all the terms of the Order, and promise not to disclose any information or item that is subject to this Order to any person or entity except in strict compliance with the provisions of this Order. You further agree to submit to the jurisdiction of the U.S. Department of Labor Office of Administrative Law Judges for the purpose of enforcing the terms of the Protective Order, even if such enforcement proceedings occur after termination of this Order. Your agreement is limited to the specific information Oracle has identified as confidential, and you retain rights protecting your ability to discuss your experiences in applying to or being employed by Oracle. You have the right to discuss your experiences with Oracle with law enforcement agencies and legal counsel of your choosing. If you are a current or former Oracle employee, you also have the right to discuss the terms and conditions of your employment with your Oracle colleagues.

In addition, Oracle may not intimidate or harass you, threaten or interfere in any way, or take any other adverse actions against you for talking or having talked to anyone at the Department of Labor about Oracle's employment practices, giving testimony in the case that OFCCP has brought against Oracle, or otherwise participating in the administrative proceedings and litigation under the Executive Order. In other words, no adverse actions can be taken against you for talking or having talked to anyone at the Department of Labor, for giving testimony in the case that OFCCP has brought against Oracle, or for otherwise participating in the administrative proceedings brought by OFCCP. If you feel that Oracle has in any way interfered with your ability to do so or has harassed, intimidated, threatened, coerced, or discriminated against you for doing so, please contact the Department of Labor.

Date: 10/29/19
City and State where sworn and signed: San Jose, CA
Printed name: Wilbur A.C. McGregor
Signature: 

EXHIBIT G

EXHIBIT 11
TO
DECLARATION OF
BREMER ISO OFCCCP'S
OPPOSITION TO MSJ

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UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES

OFFICE OF FEDERAL CONTRACT) OALJ Case No.
COMPLIANCE PROGRAMS, UNITED) 2017-OFC-00006
STATES DEPARTMENT OF LABOR,)
) OFCCP No.
Plaintiff,) R00192699
)
vs.)
)
ORACLE AMERICA, INC.)
)
Defendants.)
_____)

VIDEOTAPED DEPOSITION OF JUAN LOAIZA
San Francisco, California
Friday, June 14, 2019

Reported by:
Ashley Soevyn,
CSR No. 12019
Job No. 190614ASE

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UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES

OFFICE OF FEDERAL CONTRACT) OALJ Case No.
COMPLIANCE PROGRAMS, UNITED) 2017-OFC-00006
STATES DEPARTMENT OF LABOR,)
) OFCCP No.
Plaintiff,) R00192699
)
vs.)
)
ORACLE AMERICA, INC.)
)
Defendants.)
_____)

Videotaped Deposition of Juan Loaiza
taken on behalf of the Plaintiff, U.S. Department of
Labor Office of the Solicitor, at 90 7th Street,
San Francisco, California, beginning at 9:18 a.m.
and ending at 4:18 p.m. on Friday, June 14, 2019,
before ASHLEY SOEVYN, Certified Shorthand Reporter
No. 12019.

1 A P P E A R A N C E S

2
3 For the Plaintiff OFCCP

4 U.S. DEPARTMENT OF LABOR

5 OFFICE OF THE SOLICITOR

6 BY: NORMAN E. GARCIA

7 BY: KIESHA N. COCKETT

8 Attorneys at Law

9 90 7th Street

10 San Francisco, California 94103

11 E-mail: garcia.norman@dol.gov

12 E-mail: cockett.kiesha.n@dol.gov

13 Phone: (202) 693-5299

14
15 For the Defendant Oracle America, Inc.

16 ORRICK HERRINGTON & SUTCLIFFE

17 BY: ROBERT S. SHWARTS

18 BY: KAYLA DELGADO GRUNDY

19 Attorneys at Law

20 405 Howard Street

21 San Francisco, California 94105

22 E-mail: rshwarts@orrick.com

23 E-mail: kgrundy@orrick.com

24 Phone: (415) 773-5760

25 ALSO PRESENT: Marcus Majors, Videographer

09:24:41 1 Q Again, congratulations. That's rare
2 these days.
3 What is your current position?
4 A My current position is senior vice
09:24:48 5 president of mission critical databases.
6 Q And how long have you held that position?
7 A I need to correct that. Executive vice
8 president of -- of mission critical databases.
9 Q Oh, congratulations.
09:25:06 10 A That has been since around December.
11 Q Of 2018?
12 A Correct.
13 Q And what --
14 A Before that, I was senior vice president.
09:25:13 15 Q Okay. Again, congratulations.
16 How long did you hold that senior vice
17 president position?
18 A I honestly don't remember.
19 Q Can you estimate?
09:25:26 20 A Roughly ten years.
21 Q That's fine. I'm just trying to get a --
22 A Yeah.
23 Q -- a feel --
24 A Yes.
09:25:30 25 Q -- for it. I'm not going to say, okay,

09:25:32 1 it was December 31st, 2008.

2 Okay. So what is your current -- do you
3 know what a global career level is?

4 A Yes.

09:25:45 5 Q What is your current global career level?

6 A I --

7 Q Are you an M8?

8 A I think it's M8.

9 Q Okay.

09:25:54 10 A I think that's correct.

11 Q Thank you.

12 And what is your current job specialty?

13 A My job specialty is engineering of
14 database technologies.

09:26:05 15 Q And what line of business are you in?

16 A It's a database business.

17 Q Are you in a formal organization like
18 product development as a line of business?

19 A Yes, it's -- our engineering or product
09:26:18 20 development organization. That's correct.

21 Q Okay. Thank you.

22 People call it different names.

23 A Yes.

24 Q That's just why I'm trying to clarify it.

09:26:25 25 And when you were the senior vice

09:36:58 1 Q Yes.

2 A I am [REDACTED].

3 Q And by "[REDACTED]," do you mean

4 [REDACTED]

09:37:11 5 A That's correct.

6 Q Okay. I'm -- I'm going to read you

7 what's in this, and again I'll stop at each sentence

8 and ask you if it's true.

9 You've been in the same organization

09:37:24 10 since you started; is that correct?

11 A That's correct.

12 MR. SHWARTS: You're asking him as of

13 today? I mean, I'm just --

14 MR. GARCIA: I'm ask --

09:37:30 15 BY MR. GARCIA:

16 Q My questions are going to be as of

17 March 25th, 2015.

18 Do you understand that?

19 A Yes.

09:37:36 20 Q Until I state otherwise.

21 And at that time that you were

22 interviewed on March 25th you were senior vice

23 president for five to ten years, correct?

24 A That's correct.

09:37:51 25 Q And you were managing the same

09:38:02 1 organization when your title changed from VP to
2 senior VP, correct?

3 A Yeah, my organization did not change when
4 my title changed.

09:38:12 5 Q Okay. And you were doing the same thing
6 both when you were VP and the senior vice president,
7 correct?

8 A Yeah. On the day my -- you know, my --
9 my role has changed over years somewhat.

09:38:23 10 Q Okay.

11 A But on the day that my title changed from
12 VP to senior VP, my role did not change. Over that
13 '88 to 2000 -- whatever it was -- '15, my role has
14 changed.

09:38:41 15 Q Okay. And at that time did you report to
16 Andrew Mendelson, executive vice president of
17 database technology?

18 A Yes, I did.

19 Q And had you been reporting to him since
09:38:51 20 around the year 2000?

21 A Yes, that's correct.

22 Q And above Mr. Mendelson was Thomas
23 Kurian, who was the president of product development
24 at that time?

09:39:05 25 A I'm not a hundred percent sure his title

09:39:07 1 was president, but I was reporting to Thomas Kurian
2 at that time --

3 Q Okay.

4 A -- through -- through Andrew Mendelson
09:39:13 5 through Thomas Kurian.

6 Q Okay. And then you started your
7 employment at Oracle as a member of technical staff,
8 correct?

9 A That's correct.

09:39:22 10 Q Then you went to senior member of
11 technical staff, correct?

12 A Yes, that's correct.

13 Q And then you went to a manager?

14 A Correct.

09:39:30 15 Q And then you went to a director after
16 that, correct?

17 A Correct.

18 Q And you went to, then, a senior director;
19 is that correct?

09:39:43 20 A I believe that's correct.

21 Q And then you went to a vice president and
22 senior vice president, correct?

23 A Yes, that's correct.

24 Q Now, when you applied, did you apply to
09:39:54 25 be an engineer or did you apply for a specific title

09:39:59 1 of a position?

2 A I applied to be an engineer.

3 Q And when a person comes into the company,
4 do they know what title they are applying for?

09:40:16 5 MR. SHWARTS: Objection. Vague as to
6 time. As of March 20 -- March of 2015?
7 BY MR. GARCIA:

8 Q I'm first asking when you came in.
9 MR. SHWARTS: I'm sorry. Okay.

09:40:27 10 THE WITNESS: Probably not. Probably not
11 because the titles tend to be very corporate
12 specific, and it doesn't mean anything to the
13 applicant.
14 BY MR. GARCIA:

09:40:37 15 Q Right.
16 And the titles, like the principal member
17 of technical staff, that's a discretionary title,
18 right?
19 A Correct.

09:40:44 20 Q It's not what's in the system -- it's not
21 what's referred to as a systems title, correct?
22 A I'm not sure what a systems title is.
23 Q Fair enough.
24 Is that the case in 2015 in March when
09:40:57 25 you were interviewed, that people don't know what

09:56:14 1 master's and Ph.D's.

2 BY MR. GARCIA:

3 Q Did you prefer one degree over another?

4 A Generally we looked at master's a little
09:56:29 5 more than bachelor's.

6 Q Okay. I -- I'm going to read from this
7 statement and ask you if what I read is true at the
8 time, again in March 2015, quote:

9 "We prefer master's degrees, people
09:56:41 10 from top universities because they tend
11 to do a better job. A high GPA is
12 preferred in college recruiting." End
13 quote.

14 Is that a true statement at the time?

09:56:54 15 A Yeah, I believe so.

16 Q Okay. When you're reviewing a person for
17 the approval process, what are you specifically
18 looking at when you're reviewing the approval to
19 make a decision for the approval?

09:57:24 20 A The primary things I'm looking at is, are
21 we in fact hiring -- you know, do we have -- are we
22 trying to hire in the area that the person's -- you
23 know, the candidate is being proposed for; the
24 expertise of the person; the education of the
09:57:44 25 person; and the compensation of the person -- I'm

09:57:48 1 sorry, the proposed compensation of the person.

2 Q Thank you.

3 I was not clear in my question, so I
4 apologize.

09:57:57 5 A Yes, yeah.

6 Q I'm interested in what documents you're
7 looking at. What would you be looking at?

8 A I'm looking at -- we have a formal
9 approval process, so the primary document that I'm
09:58:10 10 looking at is what comes as part of that formal
11 approval process.

12 Q And what information is in that document?

13 A The name, degree, proposed salary,
14 comments from the hiring manager on what position
09:58:28 15 this person is going to fulfill, comments from the
16 hiring manager on what the expertise of the person
17 is. We have the resume. We have comments from
18 interviewers of that person. And we also have
19 comments from references from that person.

09:58:47 20 Q So I'm going to read you another
21 statement from the document of Exhibit 78 which is
22 purported to be their interview of you. So when it
23 says "I," it would be implicating you.

24 So it says, quote:

09:59:10 25 "The market is the primary factor in

09:59:15 1 these things. What is the market to
2 get this person? When I review the
3 candidate, I get documents that show
4 the resume, interview notes and current
09:59:25 5 compensation. I'll look at what the
6 manager is offering and either approve
7 or reject." End quote.

8 Is that a true statement?

9 MR. SHWARTS: Objection. Lack of
09:59:35 10 foundation. Just focus on the substance of his
11 question --

12 THE WITNESS: Yeah.

13 MR. SHWARTS: -- and answer whether or
14 not this statement that was made was accurate at the
09:59:42 15 time.

16 THE WITNESS: I do not believe that's
17 accurate. So what I get is not the current
18 compensation. I get the proposed compensation.

19 BY MR. GARCIA:

09:59:51 20 Q I see.

21 And are the interview notes part of the
22 formal document that you look at for the approval
23 process?

24 A Yes, they are.

10:00:01 25 Q They're not a separate document?

10:00:04 1 A Well, it all comes as a bundle. We get a
2 bundle.

3 Q Okay. So you get -- is that what's
4 called a hiring package?

10:00:12 5 A I don't think it's called a hiring
6 package.

7 Q Very good.

8 It also says in the statements -- so
9 again, I'm going to read it to you but ask you if it
10:00:24 10 was true:

11 "Another big thing we look at is
12 whether there's another offer. We look
13 at the actual offer letter if there's
14 another offer." Unquote.

10:00:32 15 Is that true?

16 MR. SHWARTS: Objection. Lack of
17 foundation.

18 You may answer.

19 THE WITNESS: Pardon me?

10:00:38 20 MR. SHWARTS: You may answer.

21 THE WITNESS: Okay. If the candidate has
22 informed us of a competitive offer and given us that
23 information, then we will look at that.

24 BY MR. GARCIA:

10:00:47 25 Q Yeah. Do you -- if the candidate has

10:06:16 1 A Yeah.
2 Q Let me put it a different way.
3 Okay. So a budget, you get a budget for
4 your entire organization at Oracle, correct?
10:06:25 5 A Yes, that's correct.
6 Q And is this on an annual basis?
7 A Yes, that's correct.
8 Q And then you -- do you then allocate that
9 budget to your direct reports?
10:06:38 10 A Yeah, I propose an allocation. Yes.
11 Q And who do you proposed that allocation
12 to?
13 A To -- the budgets have to be approved at,
14 you know, management level. Yes.
10:06:50 15 Q So by "management level," you mean Larry
16 Ellison, Safra Catz and Mark Hurd?
17 A Within my organization, my -- what I do
18 generally does not go to -- that high.
19 Q Right. So I'm saying is --
10:07:02 20 A Yeah.
21 Q -- you get a budget from --
22 A Yes.
23 Q -- Larry Ellison.
24 A I do not get a budget from Larry Ellison.
10:07:09 25 Q You would get a budget that would go to

10:07:11 1 Thomas Kurian that would go to Mendelson then would
2 go to you, correct?

3 A I would get a budget from Andrew
4 Mendelson.

10:07:18 5 Q Okay. We'll just leave it at that.

6 A Okay. Yeah.

7 Q Okay. And then do you decide how that
8 budget gets allocated amongst your direct reports or
9 does someone else?

10:07:29 10 A I primarily decide. But "decide" implies
11 I have full discretion which is --

12 Q Okay.

13 A Yeah.

14 Q Do you propose --

10:07:35 15 A Yes.

16 Q -- how the budget should be
17 distributed --

18 A Yes.

19 Q -- to whom?

10:07:39 20 A Yes, that's right, among -- among the
21 organizations in my -- that I manage, yes.

22 Q And who do you propose how that
23 distribution should be?

24 A To my manager, Andrew Mendelson.

10:07:49 25 Q Okay.

10:07:49 1 A Yes.

2 Q And then he gives his feedback. And
3 after he gives the feedback after you propose it to
4 him, the budget gets distributed?

10:08:02 5 A Yes, that's correct.

6 Q To your direct reports?

7 A Yes, that's correct.

8 Q Okay. Do they have complete autonomy to
9 distribute their budget, or do they have -- that you
10:08:10 10 allocated to them, or do they make a proposal to you
11 and you provide feedback on it?

12 A Again, I -- yes, I provide feedback on
13 how they distribute their budgets.

14 Q Okay. So who makes the initial proposal
10:08:27 15 for their budgets to be distributed? Do they make
16 the proposal, then it's given to you, and then you
17 give it to your boss, Mr. Mendelson, at the time?

18 A It flows in both directions. Managers
19 propose up to their manager. Also, the manager
10:08:45 20 above can say, hey, I want more budget in this area,
21 in that area.

22 Q And which typically happens in your
23 organization in or around March of 2015?

24 A Both happen.

10:08:56 25 Q Okay. So it's an iterative process going

10:08:59 1 back and forth.

2 Do you know if your proposals ever went
3 above Mr. Mendelson to Mr. --

4 A My proposals sometimes went to Thomas
10:09:09 5 Kurian.

6 Q Okay. Now, if -- if someone who is at an
7 M2 global career level who had M1 global career
8 levels reporting to them and the M1s had budgets --
9 so do you understand that so far?

10:09:26 10 A Yes, I --

11 Q Okay. So the M -- there's an M2 who has
12 M1s who have budgets. When it gets down to the
13 lower levels like M2 and M1, do you still have that
14 iterative process of going back and forth, up and
10:09:46 15 down, or when it gets down to the lower levels like
16 an M2 or an M1, their budgets have already been
17 decided for them?

18 A As a rule, I only discuss budget with the
19 people directly below me and the people directly
10:10:01 20 above me.

21 Q Okay.

22 A As a rule, it can -- it can vary on a
23 case-to-case basis.

24 Q Would someone who was making a budget
10:10:09 25 allocation at the M2 level, generally, he would

10:21:42 1 A I'm not involved in that process, so I
2 wouldn't know whether that's correct or not.

3 Q Okay. So when you were approving
4 candidates, had the background check process been
10:21:53 5 completed at the time when you were reviewing it?

6 A Usually. Not always, but usually.

7 Q And would the results of that background
8 process be communicated to -- to you?

9 A In general, if someone lies on their
10:22:11 10 resume or some other process, that offer would not
11 have made it to me.

12 Q Again, some things --

13 A Right.

14 Q -- I understand, but I still have to ask
10:22:22 15 the question.

16 A So no, it was -- it wasn't in the --
17 something that said they passed, because if they
18 didn't pass, it never would have made it to me.

19 Q Now, previously we talked about various
10:22:43 20 factors, and I read to you from the statement that
21 you would look at during the approval process.

22 Is there anything that you did not
23 mention that you would look at during an approval
24 process of a candidate?

10:22:56 25 MR. SHWARTS: He means anything you

10:22:57 1 didn't mention in your testimony today.

2 BY MR. GARCIA:

3 Q Yes.

4 A Yes. I -- I would generally look at
10:23:01 5 anything that comes in the packet, and there's a
6 wide variety of things that can be in there.

7 Q So would you review the entire packet?

8 A Generally, yes. Not always.

9 Q Okay.

10:23:10 10 A Sometimes I would, sometimes I wouldn't.

11 Q When you were -- or strike that.

12 For managers in your organization, for
13 people who worked at another company, was there like
14 any type of role to the effect of Oracle, unless
10:23:45 15 there's an exception made, would not give them more
16 than 10 percent what they were making at another
17 company?

18 A 10 percent more? Is that what you mean?

19 I'm sorry, what -- 10 percent of what they were
10:23:56 20 making at another company?

21 Q Above 10 --

22 A Above.

23 Q Not more than 10 percent.

24 A No.

10:24:00 25 Q Okay.

11:19:16 1 Q Okay. And I apologize if I asked this
2 earlier and asking it again.

3 The ratings and the workbench com- --
4 it's compensation workbench. I got to write that
11:19:29 5 down to make sure I remember it.

6 Is that different from the ratings -- the
7 performance valuation?

8 A We don't generally do performance
9 evaluations.

11:19:40 10 Q Okay.

11 A Formal -- I should say formal performance
12 evaluations.

13 Q Okay. Thank you.

14 So the compensation workbench ratings
11:19:49 15 would be independent of any performance evaluations
16 that were done, correct, in your organization?

17 A As I mentioned, we don't generally do
18 formal performance evaluations.

19 Q So what I'm trying to take into account
11:20:02 20 is for those times that you do, are the ratings in
21 the compensation workbench the same as the
22 performance evaluations or are they done
23 independently of that?

24 A We don't do performance evaluations.

11:20:14 25 Q Okay. I got the message. You don't do

11:20:17 1 performance evaluations.

2 A Since it was something we don't do, you
3 know, it's not -- you know.

4 Q When a person qualifies, then I try to
11:20:26 5 explore the qualification.

6 A Yeah.

7 Q Now, when a -- and then after the person
8 does the ratings, then the rankings, then they make
9 a pay recommendation, correct?

11:20:40 10 A It's all done as part of one process.

11 Q I understand.

12 A Right, yeah.

13 Q But the person usually does the ratings
14 and the rankings in that process before they do the
11:20:48 15 pay recommendation, or do you know?

16 A It's all in one -- it's one process that
17 has all three things in it, so --

18 Q Okay. Very good.

19 A -- there's no -- there's no multistep
11:20:57 20 process where first you do the ratings, first you do
21 the rankings.

22 Q I -- I understand. Thank you.

23 It's -- it's like done simultaneously?

24 A Yeah, roughly simultaneously.

11:21:08 25 Q Okay. So I have to ask the question. I

11:23:06 1 outside, but the extra budget is inside if they were
2 allocated --

3 Q I gotcha.

4 A -- this budget.

11:23:13 5 Q I gotcha.

6 Now, once a manager makes his
7 recommendation in compensation workbench, can then
8 he tell the empl- -- is he allowed to and tell the
9 employees what he's recommended for their pay in
10 your organization?

11 A He's not allowed to tell the employees
12 what's been recommended until it's been completely
13 approved.

14 Q And when you say "completely approved,"
11:23:45 15 approved -- who is the last level of that approve --
16 approval process?

17 A I don't know. But when we get a message
18 saying that we -- everything has been approved,
19 that's when a man- -- that's when the manager can --

11:24:00 20 Q Okay. And the message says everything's
21 been approved, or does it tell you who -- who
22 approved it?

23 A Doesn't say who approved -- general --
24 depends. But in general, we get a message saying
11:24:11 25 the -- the budget -- or the recommendations have

11:24:15 1 been approved and you can now communicate the -- the
2 compensation information.

3 Q So is Larry Ellison in your chain of
4 command?

11:24:26 5 A Yes, he is.

6 Q Okay. Have you ever received any message
7 on the computer screen -- and Larry Ellison's --
8 strike that. Let me start over.

9 Larry Ellison's initials are LJE,
11:24:37 10 correct?

11 A Yes, that's correct.

12 Q Have you ever seen a message on the
13 computer screen saying that LJE has approved?

14 A I'm not sure whether it precisely says
11:24:49 15 LJE but...

16 Q Or approved by LJE?

17 A LJE? Generally it will say Larry
18 Ellison, let me put it that way.

19 Q Okay. So the computer screen will inform
11:25:03 20 you that Larry Ellison has approved it, correct?

21 A If he's -- if -- yeah, if it's an
22 approval process.

23 Q Okay.

24 A Whether it says LJE or Larry Ellison,
11:25:12 25 generally it will say Larry Ellison not LJE.

11:25:17 1 Q Okay. I was trying to find out if his
2 name, whether it's initials or --

3 A Yeah.

4 Q -- his actual name was communicated.

11:25:21 5 A Yeah.

6 Q And what I understand you to say is, the
7 approval process will indicate that Larry Ellison
8 has approved it; you're just unsure of the exact
9 format of that, correct?

11:25:30 10 MR. SHWARTS: Where he's in the approval
11 process, is what he testified to.

12 You may answer.

13 THE WITNESS: Yeah. Where he's in the
14 approval process, it will say he approved.

11:25:36 15 Generally at the -- from my recollection, it doesn't
16 normally say LJE. It normally says Larry Ellison.

17 BY MR. GARCIA:

18 Q Okay.

19 A You're asking precisely about LJE, so I'm
11:25:46 20 answering your precise question with the initials.

21 Q So after a manager pay -- makes a pay
22 recommendation for his people, what happens next?

23 A So the managers will enter their pay
24 recommendation.

11:26:02 25 Q Okay. Then what happens?

11:26:05 1 A Then it has to be approved by the
2 management chain.
3 Q And you're in that management chain,
4 correct?
11:26:11 5 A Yes, I am. For my managers, yes.
6 Q Well, are you also look -- when you -- so
7 when you give your approval, you're not only giving
8 your approval for the compensation for your direct
9 reports, but you're giving your approval for
11:26:29 10 everyone within their organization, correct?
11 A Yeah, I'm approving the entire raise
12 proposals for my organization.
13 Q For your entire organization?
14 A That's right.
11:26:43 15 Q So what do you look at?
16 A Primarily I look at does it follow our
17 guidelines in terms of how many people are getting
18 a -- I mean, you're focused narrowly on raise, not
19 on bonus and -- and equity, correct?
11:27:00 20 Q At this point in time, yes.
21 A Okay, yes.
22 Q I'm only talking about focal process --
23 A Right.
24 Q -- at this point in time.
11:27:04 25 A Yeah. So I look at a number of factors.

11:34:25 1 A I do not take training; although, there
2 are -- there's documents that you can look at that
3 talk about it.

4 Q Do -- so when I take training, I think
11:34:38 5 you and I were talking about like an instruction
6 where someone was telling you, right?

7 A Correct.

8 Q Do you look at the documents, like
9 PowerPoint presentations describing what steps
11:34:48 10 you're supposed to do and how to do the process?

11 Is that what you're referring to?

12 A Yeah, it's primarily e-mails. It can be
13 PowerPoints. Primarily e-mails.

14 Q Okay. Do you look at any PowerPoints
11:34:59 15 regarding the compensation process?

16 A I have looked at PowerPoints, yes.

17 Q My next question is, when was the last
18 time that you looked at a PowerPoint?

19 A I -- I don't recall. But there's --
11:35:09 20 primarily it's e-mails, but there's also
21 PowerPoints, and I've looked at all of them over
22 many years.

23 Q Okay. Can I -- is it proper to say that
24 you haven't looked at a PowerPoint presentation for
11:35:19 25 the last focal review in May?

11:35:23 1 A I look at so many PowerPoint
2 presentations.

3 Q I have to ask, you know. If you know,
4 you know.

11:35:28 5 A I don't know --
6 (Simultaneous cross-talking.)

7 Q If you don't know, you don't know.

8 A -- any particular.

9 Q Okay. And again, I'm going to ask, do
11:35:35 10 you recall looking at any PowerPoint presentations
11 for the focal review in 2017 or 2018?

12 A I -- I -- I don't recall --

13 Q Again --

14 A -- if it's PowerPoint or e-mail or which
11:35:49 15 ones I looked at, the format of the -- of the -- of
16 the thing.

17 Q Now, you said you received e-mails. What
18 types of information is in the e- -- e-mails
19 regarding the process beyond, let's say, a timeline
11:36:02 20 that -- when things have to be accomplished by?

21 What else beside that?

22 A There's some general guidance on -- focus
23 on the top performers and make sure top performers
24 are, you know -- you know, properly compensated,
11:36:22 25 yes.

11:36:23 1 Q Is there any other guidance on who should
2 be compensated?

3 A There's guidance on [REDACTED] of people
4 that should be compensated but not specific
11:36:33 5 individuals or anything like that.

6 Q Okay. So I don't know what you mean by
7 [REDACTED] of people.

8 Is it -- are you saying like these
9 increases should be given to [REDACTED] [REDACTED]
11:36:43 10 of your people?

11 A Yeah. As an example, they would say [REDACTED]
12 [REDACTED] or something like that,
13 yes.

14 Q Again, since you just did a focal
11:36:51 15 review --

16 A Yes.

17 Q -- do you remember what the guidelines
18 were for the focal review for [REDACTED] for a
19 couple months ago?

11:37:03 20 A I've done so many of these things that
21 they blur in my brain. But --

22 Q Well, it should be in the forefront of
23 your mind.

24 A Yeah, it should be. You're right.

11:37:09 25 (Simultaneous cross-talking.)

11:51:24 1 PowerPoints available that you can look at.

2 Do you know what training your managers
3 did for the focal reviews?

4 A It's similar. We get written guidelines
11:51:37 5 and --

6 Q Okay.

7 A -- they'd link to PowerPoints and all
8 these kind of things.

9 Q Did you do any tracking in your
11:51:44 10 organization about what compensation workbench
11 training your people have or what they took other
12 than, of course, they would receive an e-mail that
13 was distributed?

14 A No.

11:51:58 15 Q Okay. Now, before we were talking -- or
16 let me just see, make sure -- I remember my notes.

17 Okay. So before, we were talking about
18 focal reviews and what you did in focal reviews and
19 things of that nature. Now I'm going to change it
11:52:21 20 to the bonuses.

21 Is there any -- is there any major
22 differences from what you just told me -- or strike
23 that.

24 So I understand that bonuses are going to
11:52:35 25 have different budgets. I understand that bonuses

11:52:38 1 are going to have different eligibility
2 requirements, right, than the focal review?

3 A Correct.

4 Q I apologize for asking it while you were
11:52:48 5 drinking.

6 A Yeah.

7 Q And I -- I understand that bonuses will
8 have different targets, you know, that either groups
9 or lines of business have to be made -- made that
11:53:02 10 are not in the focal reviews.

11 So with that understanding of those
12 differences, are there any other major differences
13 between the process that you just described for the
14 focal review and the process that's done for the
11:53:16 15 bonuses?

16 A The major difference is bonus focuses on
17 accomplishments in the last -- since the last
18 period.

19 Q By "the last period," do you mean --

11:53:28 20 A The last bonus -- since the last
21 compensation period.

22 Q So you mean since -- bonuses focus on
23 accomplishments since the last focal review?

24 A Well, since the last bonus review, yes.

11:53:43 25 Q Well, what I'm trying to understand is,

11:53:43 1 is it accomplishments since the last bonus review
2 only?

3 In other words, before, you told me
4 that --

11:53:54 5 A They're generally done almost always
6 together, so there's not really a whole lot of
7 difference there.

8 Q Okay. Okay.

9 A Yeah.

11:54:00 10 Q So let me flesh that out.

11 So when was the last bonus review that
12 was done that you participated in?

13 A Last bonus review was around November of
14 2018.

11:54:15 15 Q Okay. So it was different, if it's
16 different in dates?

17 A Yes.

18 Q Okay. And what was the last bonus review
19 prior to that? Estimate. Estimate.

11:54:31 20 A Probably middle of 2017, somewhere in
21 that range.

22 Q Okay.

23 MR. GARCIA: I -- I want to go off the
24 record just to see where everybody is, if we want to
11:54:45 25 take a break.

14:01:59 1 A Again, by the way, I've heard the term.
2 It's not a term we use.

3 Q Okay. So let me ask that question to
4 make sure that I address it fully.

14:02:08 5 Has -- to your knowledge, has anyone in
6 your organization ever used the term "dry
7 promotion"?

8 A Probably. But it's not something we
9 normally use.

14:02:19 10 Q Fair --

11 A If anybody ever used it? Probably.

12 Q Fair enough.

13 A Yeah.

14 Q So do promotions occur within your
15 organization?

16 A Yes.

17 Q I have to ask a foundational question;
18 otherwise, he'll get mad at me.

19 Okay. So when promotions occur, is it
14:02:40 20 automatic that a person gets a pay increase at the
21 time a promotion occurs?

22 A No.

23 Q Is it more often than not they do or
24 don't?

14:02:52 25 MR. SHWARTS: Objection. Vague.

14:02:52 1 BY MR. GARCIA:
2 Q Do you know?
3 MR. SHWARTS: You may answer.
4 THE WITNESS: That has changed in the
14:02:54 5 last year.
6 BY MR. GARCIA:
7 Q Okay. So 2018 and prior, was it more
8 often than not that they do or more often than not
9 that they don't get an increase at the time --
14:03:04 10 A Very rare to get an increase.
11 MR. SHWARTS: Hold -- hold on.
12 THE REPORTER: Get an increase in? I did
13 not get it.
14 BY MR. GARCIA:
14:03:10 15 Q Okay. So let me finish the question.
16 A All right.
17 Q So 2018 and before, was it more often
18 than not that they did get a pay increase or more
19 often than not that they did not get a pay increase?
14:03:20 20 MR. SHWARTS: Objection. Vague and
21 ambiguous.
22 You may answer.
23 THE WITNESS: It's very rare to get a
24 salary change as part of a promotion prior to 2018.
14:03:27 25 BY MR. GARCIA:

14:03:28 1 Q Okay. And what changed after 2018?
2 A It became a practice to do that.
3 Q A practice to give a salary increase when
4 a promotion occurred?
14:03:46 5 A Let me -- let me just rephrase. It was a
6 policy not to do that previously.
7 Q Okay. And after 2018 --
8 A It's no longer a policy not to do that,
9 so some do, some don't.
14:04:00 10 Q Very good. Thank you for the
11 confirmation.
12 Now, if a pay increase is not given when
13 a promotion -- strike that.
14 Now, my understanding of a promotion is
14:04:12 15 that someone is changing a global career level, like
16 global career level IC2 to IC3, M2 to M3.
17 Is that your understanding of a
18 promotion?
19 A Yes.
14:04:24 20 Q Okay.
21 A Primarily -- specifically -- you've made
22 a lot of specific things there. They could change
23 from IC to M whatever, so there's -- there's
24 others --
14:04:33 25 (Simultaneous cross-talking.)

15:20:59 1 A Madie is an HR manager that works with
2 our organization.

3 Q Is he -- she the HR business partner for
4 the project development line of business?

15:21:10 5 A I'm not sure what a business -- I'm not
6 sure what exactly the exact wording of it is.

7 Q Very good.

8 Is she involved in compensation and
9 out-of-cycle increases?

15:21:24 10 A Sometimes. Usually not directly.
11 Usually someone else is involved.

12 Q Do you see where it says justification?
13 It's in bold letters on the left side.

14 A Oh, this part. Okay.

15:21:46 15 Q Okay. If you go to the second paragraph
16 down where it says "In making this request" --
17 excuse me -- I'm just going to read it to you, then
18 ask a couple questions. I'm reading it to you to
19 focus on the questions that I will ask.

15:22:03 20 "In making this request, I note that I
21 tried to pull [REDACTED] salary up to
22 within band but this is difficult to do
23 with such significant salary
24 compression. I face a 'rob Peter to
15:22:17 25 reward Paul for a promotion' situation,

15:22:19 1 and I note that I have additional
2 employees who also face significant
3 salary compression." Unquote.

4 Did I read that correctly?

15:22:29 5 A Yes.

6 Q Now, I'm interested in the -- in the term
7 "salary compression."

8 Is that a term used at Oracle?

9 MR. SHWARTS: Objection. Overbroad.

15:22:35 10 You may answer.

11 THE WITNESS: I've heard that term used.

12 BY MR. GARCIA:

13 Q What was your understanding of that term
14 to mean?

15:22:44 15 A Salary compression generally means that
16 we feel that the person is underpaid relative to
17 market.

18 Q Do you feel that's the situation with
19 anyone in your organization?

15:23:01 20 A At any given time we will have some
21 individuals we feel are underpaid and some we don't.

22 Q Understand.

23 And is there a limiting factor for people
24 who you believe who are underpaid to get properly
15:23:15 25 compensated?

15:23:16 1 A The budget.
2 Q And by "budget" --
3 (Simultaneous cross-talking.)
4 A -- budget.
15:23:18 5 Q -- you mean the budget that's allocated
6 to you for salary increases?
7 A That's correct.
8 Q Is there any other reason that you would
9 know of that would prevent you from paying people
10 what you think they should be paid according to the
11 market rate?
12 A Well, with unlimited budget, I'm sure we
13 would pay everyone to whatever we believe the market
14 rate is. So...
15:23:42 15 Q I -- I understand that.
16 What I'm trying to find out, is there any
17 other reason other than the budget that limits you
18 to pay someone according to what you believe that
19 market rate is?
15:23:52 20 A Like I said, if we had all the budget in
21 the world, we would pay everyone at least what we
22 consider the market rate is, so that would...
23 Q Okay. In your organization, do you also
24 face the prospect of robbing Peter to reward or pay
15:24:20 25 Paul situation where you have to make the choice of

15:24:22 1 which individual is going to get a salary increase?

2 MR. SHWARTS: Objection. Lack of
3 foundation.

4 You may answer.

15:24:28 5 THE WITNESS: We have a raise budget, and
6 that budget is what we get to give out.

7 BY MR. GARCIA:

8 Q Okay.

9 A So every dollar I give to one person is a
15:24:41 10 dollar that everybody else in the organization is
11 not getting.

12 Q Okay. So before when we talked about who
13 that you would make increases to, you identify the
14 importance to Oracle of rewarding star performers
15:24:55 15 and giving them pay commensurate with the market
16 rate.

17 I -- did I understand that correctly?

18 A Yes, that's one of the factors --

19 Q Okay.

15:25:01 20 A -- important factors we look at.

21 Q Is that your first priority is to reward
22 the -- the star performers to make sure they get
23 commensurate with the market rate?

24 A Is that the first priority?

15:25:17 25 Q Is that the highest priority?

15:30:02 1 team that is.

2 Q Okay. Very good.

3 Let me ask this question. Is there a

4 particular name that's given when you're trying to

15:30:13 5 prevent somebody from leaving the company to give --

6 to go to a competitor?

7 A I'm sorry, a particular name?

8 Q Yeah, a particular reference to a term

9 that Oracle uses to try to keep a person in Oracle

15:30:28 10 and not go to a competitor.

11 A It's sometimes referred to as a dive and

12 save.

13 Q Thank you. Thank you. That's the title

14 of my next document.

15:30:39 15 A Okay.

16 THE REPORTER: Exhibit 88.

17 (Exhibit 88 marked for identification.)

18 MR. GARCIA: Eight, yes.

19 Court reporter, can you please mark the

15:31:00 20 next document as Exhibit 88. Thank you.

21 Q So the next document is entitled "Request

22 for Dive-and-Save Salary Adjustment," Bates stamp

23 No. 437898 to 437701. Requestor is Jenny

24 Tsai-Smith. It's made on behalf of [REDACTED].

15:31:27 25 Do you know anyone by the name of Jenny

15:47:15 1 A Yes.

2 Q Do you have --

3 MR. SHWARTS: Okay. You know how to

4 read. Let's go.

15:47:19 5 MR. GARCIA: Thank you.

6 BY MR. GARCIA:

7 Q Do you have people in your organization

8 that you're waiting to make a correction to move

9 them to the market rate?

15:47:27 10 MR. SHWARTS: Put the document aside. It

11 has nothing to do with the document.

12 Answer the question he asked, which is

13 the only thing --

14 THE WITNESS: We have people that we

15:47:33 15 consider below market compensation, yes.

16 BY MR. GARCIA:

17 Q Can you estimate how many those people

18 are? Again, ballpark figure. Is it five? Is it a

19 thousand? Is it 200? I'm just trying to get a

15:47:52 20 feel, rough feel.

21 MR. SHWARTS: Objection. Overbroad.

22 Vague. Ambiguous.

23 THE WITNESS: At this point maybe --

24 BY MR. GARCIA:

15:47:59 25 Q At this point in time as you just did the

15:48:03 1 focal review.

2 A Maybe ■ to ■ percent, somewhere in that
3 range.

4 Q Okay. So in these last couple documents
15:48:50 5 we looked at, a person provided the justification to
6 get more money for an off-cycle increase.

7 Is there anything stopping you as an
8 executive vice president if you see that ■ or
9 ■ percent of your people need more money to bring

15:49:05 10 them to the market rate during the focal review
11 going to your boss and saying: I need more money?

12 MR. SHWARTS: Objection to the predicate.

13 You can answer his question.

14 THE WITNESS: There's nothing stopping me
15:49:20 15 from saying that, no.

16 BY MR. GARCIA:

17 Q Okay. Would -- if you asked for more
18 money, would you ever get more money?

19 MR. SHWARTS: Objection to the
15:49:30 20 hypothetical.

21 You may answer.

22 THE WITNESS: It could happen, yes.

23 BY MR. GARCIA:

24 Q Have you ever tried to ask for more
15:49:35 25 money?

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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 duly sworn; that a record of the proceedings was made by me using machine shorthand, which was thereafter transcribed under my direction; further, that the foregoing is a true record of the testimony given.

I further certify I am neither financially interested in the action nor a relative or employee of any attorney or party to this action.

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

Dated: June 26, 2019 _____

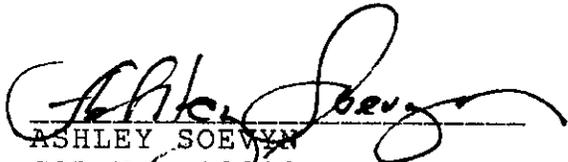

ASHLEY SOEVYN
CSR No. 12019

EXHIBIT H

EXHIBIT 12
TO
DECLARATION OF
BREMER ISO OFCCCP'S
OPPOSITION TO MSJ

1 JANET M. HEROLD
Regional Solicitor
2 LAURA C. BREMER
Acting Counsel for Civil Rights
3 IAN H. ELIASOPH
Counsel
4 Paige B. Pulley
Trial Attorney
5 United States Department of Labor
6 Office of the Solicitor
90 7th Street, Suite 3-700
7 San Francisco, CA 94103
Telephone: (415) 625-2707
8 Facsimile: (415) 625-7772
9 Email: Pulley.Paige.B@dol.gov

10 Attorneys for Plaintiff, Eugene Scalia, Secretary
United States Department of Labor
11

12 UNITED STATES DISTRICT COURT FOR THE
13 NORTHERN DISTRICT OF CALIFORNIA

14 **OFFICE OF FEDERAL CONTRACT**
15 **COMPLIANCE PROGRAMS, UNITED**
16 **STATES DEPARTMENT OF LABOR**

) Case No.: 2017-OFC-00006

) **DECLARATION OF AVINASH PANDEY**

16 Plaintiff,

17 V.

18 **ORACLE AMERICA, INC.**

19 Defendant.
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1 I, Avinash Pandey, state and declare as follows.

2 1. I am providing this declaration pursuant to a request from the U.S.
3 Department of Labor, Office of the Solicitor.

4 2. I identify as an Asian-Indian male and I worked for Oracle America, Inc. at
5 the Redwood Shores facilities from approximately 1999 to 2004 and from 2006 to 2019. I
6 have personal knowledge of the matters stated herein and, if necessary, I could and would
7 testify to the facts stated below.

8
9 3. I obtained a Master's Degree from University of Michigan, Ann Arbor in
10 Engineering in 1996 and a Bachelor's degree in Naval Architecture from the Indian Institute
11 of Technology, Kharagpur, India in 1994.

12 4. Prior to joining Oracle, I had 2 years of experience in the technology industry.
13 In the job I had prior to working at Oracle, I was a software developer where I was
14 responsible for developing 3-D visualization software for automotive companies. I worked
15 for Engineering Animation, Inc.

16
17 5. I joined Oracle after submitting an online resume for a number of applications
18 development positions. I was interviewed and hired by Oracle's application development
19 team and started at Oracle as an Applications Engineer, which was an IC 2 position. In that
20 role, I was responsible for developing software for the Oracle Applications Implementation
21 Wizard product. In or around August or September 2000 I told my manager I was planning to
22 leave for a new position at a technology start-up. At that point Oracle increased my salary
23 from \$72,000 to \$85,000, I was given some stock options, and I was promoted to Senior
24 Applications Engineer, which was an IC 3 position. Around this time my manager indicated
25 that because I was getting such a large raise, I would be on the back burner for another raise
26 for a while—indeed this was true until 2004 when I left Oracle for Seibel. In February 2002,
27 I was promoted to Project Lead, which was an IC 4 position.

1 6. Around May of 2004, there was an Oracle reorganization, and my product was
2 transitioned to India. As part of the impacted team, I was given one month to find a new role
3 within Oracle. I found a role as an IT Principal Consultant at the Redwood Shores facility. I
4 held this role for around 4 to 6 weeks. I did not receive any training in my role as an IT
5 Principal Consultant, and I was expected to be able to complete my work in this role on the
6 first day I held this position. I should also note, I had the skills to do this position on the first
7 day even though I had worked in Applications within Product Development.

8 7. In around August 2004, I moved to Seibel as a manager for Quality
9 Engineering, which was an M2 position. In this role, I was responsible for overseeing a large
10 quality engineering team of about 50 people, including team members in India. I managed
11 software quality assurance for Seibel's 7.8 release where I handled one of Seibel's main
12 features called Customer/Order Management.

13 8. In around March 2006, I again became an Oracle employee after Oracle
14 acquired Seibel. I moved back to the Redwood Shores facility around May 2006. I retained
15 my level as an M2 and my position remained the same. I was promoted to Senior Quality
16 Assurance (QA) Manager around September of 2006. As a Senior QA Manager I held an M3
17 position. In this role, I managed projects such as Partner Relationship Management and
18 verticals in the Customer Relationship Management-CME and automotive. As an M3 I had
19 less responsibility than my role as an M2 because I was managing a smaller team.

20 9. Around April of 2008, I transferred to CRM On Demand organization within
21 Oracle CRM Applications. My discretionary title changed to Group Quality Assurance
22 Manager. I retained my level as an M3, but my salary did not change. I was in this role for
23 around two years.

24 10. In around July 2010, I was promoted to Director, which was an M4 position. I
25 did not receive a salary increase when I was promoted to the Director position. I held this

1 position for about 9 years, until May 2019 years. I never received another promotion while
2 working at Oracle.

3
4 11. Between 2006 and 2019 I received minimal salary raises. In 2006 my salary
5 was around \$110,000. When I left Oracle my salary was around \$142,000. In these 13 years
6 my salary only increased by around \$32,000. During this period of time I had been promoted
7 from an M2 level to an M4 level position.

8 12. With regard to getting new people on my team, generally I would get new
9 people on my team through internal transfers. In 2008 I hired [REDACTED] to join my
10 group in [REDACTED] as part of our [REDACTED] [REDACTED] was an
11 [REDACTED] and I hired [REDACTED] from [REDACTED] current group, which was in [REDACTED]
12 [REDACTED] group. I did not provide [REDACTED] any training as part of [REDACTED]
13 [REDACTED] into our [REDACTED] role and [REDACTED] was able to adequately
14 perform [REDACTED] duties in this role. The job that [REDACTED] had with me had more [REDACTED] issues
15 related duties than [REDACTED] job in [REDACTED], which had more technical responsibilities.

16
17 13. It was common practice for HR to provide a guideline for how I should award
18 compensation raises to the employees reporting to me. These guidelines came to me via
19 email through my management chain. In these emailed guidelines I was instructed on the
20 percentage of my team that I could give a salary increase. The guidelines also contained a
21 percentage range for the raises that could be issued. As a manager I was expected to
22 implement these guidelines for awarding salary raises. In my experience, if a manager
23 wanted to compensate an employee differently from HR's guidelines, the manager must
24 present a compelling case for this deviation, and even then the salary award may still be
25 denied by upper management and/or HR.

26 14. For example, I recall around 2010 or 2011 that management emailed out our
27 focal review salary guidelines. I decided to give all of my U.S. employees a salary increase,

1 which did not comply with HR's guideline for that year. My manager, who was an M5,
2 agreed with these salary increases, and he approved it in our focal management system. It
3 was also approved by my VP, at the M6 level. I could see this in the Workbench Tool. In the
4 subsequent salary approval process I saw salary increases for two of my U.S. employees,
5 who I had designated for an increase, had been removed. My manager later told me that HR
6 had removed these increases because it was in violation of HR's salary increase guideline for
7 that year. On one occasion, I believe around 2010, I remember these salary focal guidelines
8 were forwarded to me via email from Thomas Kurian, an Executive Vice President at Oracle.
9 As I recall this email, the guidelines were very specific.

10
11 15. In the Workbench Tool I mentioned earlier, I entered pay raise
12 recommendations. Just because I entered a particular pay raise recommendation, it did not
13 necessarily mean it would be adopted. In fact, there were multiple occasions when upper
14 management changed my recommendations. I could see the changes in the Workbench Tool
15 before the final approval.

16 16. With regard to performance reviews and employee ratings, some years we had
17 a formal performance review/appraisal process where HR provided managers and employees
18 with dates for when the reviews must be completed and put in the appraisal system. Other
19 years, HR did not set deadlines for performance reviews/appraisals. However, as a manager I
20 was tasked with entering employee ratings in the Workbench Tool for Focal Reviews, which
21 came months before the appraisals were done. I had to enter the ratings in the Workbench
22 Tool without discussing the ratings I was awarding with my employees.

23
24 17. Around January 2019, I had around seven employees who directly or
25 indirectly reported to me. Around this time my manager rated the seven employees who
26 reported to me without consulting me, or asking me about their performance. I recall seeing
27 this in the Workbench Tool, not the Appraisal System. I believe my manager based the

1 employees' ratings on the rating they had received from me for the prior year, because the
2 employees' ratings remained the same as they were from the prior year and because my
3 manager did not ask me about my employees' performance for the current year. I asked my
4 peers who were under the same manager as me if they experienced this same rating
5 experience by our manager. I was told by my peers that our manager also rated the
6 employees who reported to them without consulting them about their performance.

7
8 18. On another occasion, around 2014 or 2015, my manager asked me to give one
9 of my employees a rating of 2 instead of the higher rating that I had assigned the employee. I
10 directly asked my manager if he had pressure from HR to rate a certain percentage of
11 employees with lower ratings. My manager did not respond to my question. I told my
12 manager that I did not want to lower this employees rating, but that he could change the
13 rating on his own if he wanted to.

14 19. While I was a Director, I repeatedly asked my managers about a salary
15 increase and told them that I felt I was underpaid. My manager told me that I was paid well
16 within his organization, and he implied that if I wanted a salary increase I would need to go
17 to another company.

18 20. In 2019, I was laid off from Oracle as part of a reduction in force.

19
20 21. I declare under penalty of perjury under the laws of the United States that the
21 foregoing is true and correct.

22 Executed on October 25, 2019, in San Ramon, California,

23
24 

25 _____
26 Avinash Pandey

EXHIBIT I

EXHIBIT 15
TO
DECLARATION OF
BREMER ISO OFCCCP'S
OPPOSITION TO MSJ

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JANET M. HEROLD
Regional Solicitor
LAURA C. BREMER
Acting Counsel for Civil Rights
IAN H. ELIASOPH
Counsel
KIESHA N. COCKETT
Senior Attorney
United States Department of Labor
Office of the Solicitor
200 Constitution Avenue, NW
Suite N-2474
Washington, DC 20210
Telephone: (202) 693-5299
Facsimile: (202) 693-5319
Email: Cockett.Kiesha.N@dol.gov

Attorneys for Plaintiff, Eugene Scalia, Secretary
United States Department of Labor

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA

OFFICE OF FEDERAL CONTRACT)	Case No.: 2017-OFC-00006
COMPLIANCE PROGRAMS, UNITED)	
STATES DEPARTMENT OF LABOR)	DECLARATION OF DONNA KIT YEE
)	NG
Plaintiff,)	
V.)	
)	
ORACLE AMERICA, INC.)	
)	
Defendant.)	
)	
)	
)	

1 I, Donna Kit Yee Ng, state and declare as follows.

2 1. I am providing this declaration pursuant to a request from the U.S.
3 Department of Labor, Office of the Solicitor.

4 2. I am an Asian woman who worked for Oracle America, Inc. at the Redwood
5 Shores facilities from January 8, 2001 to May 21, 2019. I have personal knowledge of the
6 matters stated herein and, if necessary, I could and would testify to the facts stated below.
7

8 3. I graduated from high school in Calgary, Canada. Between approximately
9 1990 and 1993, I attended Southern Alberta Technical Institute and received a certificate in
10 Information Systems. I also studied the UNIX language at Ohlone College in Fremont,
11 California.

12 4. Prior to joining Oracle, I had 14 years of experience in the technology
13 industry. Immediately prior to working for Oracle, I worked at the Federal Reserve and held
14 the title of Statistical Technician III. In this role, I was responsible for testing software,
15 including the software for the Y2K transition.
16

17 5. I came to Oracle after being referred by a friend who was employed with
18 Oracle at the time. I applied for a job in the EBS-XML group as a Quality Assurance (QA)
19 Analyst. Although I knew the job title I was applying for, I did not know the level of QA
20 Analyst I was applying for.

21 6. All of my roles at Oracle involved quality assurance, which is part of Product
22 Development. I started out as a QA Analyst in the EBS-XML group. After about a year, the
23 EBS-XML group merged into Application Tool Group (ATG) Core Products, where I
24 continued to work as a QA Analyst on the EBS-XML Workflow. Then around 2004, I
25 transferred to Financials Application, a different Oracle product. When I changed Oracle
26 products, my pay did not change.
27

1 7. In 2005, I was promoted to the position of Senior QA. When I was promoted,
2 my job responsibilities did not change.

3 8. In 2006, I was diagnosed with breast cancer and took an unpaid leave of
4 absence. When I returned from leave in 2007, I was placed into a team working on a
5 different product, the Fusion Financial App. In Fusion Financial App, I continued to work as
6 a Senior QA. Later that same year, I was promoted to Project Lead, Quality Assurance.
7

8 9. Before I was promoted, my individual contributor level was IC 3. Around the
9 time of my promotion, I also asked for an increase in IC level to IC 4. My manager Mark
10 Shintani told me that he had recommended me for the increase in level. However, Mark later
11 told me that his manager Ritu Bhargava rejected the recommendation and that I did not get
12 the increase in level. Mark had one other direct report besides me, who was a man. This
13 male colleague did the same level of QA work that I did, but on a different product. I learned
14 from Oracle's ARIA system that, around this time, my male colleague received an increase in
15 IC level from IC 3 to IC 4.

16 10. I held the title of Project Lead from 2007 until I was laid off in May of 2019.
17 In my role as Project Lead, I was responsible for Fusion Financial Payment module. I was
18 the only QA tester for the Payment module from 2007 until approximately 2016. From 2016
19 until 2017, several Product QAs from India joined my group, and I trained them on how to
20 do QA for the Fusion Payment Product. I also trained Developers, Managers, Support Staff,
21 other Products QAs and anyone that needed the knowledge of Payment modules worldwide.
22 In total, I trained approximately 5 to 10 employees during this time.
23

24 11. In December 2017, I was transferred into the Capture team and continued to
25 work as the Project Lead. I was the only QA tester for the Capture team until I left Oracle.
26
27

1 12. In December 2018, I was asked to perform work outside of my role of Project
2 Lead and took on additional duties to cover [REDACTED], who was a Director, during [REDACTED]
3 [REDACTED]. My additional responsibilities included tasks such as assisting with the
4 Executives Daily meetings and creating meeting summaries for the Group VP Enda Hu. The
5 purpose of the Executives Daily meetings was to discuss the Hot Customer Issues. I also
6 represented the Financial App group in the Development Planning Committee meetings.
7 These tasks were all outside of my Project Lead role and I completed them while still
8 performing my regular job responsibilities. Even though I filled the Director's role, while
9 covering my own role, I did not receive an increase in my salary for these duties.

10 13. Between 2012 and when I left Oracle, I only received one annual bonus of
11 \$1,000.
12

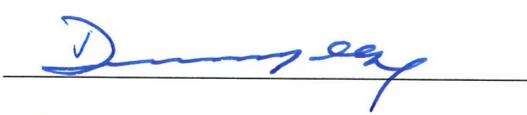
13 14. In January 2019, my manager Rob Abbe, notified me by email and phone that
14 because of a California audit, my salary was being increased to \$94,603. I was not sure what
15 Rob meant by California audit that was how he described it. Before this raise, I had not
16 received a salary raise since I returned from sick leave over a decade earlier. During that
17 time period I had not received a raise even though I had taken on significant additional
18 responsibilities, including training employees and learning new products, technology, and
19 security implementation. Although I received this salary increase, my IC level remained at
20 IC 3.

21 15. Two months later, in March 2019, I received notice that I was being laid off,
22 effective May 21, 2019. At this time, the last two performance reviews I had been given
23 were 4-exceeds expectations. Two days before I received notice of the layoff, I had a one-on-
24 one meeting with my manager Rob Abbe, who told me I was a model employee and that he
25 wished all of his employees were like me. I received a WARN Act Notice that my position
26 would be permanently eliminated as part of the Reduction in Force at Oracle Headquarters.
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16. I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on October 9, 2019, in Fremont, California,



Donna Kit Yee Ng

EXHIBIT J

EXHIBIT 17
TO
DECLARATION OF
BREMER ISO OFCCCP'S
OPPOSITION TO MSJ

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UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES

OFFICE OF FEDERAL CONTRACT) OALJ Case No. 2017-OFC-00006
COMPLIANCE PROGRAMS, UNITED)
STATES DEPARTMENT OF LABOR,) OFCCP No. R00192699
)
Plaintiff,)
)
v.)
)
ORACLE AMERICA, INC.)
)
Defendant.)
_____)

VIDEO DEPOSITION OF KATE WAGGONER
MAY 1, 2019
DENVER, COLORADO

Reported by:
SUSAN BRETSCHNEIDER
JOB No. 190501CRL

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APPEARANCES:

ON BEHALF OF THE PLAINTIFF:

Jeremiah E. Miller, Esq.
Mary Hermosillo, Esq.
U.S. Department of Labor
300 5th Avenue, Suite 1120
Seattle, Washington 98104
Miller.jeremiah@dol.gov
Hermosillo.mary.a@dol.gov

Norman E. Garcia, Esq.
U.S. Department of Labor
90 7th Street, Suite 3700
San Francisco, California 94103

ON BEHALF OF THE DEFENDANT:

Erin M. Connell, Esq.
Orrick, Herrington & Sutcliffe
405 Howard Street
San Francisco, California 94105
E-mail: econnell@orrick.com

Jessica R.L. James, Esq.
Orrick, Herrington & Sutcliffe
400 Capitol Mall, Suite 3000
Sacramento, California 95814
E-mail: Jessica.james@orrick.com

ALSO PRESENT: Victor Sieff, videographer

1 Q. Ms. Waggoner, can you tell me what your
2 current job is at Oracle?

3 A. My current job is the senior director of
4 global compensation.

5 Q. And how long have you been in that
6 position?

7 A. Since January of 2018.

8 Q. And what was the position you held before
9 that?

10 A. Director of global compensation.

11 Q. How long did you hold that position?

12 A. Oh, a year and a half, two years, maybe. I
13 don't recall the exact dates. It's just a progression.

14 Q. Did you first get that position in November
15 of 2014?

16 A. I think I was probably a senior manager
17 around that time.

18 Q. Okay. So for about a year and a half
19 before you were senior director, you were just director
20 of global compensation, and then before that, you were
21 senior manager --

22 A. Yes.

23 Q. -- of compensation?

24 A. Of compensation.

25 Q. And when did you first become senior

1 senior manager, director and senior director of global
2 compensation except, I'm sorry, was senior manager --
3 it's senior manager of compensation, correct?

4 A. Correct.

5 Q. Global compensation was not part of your
6 title at that time?

7 A. Correct.

8 Q. Are these titles, senior manager of
9 compensation, director of global compensation, senior
10 director of global compensation, are those job titles
11 that are official within the system, or are they
12 discretionary titles?

13 A. They are discretionary titles.

14 Q. Do you know what your system title is?

15 A. Senior director, HR.

16 Q. When you were director of global
17 compensation, would it have been director of HR?

18 A. Yes.

19 Q. And then when you were senior manager of
20 compensation?

21 A. Senior manager HR.

22 Q. So your promotions from senior manager to
23 director to senior director, did those all come with pay
24 increases?

25 A. I think so.

1 compensation, but in the system, you're the senior human
2 resources manager?

3 A. I'm the senior director of human resources,
4 yes.

5 Q. Sorry, forgive my misstatement.

6 A. Yes.

7 Q. So what's in this global job table is the
8 second one, the senior director of human resources; is
9 that right?

10 A. Correct.

11 Q. Does this global job table ever include the
12 discretionary title senior director of global
13 compensation?

14 A. No, discretionary titles are not included
15 in the table.

16 Q. And the only other thing I want to confirm
17 is I believe earlier when we were talking about your
18 job, you know, I asked what your global career level was
19 and you told me it's currently M5.

20 Global career level, in this example
21 anyway, short for career level, right, but that's the
22 same thing, isn't it?

23 A. It is.

24 Q. So when you told me early on you were
25 responsible for maintaining and updating the global job

1 responsibilities; is that right?

2 MS. CONNELL: Objection. The document
3 speaks for itself. Assumes facts.

4 A. I mean, that's what it says, but when -- if
5 you read the responsibilities, it's certainly not
6 specific responsibilities. It's kind of a general
7 overview of what you would expect them to be responsible
8 for if they were at that level.

9 Q. (By Mr. Miller) And this is not something
10 that would appear in the global job table?

11 A. No.

12 Q. This information, okay. I mean, if nothing
13 else, it's got discretionary title which you already
14 told me --

15 A. Is not in there.

16 Q. So does discretionary title affect pay?

17 MS. CONNELL: Objection, vague and assumes
18 facts, calls for speculation.

19 A. Directly, I would say no.

20 Q. (By Mr. Miller) Does it affect it
21 indirectly?

22 MS. CONNELL: Same objections.

23 A. We have -- discretionary title are --
24 discretionary titles are just what they say, they're at
25 the discretion of -- we've had people with Queen of

1 Sheba for their discretionary title. Like we don't
2 control discretionary titles.

3 Q. (By Mr. Miller) Did they really have Queen
4 of Sheba?

5 A. They did. This was back a long time ago,
6 but we don't -- this isn't a mandatory -- some people
7 don't have a discretionary title at all. It's -- it's
8 put in there with a --

9 Q. Do you know why they exist then?

10 MS. CONNELL: Objection, calls for
11 speculation.

12 A. I don't. They predate me.

13 Q. (By Mr. Miller) Turning your attention to
14 slide 15 and the accompanying note. So this is a page
15 marked 25 and 26. So this slide is titled Choosing the
16 Correct Job Code. Who selects job code at Oracle?

17 MS. CONNELL: Objection, assumes facts.

18 A. So the job code, as it says, it reflects a
19 role. So a manager will decide what role they have, and
20 the manager would decide what job code to use in a
21 posting for an opening on their team, because the job
22 code reflects in very, very general terms what the role
23 is that they need to fill.

24 Q. (By Mr. Miller) So they do that in the job
25 code, and then at hiring, are they locked into the job

1 MS. CONNELL: Objection, vague, misstates
2 the document.

3 A. I'm not really sure what the question is, I
4 guess.

5 Q. (By Mr. Miller) Have job codes been a
6 factor in setting pay at Oracle for as long ago you've
7 worked there?

8 MS. CONNELL: Objection, assumes facts.
9 Misstates the document.

10 A. There are many, many, many factors that go
11 into setting pay, so I mean, the job code to which
12 someone applies would assist as kind of a starting point
13 to tell us about what that broad range may be. But then
14 we have vocation and product and skills and experience
15 and knowledge and everything that they bring to the
16 table. There's a lot that goes into play with that.

17 Q. (By Mr. Miller) How long has job code been
18 used to set salary grade at Oracle?

19 A. I am not really sure.

20 MS. CONNELL: Objection, vague.

21 Q. (By Mr. Miller) Has that always been the
22 case since you worked there?

23 A. Yes, I mean, the -- the structure of our
24 general architecture has been in place since I've been
25 around. There have been additions and subtractions

1 and this is all kind of compensation theoretical. The
2 lower level jobs, you don't have to have quite as broad
3 of a range because there isn't as much variation in what
4 people bring to the table. But as you get higher in
5 your career levels, it gets broader because people bring
6 a wide variety of different knowledge, skills,
7 abilities, education, all those kinds of things, and we
8 have to be able to account for the wide variety that
9 could be in there.

10 Q. And who ultimately sets the minimum or the
11 maximum for a salary range?

12 MS. CONNELL: Objection, assumes facts,
13 vague.

14 A. There isn't really a who. We have had the
15 same range widths for a really long time, and it was
16 just kind of a best practices. They might be as narrow
17 as [REDACTED] at the bottom up to [REDACTED] at the top.

18 Q. (By Mr. Miller) And then they are just
19 adjusted as the market salary surveys change?

20 A. Correct, we adjust the [REDACTED], and then
21 our minimums and maximums adjust with that.

22 Q. So at the time you worked at Oracle, the
23 spread in the salary range has been set as a percentage,
24 and you are not aware --

25 MS. CONNELL: Objection, misstates her

1 look at to make sure we're matching to the right general
2 category of job each year.

3 Q. (By Mr. Miller) Looking at slide 17 here,
4 this is the one marked as 29, there's a red box that
5 said several factors should be considered to position
6 pay. Does that -- is that talking about positioning an
7 individual employee within the range?

8 MS. CONNELL: Objection, the document
9 speaks for itself and calls for speculation.

10 A. It seems that that -- again, I didn't
11 develop this, but it seems that that's what --

12 Q. (By Mr. Miller) How is an individual
13 employee positioned within the range?

14 MS. CONNELL: Calls for speculation.

15 A. As I've mentioned, it has to do with
16 knowledge, skills, abilities, education, what they bring
17 to the table, the internal situation of peers doing the
18 same thing and by doing the same thing, it's not just
19 within that job code, but there are differences by the
20 product you are working on or the location where you sit
21 and do your work.

22 There are lots of different factors that go
23 into play as far as where they would be positioned in a
24 range.

25 Q. (By Mr. Miller) How is product accounted

1 for in positioning an employee?

2 MS. CONNELL: Objection, vague. Calls for
3 speculation.

4 A. Product, if I'm thinking like software
5 developers, the product that they are developing, if
6 it's a really old legacy product or a cutting edge new
7 Blazen, and there's not a lot of talent out there that
8 know how to do this, they would command a higher
9 position in the range versus somebody who's working on
10 J.D. Edwards that's existed forever.

11 There are more in the market who could do
12 something like that than there are who could do AI, for
13 example, so an AI developer could command a higher
14 position and be commissioned higher in the range than,
15 say, the on premises PeopleSoft developer.

16 Q. (By Mr. Miller) Who determines which
17 products are more valuable?

18 MS. CONNELL: Objection, assumes facts.

19 A. I wouldn't say anybody decides they're more
20 valuable, but the candidates that come and apply for our
21 positions tell us what they're earning. They tell us
22 what their competitive offers are to do something
23 different.

24 Q. (By Mr. Miller) And so then the manager
25 attempting to make that hire is the one that picks where

1 they fall in the salary range?

2 MS. CONNELL: Objection, calls for
3 speculation.

4 A. I mean, not necessarily -- it's a
5 collaboration with recruiting and with the manager, and
6 sometimes they involve HR and/or compensation, but it
7 has to do with the local labor market and if they are
8 looking for something that is the more cutting edge
9 technology, there are fewer -- it is general economics,
10 there are fewer people who can do that, and so if they
11 have offers from Amazon and Google and Microsoft and
12 Oracle, we've got to come in with a compelling offer or
13 they won't take ours.

14 Someone who doesn't have that cutting edge
15 hot skill doesn't come -- they don't have all of those
16 other competing offers with which we have to then
17 position them differently in the range. We can pay them
18 a general market salary, and it's not as competitive.

19 Q. (By Mr. Miller) Does product appear in the
20 global job table?

21 A. It does not.

22 Q. Are you aware of any other way in which
23 product is tracked in relationship to employees?

24 MS. CONNELL: Objection, vague.

25 A. I am not.

1 attention back now to slide four. This is the page
2 that's marked with a dash 5 at the bottom.

3 So, again, this is just a little example
4 piece of the global job table, and there's an entry
5 that's titled specialty area. What is "specialty"?

6 A. It's just a little bit more granular
7 explanation of what someone within a function does.

8 Q. So do you know why specialty is a part of
9 establishing the global job table?

10 A. It predates me having it in there, but, for
11 example, the function of product development would have
12 a specialty area of software engineer, technical writer,
13 QA, so it just gives a little bit more -- without
14 listing an entire description for every single family,
15 just gives a little bit more of an indicator of what
16 that job does in very general terms.

17 Q. Does that factor into the benchmarking
18 process where you are looking at the Radford or Mercer
19 surveys?

20 A. It doesn't.

21 Q. But it does have an impact on what the job
22 area is, correct?

23 A. It doesn't.

24 Q. Is specialty related to pay?

25 MS. CONNELL: Objection, vague.

1 believe what this is -- it indicates that that's the
2 final, that's the top level that it needs to go to, so
3 an increase, it would work its way up all these other
4 levels and the last, quote-unquote, approver is at that
5 level, but at that level, they're not really digging
6 into the details. It's more about a sanity check of
7 what's going on.

8 Q. (By Mr. Miller) Okay. Okay, I'd like to
9 show you another exhibit. I'm going to mark this as
10 Exhibit 9.

11 (Exhibit 9 marked for identification.)

12 MS. CONNELL: Mark this exhibit as
13 confidential as well.

14 Q. (By Mr. Miller) Have you had a chance to
15 review it?

16 A. Yes.

17 Q. Do you recognize this document?

18 A. It's the same as the last one. It's just
19 an earlier date.

20 Q. So looking at the second page of Exhibit 9,
21 it says -- or, actually, let's go to the third page, the
22 one that's marked dash 3. Do you see at the top of this
23 page says global approval matrix, non-automated?

24 A. I do.

25 Q. And then if you just look at the first

1 page, it says global approval matrix, automated?

2 A. Yeah.

3 Q. What's the difference between those two
4 processes?

5 A. I don't know.

6 Q. And if you look back at Exhibit 8 for me,
7 too. On the first page, the one marked dash 1 and then
8 in this case, the fourth page, the one marked dash 4,
9 you've got the same automated versus non-automated?

10 A. Looks like it.

11 Q. And going further back into Exhibit 8 onto
12 the page marked dash 6 -- and I apologize, it looks like
13 some of these tables broke across pages in some strange
14 way. You can see that there is a box entitled M and A
15 approval matrix?

16 A. Yes.

17 Q. Do you know what this is?

18 A. I mean, I can only go based on the title.
19 I'm assuming it's the lines of approval needed for M and
20 A.

21 Q. The reason I was asking is given what you
22 have to do with mergers and acquisitions, I thought
23 maybe you would have more familiarity with this but no?

24 A. I don't.

25 Q. Okay. Do you know who generates these

1 speculation.

2 A. Yes, it could be considered.

3 Q. (By Mr. Miller) Could you place an
4 employee in a salary range without considering
5 performance?

6 MS. CONNELL: Objection, incomplete
7 hypothetical, calls for speculation.

8 A. You wouldn't know performance for a new
9 hire.

10 Q. (By Mr. Miller) Okay, so excluding new
11 hires, somebody who had been there for sometime, can you
12 place them in a salary range without knowing their
13 performance?

14 MS. CONNELL: Objection, lacks foundation,
15 calls for speculation.

16 A. Could you? Maybe.

17 Q. (By Mr. Miller) So my understanding is
18 that Oracle has a focal review that you mentioned before
19 and that there's also a separate performance review
20 system; is that correct?

21 MS. CONNELL: Objection, assumes facts,
22 lacks foundation.

23 A. The performance review system is separate
24 from compensation programs, yes.

25 Q. (By Mr. Miller) So maybe -- maybe this

1 calls for speculation.

2 A. The corporate bonus program is funded based
3 on the performance of the business. Whether or not we
4 have a budget is completely dependent upon the
5 performance of the business.

6 Q. (By Mr. Miller) Okay. But so it's not
7 tied to the individual performance of the employee?

8 MS. CONNELL: Objection, vague.

9 A. The funding of the pool is not tied to
10 individual performance, no.

11 Q. (By Mr. Miller) What about the award once
12 you have the pool?

13 A. If a manager is given a pool to spend,
14 then, yes, a bonus is supposed to be taken into
15 consideration. That's part of our philosophy of being
16 paid for performance. If you have a limited budget and
17 you have five people, the correct way to do things and
18 the way we speak about it as guidelines in training
19 would be that you reward your high performers first.

20 Q. And how would it be determined who the high
21 performers are?

22 MS. CONNELL: Objection, calls for
23 speculation.

24 A. Varying teams have different ways of doing
25 that. Some go through a formal appraisal, some go

1 through a formal rating, and some don't. There are some
2 areas where you get down to the manager, and the manager
3 knows who their performers are, but there's no formal
4 system documentation of that.

5 Q. (By Mr. Miller) Are stocks or equity, is
6 that ever used as a performance bonus?

7 MS. CONNELL: Objection, calls for
8 speculation.

9 A. Yes, but our -- kind of our philosophy and
10 our global compensation team approach on that is that
11 cash bonuses are more performance recognition based, and
12 equity is more about retaining key talent over the long
13 term.

14 Q. (By Mr. Miller) Does Oracle have policies
15 that discourage employees from discussing pay?

16 MS. CONNELL: Objection, vague.

17 A. To my knowledge, there are no policies
18 regarding pay except for the one about not asking about
19 prior salary.

20 Q. (By Mr. Miller) Are there any guidelines
21 or practices that discourage employees from discussing
22 pay with one another?

23 A. Not that I'm aware of.

24 Q. So throughout today, you know, we've talked
25 about a variety of guidelines, and I asked you early on

1 the difference between policy and guidelines, and I
2 think you explained that to me. And we've commented at
3 various points, but when we're talking about these
4 guidelines that you've developed and that we have been
5 looking at all day, are they -- how are they
6 communicated to the employees?

7 A. So at this point, I think we actually only
8 reviewed one set of guidelines, and it had to do with
9 the equity guidelines, and that was because there were
10 specific numbers and ranges around it, and that's why we
11 called it guidelines. It was just to give them an idea
12 of what that market might be.

13 The other -- and those are not available to
14 employees. And most of the other documentation, there's
15 some things that I said from the exhibits that are
16 posted on the intranet that are available, so they can
17 see definitions of things, definitions of comp terms and
18 how, say, our annual programs work.

19 But, for the most part, the rest of those
20 exhibits and the trainings that we've made available are
21 -- the intended audience is HR and managers to assist
22 them in their conversations with them, but the average
23 employee, it's not something that they would have access
24 to.

25 Q. I'd like to turn your attention back to

1 Exhibit 2. I'm going to draw your attention to slide
2 five, which is at dash 7. Have you had a chance to
3 review that?

4 A. Yeah.

5 Q. So these are the equity guidelines we were
6 just talking about or you just mentioned, correct?

7 A. Yes.

8 Q. So these guidelines say they're not to be
9 distributed to management and they're only intended for
10 compensation recruiting and HR leader use?

11 A. Yes.

12 Q. So this is even somewhat more restricted
13 than what you were just saying about the trainings that
14 are --

15 A. Yes, yep.

16 Q. So how much -- like I guess my question is
17 if these are restricted to these groups of people, how
18 much of this ever gets communicated further down the
19 road? Like beyond the compensation recruiting and HR
20 leaders, would they communicate any of this to
21 subordinate managers or to managers?

22 MS. CONNELL: Objection, incomplete
23 hypothetical, calls for speculation, assumes facts.

24 A. I don't -- it will vary by the lines of
25 business. The -- these were released and rolled out

1 STATE OF COLORADO)
2) ss.
3 COUNTY OF DENVER)
4

5 I, Susan Bretschneider, Notary Public
6 within and for the State of Colorado, do hereby certify
7 that previous to the commencement of the examination,
8 the deponent was duly sworn by me to testify the truth.

9 I further certify that this deposition was
10 taken in shorthand by me at the time and place herein
11 set forth, and that it was thereafter reduced to
12 typewritten form, and that the foregoing constitutes a
13 true and correct transcript.

14 I further certify that I am not related to,
15 employed by, nor of counsel for any of the parties or
16 attorneys herein, nor otherwise interested in the result
17 of the within action.

18 
19

20 Susan Bretschneider
21 Notary Public, State of Colorado
22 Commission Expires: 10-26-22
23

24 Dated: May 6, 2019
25

EXHIBIT K

EXHIBIT 21
TO
DECLARATION OF
BREMER ISO OFCCCP'S
OPPOSITION TO MSJ

1 JANET M. HEROLD
Regional Solicitor
2 LAURA C. BREMER
Acting Counsel for Civil Rights
3 IAN H. ELIASOPH
Counsel
4 KIESHA N. COCKETT
Senior Attorney
5 United States Department of Labor
6 Office of the Solicitor
200 Constitution Avenue, NW
7 Suite N-2474
Washington, DC 20210
8 Telephone: (202) 693-5299
9 Facsimile: (202) 693-5319
Email: Cockett.Kiesha.N@dol.gov
10 Attorneys for Plaintiff, Eugene Scalia, Secretary
11 United States Department of Labor

12
13 UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA

14 **OFFICE OF FEDERAL CONTRACT**) Case No.: 2017-OFC-00006
15 **COMPLIANCE PROGRAMS, UNITED**)
16 **STATES DEPARTMENT OF LABOR**) **DECLARATION OF LYNN SNYDER**
17)
18)
19)
20)
21)
22)

17 Plaintiff,
18 V.
19 **ORACLE AMERICA, INC.**
20 Defendant.
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1 I, Lynn Snyder, state and declare as follows.

2 1. I am providing this declaration pursuant to a request from the U.S.
3 Department of Labor, Office of the Solicitor.

4 2. I identify as a half-Asian and half-white woman. I worked for Oracle
5 America, Inc. at the Redwood Shores facilities from approximately February 1999 to August
6 2016. I have personal knowledge of the matters stated herein and, if necessary, I could and
7 would testify to the facts stated below.

8
9 3. I obtained a Master's degree in Library and Information Science from the
10 University of Hawaii and a Bachelor's degree in American Studies from the University of
11 California, Santa Cruz.

12 4. Prior to joining Oracle, I had 9 years of experience in the information services
13 industry, which entailed customer service, product management, and marketing.

14
15 5. Around 1998, I was referred to Oracle through a family member. This family
16 member gave Oracle my resume, which resulted in Oracle contacting me for an interview. I
17 interviewed at the Redwood Shores facility for a Beta Program Manager position. Oracle
18 offered me the position and I began working for Oracle in February 1999.

19 6. When I started at Oracle, I worked as a Program Manager where I beta tested
20 software products. As a Beta Program Manager, I was generally responsible for working
21 with customers and partners to test software products for their technical stability and to see if
22 customer expectations were being met. I did not have any employees reporting to me at that
23 time. I reported to Deborah Migliore, also known as Debbie, and our team reported to John
24 Pilot, who was the VP of a database technology group.

1 7. On or around 2002, our team was reorganized and we began reporting to a
2 manager in Database Server Technology. Several years later, our team was reorganized
3 again, however the entire time I worked at Oracle I was in Product Development.

4 8. When I started at Oracle, I worked on three products: Oracle Database,
5 middleware, and Enterprise Manager. Around 2005 or 2006, upper management started
6 asking our team to beta test more products, and my personal job responsibilities increased.

7
8 9. Around 2008, a woman named [REDACTED] was moved into my team.
9 She was initially assigned to report to [REDACTED]. Several months after [REDACTED] started in my
10 group, [REDACTED] and I had a telephone conversation and [REDACTED] asked if I would supervise
11 [REDACTED]. After that conversation, [REDACTED] began reporting to me. When [REDACTED] joined our team I
12 saw her resume and she had minimal beta testing experience, and at that time I had more than
13 8 years of beta testing experience. Once [REDACTED] began reporting to me I was able to see her
14 salary. When I saw [REDACTED] salary, I knew there was a problem with my salary because her
15 salary was very close to my own salary. Eventually I received a salary increase, but it was
16 only after I complained about my salary.

17
18 10. Around 2008 I was promoted to Director of Beta Programs. I retained my
19 beta testing duties and supervised staff who ran their own testing programs.

20 11. Throughout my time at Oracle, as a staff employee and manager, I
21 consistently received a rating of "5-Outstanding" on my performance appraisals.

22 12. Oracle gave me stock options most years based on my good performance.
23 When I left Oracle not all of my stock options had vested.

24
25 13. By the time I left Oracle in 2016, I had 4 staff members on my team reporting
26 to me. My new hires were recent college graduates, who were all women. When it came to
27 setting their pay, I received mixed messages. Initially, when I started hiring, I was

1 encouraged by Debbie to make an offer at the lowest salary range as possible to save Oracle
2 money. Later, a woman in Human Resources (HR) told me to bring my hires in at a higher
3 salary because it would be unlikely that we would be able to give that person a raise anytime
4 soon.

5
6 14. It was very difficult to give any of my reports a raise. Oracle's senior
7 management encouraged me to use stock options for performance based rewards, instead of a
8 raise. The amounts allotted were always so small that I do not recall being able to give
9 anyone a raise on my team, except for [REDACTED] who I was eventually able to give a small raise.

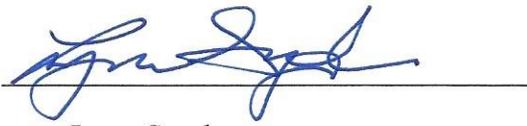
10 15. As a manager, I also was required to rank the members on my team as part of
11 their performance appraisals. This meant that I could not have everyone ranked at the same
12 level, even if they performed at the same level as their team members. Oracle instructed me
13 that I had to rank someone on my team in last place, even if that person was performing at a
14 high level on our team.

15 16. Around 2013 I hired a new person for my team, [REDACTED]
16 Around 2015 [REDACTED] asked to be promoted and receive a raise. I knew that a promotion
17 did not necessarily mean that she would receive a raise because a promotion and pay raises
18 were separate processes at Oracle. I knew [REDACTED] deserved a promotion because she was
19 well organized, took on a lot of responsibility, she executed her duties at a high level, and she
20 had a Master's in Business Administration. I asked HR to provide me the eligibility
21 requirements for a promotion and the definitions of the IC levels, which they provided to me.
22 I ended up giving [REDACTED] new goals to work towards for the next year so that she could be
23 eligible for a promotion. While I was at Oracle, [REDACTED] never received a promotion
24 despite my request, even though [REDACTED] met the promotion requirements.

25
26 17. I declare under penalty of perjury under the laws of the United States that the
27 foregoing is true and correct.

1 Executed on October 10, 2019, in San Carlos, California,

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Lynn Snyder

EXHIBIT L

EXHIBIT 22
TO
DECLARATION OF
BREMER ISO OFCCCP'S
OPPOSITION TO MSJ

From: Zenita Singh <zenita.singh@oracle.com>
To: Wendy Lee <wendy.l.lee@oracle.com>; Satarupa Bhattacharya <satarupa.bhattacharya@oracle.com>; James Cabalu <james.cabalu@oracle.com>; Katie Rider <katie.rider@oracle.com>; Liz Choi <liz.lee@oracle.com>; MALLORY_BROOK <mallory.brook@oracle.com>; Alicia Grosnick <alicia.grosnick@oracle.com>; Vikki Kong <vikki.kong@oracle.com>; Hong Trinh <duhong.trinh@oracle.com>; AMRA.KUDUZOVIC <amra.kuduzovic@oracle.com>; MAN.YI.KONG <man.yi.kong@oracle.com>; VICKI.CHEW <vicki.chew@oracle.com>; TRANG_BI <trang.bi@oracle.com>; zenita Singh <zenita.singh@oracle.com>
CC: Larry Lynn <larry.lynn@oracle.com>; CHANTAL_DUMONT <chantal.dumont@oracle.com>; Les Cundall <les.cundall@oracle.com>
Sent: 8/25/2016 8:27:26 PM
Subject: New compensation package [REDACTED]

Hi Team,

LJE has approved a new compensation package for our [REDACTED]

Oracle Compensation Package for [REDACTED]

	Base	Sign-on	Relocation	RSUs
BS	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
MS	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
PhD	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Compensation for the other schools will [REDACTED]

Thanks,
Zen



Zenita Singh | Senior Administrative Assistant
Phone: [+1 6505062393](tel:+16505062393)
Oracle College Recruiting
600 Oracle Parkway | Redwood Shores, CA 94065

Oracle is committed to developing practices and products that help protect the environment

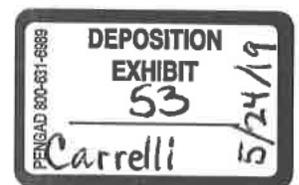


EXHIBIT M

EXHIBIT 23
TO
DECLARATION OF
BREMER ISO OFCCCP'S
OPPOSITION TO MSJ

From: chantal dumont <chantal.dumont@oracle.com>
Sent: Wednesday, September 11, 2013 9:18 PM
To: Hong Trinh
Cc: Milton Liu; Les Cundall
Subject: Re: Do we have new salary guidelines?

Hi Hong,

I will have those for the team soon.

Thanks,

Chantal

On 9/11/2013 11:36 AM, Hong Trinh wrote:

Hi Chantal,

Do we have new salary guidelines for this season?

I am still working with the guidelines from last September, 2012:

BS [REDACTED]

MS [REDACTED]

PhD [REDACTED]

Sign-on remains at [REDACTED]

Relocation Silver and remains at [REDACTED] lump sum

Stock remains at [REDACTED]

Thanks,
Hong

On 9/11/2013 11:10 AM, Hong Trinh wrote:

Hi Chantal,

Thanks for checking.

Candidate's expectation was \$ [REDACTED]

Regards,
Hong

On 9/11/2013 11:01 AM, chantal dumont wrote:

Thanks Hong.

By the way, I'm guessing salary is in line with the candidate's expectation. Seems a bit low for [REDACTED]

cd

On 9/11/2013 10:54 AM, Hong Trinh wrote:

EXHIBIT N

EXHIBIT 24
TO
DECLARATION OF
BREMER ISO OFCCCP'S
OPPOSITION TO MSJ

From: chantal dumont <chantal.dumont@oracle.com>
To: Bhattacharya, Satarupa <satarupa.bhattacharya@oracle.com>; liz lee <liz.lee@oracle.com>; Wendy Lee <wendy.l.lee@oracle.com>; Jane Tu <jane.tu@oracle.com>; florence wadley <florence.wadley@oracle.com>; Les Cundall <les.cundall@oracle.com>; Milton Liu <milton.liu@oracle.com>; duhong trinh <duhong.trinh@oracle.com>; James Cabalu <james.cabalu@oracle.com>
Sent: 9/24/2013 7:14:02 PM
Subject: Comp for FY14

Hi All,

Below are the comp numbers for this year. I am open to revisit as we get more competitive info.

BS: [REDACTED]
MS: [REDACTED]
PhD: [REDACTED] and up (need justification for over [REDACTED] and I want to be briefed on any offers over [REDACTED])

Sign-on, stock and relo [REDACTED]

Interns also get the [REDACTED] part of the range.

Most offers will be in the [REDACTED] of the BS or MS range.

Thanks,

Chantal

EXHIBIT O

EXHIBIT 25
TO
DECLARATION OF
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From: Katie Rider <katie.rider@oracle.com>
To: James Handley <james.handley@oracle.com>
CC: Chantal Dumont <chantal.dumont@oracle.com>
Sent: 4/16/2015 11:16:34 PM
Subject: RE: ACTION ITEM: FY15-16 College Hire Starting Salaries-Database
Attachments: Mendelsohn FY15-16.xls

Hi James,

For our general college recruiting process, our salary ranges are as follows:

- BS: [REDACTED]
- MS: [REDACTED]
- PhD: [REDACTED]

Our relocation amount is given either in the form of a lump sum of [REDACTED] (most students choose this option), or a managed move up to [REDACTED]. It is the responsibility of the hiring team to pay for the relocation amount as well as the taxes on that amount.

Please see the report attached for Andy Mendelsohn's hires for FY15-16.

Please let me know if you need any additional information, but please note that I will be out of the office tomorrow afternoon, and will be back on Monday morning.

Thanks,
Katie

From: James Handley
Sent: Thursday, April 16, 2015 6:02 AM
To: chantal dumont
Cc: RIDER
Subject: Re: ACTION ITEM: FY15-16 College Hire Starting Salaries-Database

Hi:

Can we please get Andy's numbers as well as the overall College Recruiting numbers. (Stock and relo allowance).

Thank you.

On Apr 16, 2015, at 5:53 AM, chantal dumont <chantal.dumont@oracle.com> wrote:

Hi James,

Are you specifically asking for Andy's numbers or the overall College Recruiting's numbers? Katie can give you either.

Thanks,

Chantal

On 4/15/2015 8:23 PM, James Handley wrote:

Hi Chantal:

Can you please let us have the information below when you have chance.

Thank you.

From: James Handley

Sent: Tuesday, April 14, 2015 12:56 PM

To: Chantal Dumont

Subject: RE: College Hire Starting Salaries-Database

Hi Chantal:

Andy Mendelsohn has requested the current Database College Hire Starting salaries for FY15-16 for candidates with:

- (1) Bachelors
- (2) Masters
- (3) Ph.D

Can I please get this information by end of day today if possible.

Thanks!

James

--

James Handley | Senior Human Resources Manager
Product Development
Phone: [+1 650 506-4262](tel:+16505064262) | Mobile: [+1 650 319-5240](tel:+16503195240)
Oracle Human Resources
400 Oracle Parkway | Redwood City, CA 94065

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ORACLE

Chantal Dumont | Senior Director

Phone: [+1 6505064015](tel:+16505064015) | Fax: [+1 6506331184](tel:+16506331184) | Mobile: [+1 6507872473](tel:+16507872473)

Oracle College Recruiting

500 Oracle Parkway | Redwood City, California 94065

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EXHIBIT P

EXHIBIT 26
TO
DECLARATION OF
BREMER ISO OFCCCP'S
OPPOSITION TO MSJ

From: chantal dumont
To: duhong trinh
CC: Les.cundall@oracle.com; Milton Liu
Sent: 9/14/2013 4:41:14 AM
Subject: Fwd: Re: +++UNIVERSITY OFFER APPROVAL REQUEST FOR [REDACTED] of UPenn

Hi Milton,

Please make sure your staff knows the intern salary rule. Our interns are brought back at the [REDACTED] of the range. I returned the offer for [REDACTED] as his salary was extremely low for a returning intern.

Let me know if the manager has an issue with going higher.

thanks,

Chantal

On 9/12/2013 2:02 PM, duhong trinh wrote:

> Hi Chantal,
>
> Forwarding approvals for [REDACTED] (UPenn).
> [REDACTED] was an intern over the summer.
>
> This is a Fowler hire.
>
> Regards,
> Hong

> ----- Original Message -----

> Subject: Re: +++UNIVERSITY OFFER APPROVAL REQUEST FOR [REDACTED]
> of UPenn
> Date: Thu, 12 Sep 2013 22:10:22 +0200
> From: Mike Splain <mike.splain@oracle.com>
> To: Hong Trinh <duhong.trinh@oracle.com>
> CC: Mohammed Jamil <jamil.mohd@oracle.com>

> Approved

> Mike

> On Sep 12, 2013, at 6:45, Hong Trinh <duhong.trinh@oracle.com>
> <mailto:duhong.trinh@oracle.com>> wrote:

>> Hi Mike,

>> Please approve the following offer and return to me as soon as possible.

>> Thanks,

>> Hong

>> ----- Original Message -----

>> Subject: Fwd: Fwd: RE: Re: Fwd: Re: +++UNIVERSITY OFFER APPROVAL
>> REQUEST FOR [REDACTED] of UPenn
>> Date: Wed, 11 Sep 2013 10:00:53 -0700
>> From: Hong Trinh <duhong.trinh@oracle.com>
>> Organization: Oracle Corporation
>> To: mike.splain@oracle.com

>>
>> Hi Mike,
>>
>>
>> Please approve the following offer and return to me as soon as possible.
>>
>> Thanks,
>> Hong

>> ----- Original Message -----
>> Subject: Fwd: RE: Re: Fwd: Re: +++UNIVERSITY OFFER APPROVAL REQUEST
>> FOR ██████████ of UPenn
>> Date: Mon, 09 Sep 2013 16:09:58 -0700
>> From: duhong trinh <duhong.trinh@oracle.com>
>> Organization: Oracle Corporation
>> To: mike.splain@oracle.com
>> CC: Mohammed Jamil <jamil.mohd@oracle.com>

>>
>> Hi Mike,
>>
>>
>> Please approve the following offer and return to me as soon as possible.
>>
>> Thanks,
>> Hong

>> ----- Original Message -----
>> Subject: RE: Re: Fwd: Re: +++UNIVERSITY OFFER APPROVAL REQUEST FOR
>> ██████████ of UPenn
>> Date: Mon, 9 Sep 2013 16:05:43 -0700 (PDT)
>> From: Rob Mains <rob.mains@oracle.com>
>> To: Hong Trinh <duhong.trinh@oracle.com>

>>
>> Approved.
>>
>> Thanks,
>>
>> Rob
>>
>> Vice President
>>
>> Engineering & Compute Tools
>>
>> Oracle Microelectronics
>>
>> 408.607.4879

>> *From:* duhong trinh
>> *Sent:* Monday, September 09, 2013 2:37 PM
>> *To:* Rob Mains
>> *Cc:* Mohammed Jamil
>> *Subject:* Fwd: Re: Fwd: Re: +++UNIVERSITY OFFER APPROVAL REQUEST FOR
>> ██████████ of UPenn

>> Hi Rob,
>>
>>
>> Please approve the following offer and return to me as soon as possible.
>>
>> Thanks,
>> Hong

>> ----- Original Message -----

>>
>> *Subject: *
>>
>>
>>
>> Re: Fwd: Re: +++UNIVERSITY OFFER APPROVAL REQUEST FOR [REDACTED]
>> of UPenn
>>
>> *Date: *
>>
>>
>>
>> Mon, 09 Sep 2013 14:31:15 -0700
>>
>> *From: *
>>
>>
>> Michel Laudes <michel.laudes@oracle.com>
>> <mailto:michel.laudes@oracle.com>
>>
>> *Organization: *
>>
>>
>> Oracle Corporation
>>
>> *To: *
>>
>>
>> duhong trinh <duhong.trinh@oracle.com> <mailto:duhong.trinh@oracle.com>
>>
>> *CC: *
>>
>>
>> Mohammed Jamil <jamil.mohd@oracle.com> <mailto:jamil.mohd@oracle.com>
>>
>>
>> Approved.
>>
>> Michel
>>
>> On 9/9/2013 2:13 PM, duhong trinh wrote:
>>
>> Hi Michel,
>>
>> Please approve the following offer and return to me as soon as
>> possible.
>>
>> Thanks,
>> Hong
>>
>>
>> ----- Original Message -----
>>
>> *Subject: *
>>
>>
>>
>> Re: +++UNIVERSITY OFFER APPROVAL REQUEST FOR [REDACTED] of UPenn
>>
>> *Date: *
>>
>>

>>
>> Mon, 09 Sep 2013 14:09:29 -0700
>>
>> *From: *
>>
>>
>> Mohammed Jamil <jamil.mohd@oracle.com> <mailto:jamil.mohd@oracle.com>
>>
>> *Organization: *
>>
>>
>> Oracle Corporation
>>
>> *To: *
>>
>>
>> duhong trinh <duhong.trinh@oracle.com>
>> <mailto:duhong.trinh@oracle.com>
>>
>>
>>
>> Approved.
>>
>> More information about the candidate:
>>
>> ██████████ will be hired as an IC2 and will join the RTL and Power
>> analysis team to will work on the
>> development of new applications for RTL analysis and verification
>> for our SPARC processors.
>> As the industry trends toward more improvements and optimization
>> at the RTL level, our team
>> need more help in this area.
>>
>> ██████████ is currently working on his master degree in
>> Electrical Engineering at the
>> University of Pennsylvania. He is expected to graduate in May
>> 2014 and will be available
>> to work in June 2014. ██████████ completed his Bachelor degree in
>> Electrical Engineering from
>> Zhejiang University, among the top schools in China, with 3.82 GPA.
>>
>> During this summer of 2013, ██████████ completed a 14 weeks internship
>> program in Oracle
>> Microelectronics as part of our RTL development team. ██████████ have
>> learned about our
>> domain, our development environment, our tools and challenges. He
>> performed very during
>> his internship where he developed C++ code, design new software
>> components, and built new
>> regressions for our tools. We felt very positive about his
>> performance. He learned very fast
>> and was able to complete his assigned tasks on schedule.
>>
>> ██████████ did courses in circuit design and Electronics Design
>> Automation, and did various projects
>> in hardware design and software engineering which meets our
>> requirements. For the remaining
>> two semesters in his MS degree, ██████████ will be taking courses that
>> are relevant to our domain and ██████████
>> further improve his skills for RTL application development.
>>
>> Thanks,
>> Mohammed

>>
>> On 9/9/2013 1:52 PM, duhong trinh wrote:
>>
>> Hi Mohammed,
>>
>> Please approve the following offer and return to me as soon
>> as possible.
>>
>> Thanks,
>> Hong
>>
>>
>> Candidate: [REDACTED]
>> Title: Hardware Engineer (100320)
>> Group Name: Processor Design Tools Group (SN58)
>> Hiring Manager: Mohammed Jamil
>> Salary: [REDACTED]
>> Relocation: Silver Level for College Hires
>> Sign-on Bonus: [REDACTED]
>> Stock: As approved by Larry Lynn
>> Intended start date: July 2014
>>
>>
>> RESUME:
>> [REDACTED]
>>
>> EDUCATIONAL BACKGROUND
>>
>> University of Pennsylvania, Sep.2012 - Expected May.2014
>>
>> ·School of Electrical and Engineering: M.S.E in EE, Current
>> GPA: 3.95/4
>>
>> Zhejiang University, Sep.2009 - June 2012
>>
>> ·School of Electrical and Engineering: Bachelor in EE, GPA:
>> 3.82/4
>>
>> RELATED GRAD-LEVEL COURSES
>>
>> Digital Integrated Circuit and VLSI, Analog Integrated
>> Circuit, RF Integrated Circuit, Electronic Design Automation,
>> Analysis of Algorithms, Database & Info Systems, Computer
>> Architecture, Digital Signal Processing, Network & Protocols
>>
>> INTERNSHIP
>>
>> 2013 hardware summer intern at Oracle Corporation, Processor
>> Design Tools group.
>>
>> ·Use Sun Ray client and develop in CAD and TAHOE environment.
>>
>> ·Develop and check in C++ code to SVN trunk for RTL
>> development group involving two projects.
>>
>> ·Fix bugs in the exiting scripts and source code at
>> Register-transfer level.
>>
>> ·Build up regression test and EZT for the new tool.
>>
>> JOURNAL LIST & PATENTS
>>
>> ·Xitan Qiang, Boran Zhou, Quanyuan Jiang, "Alternative
>> Formulation for Unit Commitment", Power Engineering and
>> Automation International Conference (PEAM 2012)
>>
>> ·Patents:

```
>>
>> o"A Smart Elevator with Higher Security"
>>
>> o"Automatic Up-and-Down Microphone Holder"
>>
>> PROJECTS & RESEARCH EXPERIENCE
>>
>> VLSI 8-bit ALU Design
>>
>> ·Design schematic in Cadence for 12 functional components in ALU.
>>
>> ·Write Verilog HDL to verify functionality.
>>
>> ·Do full chip layout using Cadence Virtuoso and run DRC and LVS.
>>
>> ·Do retiming to shorten the critical path and increase
>> operation speed.
>>
>> EDA power-aware design on partially defective FPGA
>>
>> ·Develop tools to match, cluster, and place a circuit netlist
>> onto a partially defective FPGA.
>>
>> ·Implement Simulated-Annealing and write out the placement C
>> code based on t-vpack/vpr package.
>>
>> ·Use ACE2.0 to generate transition probability and calculate
>> dynamic power dissipation.
>>
>> ·Build new power-aware model and tune parameters to achieve
>> the SRS.
>>
>> Digital Frequency Meter Design Using FPGA
>>
>> ·Use Verilog HDL and block diagram to design and code digital
>> frequency meter.
>>
>> ·Run simulation on Quartus2 and download the code to Xilinx FPGA.
>>
>> ·Recode with VHDL and compare the difference between VHDL and
>> Verilog HDL.
>>
>> Fully Differential Op-Amp Design
>>
>> ·Design the schematic and test bench of a fully differential
>> Op-Amp with Specs.
>>
>> ·Modify the parameters of Nmos/Pmos transistors and triple
>> the gain.
>>
>> WiFi Indoor Positioning System
>>
>> ·Build a Client-Server model based on IP/TCP protocol and
>> socket programming; create database.
>>
>> ·Apply Fingerprint algorithm and Naive Bayesian algorithm to
>> develop an Android App positioning.
>>
>> Filter Channel Decomposition and Adaptive Filter Design
>>
>> ·Use Matlab to design and implement 4-Channel reconstruction
>> filter-bank.
>>
>> ·FIR adaptive filter design on Adaptive Interference
>> Cancellation and Adaptive Equalization.
>>
>> Conduct research in Professor Quanyuan Jiang's group of Power
>> System Optimization and algorithm, responsible for Power
```

>> Optimization using Mixed-integer Linear Programming algorithm.
>>
>> HONORS & AWARDS
>>
>> ·Excellent Student Awards Zhejiang Univ., 2010-2012
>>
>> ·Second-Class Scholarship for Outstanding Merits Zhejiang
>> Univ., 2009-2012
>>
>> ·Third-Class Mathematics Modeling Competition of Zhejiang
>> Univ., 2011
>>
>> ·Fifth National Teenager Innovation Prize, 2009
>>
>> ·First-Class Prize of National Teenager Math Competition
>> (rank 4th), 2008
>>
>> QUALIFICATIONS
>>
>> ·Programming Language: C++, C, Java, Python
>>
>> ·Scripting Language: Perl, Python
>>
>> ·HDL: Verilog, System Verilog, VHDL, block diagram
>>
>> ·OS: Linux, Unix, Solaris, Windows
>>
>> ·Proficient user of: gdb, Cadence, ADS, Matlab, Quartus,
>> Sonnet, Multisim, OrCAD, Visual Studio
>>
>> --
>> <mime-attachment.gif> <<http://www.oracle.com>>
>> Mohammed Jamil | Senior Hardware Manager
>> Phone: +1 4082766144 <tel:+1%204082766144> | Fax: +1 4082766144
>> <fax:+1%204082766144>
>> OracleProcessor Tools Group
>>
>> <mime-attachment.gif> <<http://www.oracle.com/commitment>>Oracle is
>> committed to developing practices and products that help protect
>> the environment
>>
>>
>>
>>
>
>

EXHIBIT Q

EXHIBIT 27
TO
DECLARATION OF
BREMER ISO OFCCCP'S
OPPOSITION TO MSJ

From: Les Cundall <les.cundall@oracle.com>
To: Elizabeth Lee <liz.lee@oracle.com>
Sent: 3/14/2014 1:01:45 AM
Subject: Re: +++UNIVERSITY OFFER APPROVAL REQUEST FOR [REDACTED]

Sorry...didn't recall...Les

On 3/13/2014 5:50 PM, Elizabeth Lee wrote:
I forwarded my email discussion with Chantal. She suggested higher due to previous work exp.

Liz

Sent from my iPhone

On Mar 13, 2014, at 5:37 PM, Les Cundall <les.cundall@oracle.com> wrote:

No Ph.D, correct? How did you arrive at the proposed salary?

----- Original Message -----

Subject:Re: Fwd: Re: +++UNIVERSITY OFFER APPROVAL REQUEST FOR [REDACTED]

Date:Thu, 13 Mar 2014 17:30:44 -0700

From:Les Cundall

Organization:Oracle Corporation

To:liz lee

Why only \$ [REDACTED]?

On 3/13/2014 2:16 PM, liz lee wrote:
Fowler

----- Original Message -----

Subject:Re: +++UNIVERSITY OFFER APPROVAL REQUEST FOR [REDACTED]

Date:Wed, 12 Mar 2014 19:37:29 -0400

From:Bill Nesheim

To:liz lee

CC:Neal Pollack , David Chieu , andy.roach@oracle.com

Approved.

-- Bill

Bill Nesheim | Vice President | Oracle Solaris Platform Engineering
Office: +16038973775 / Cell: +16035530251
1 Oracle Drive, Nashua NH 03062

On Mar 12, 2014, at 7:22 PM, liz lee <liz.lee@oracle.com> wrote:

Hi Bill,

Please approve the following offer and return to me as soon as possible.

Thank you,

Liz

On 3/12/2014 4:17 PM, Neal Pollack wrote:
APPROVED.

Neal Pollack

On 3/12/2014 4:12 PM, liz lee wrote:
Hi Neal,

Please approve the following offer and return to me as soon as possible.

Thank you,

Liz

On 3/12/2014 4:08 PM, David Chieu wrote:
Approved.

-- David Chieu

On 3/12/2014 3:35 PM, liz lee wrote:
Hi David,

Please approve the following offer and return to me as soon as possible.

Thank you,

Liz

Candidate [REDACTED]
Title: Software Engineer (10520)
Group: x64 Platform SW Engineering (AV22)
Hiring Manager: David Chieu
Salary: \$ [REDACTED]
Relocation: Silver Level for College Hires
Sign-on Bonus: \$ [REDACTED]
Stock: As approved by Larry Lynn
Intended start date: March 2014

RESUME:

[REDACTED]
e-mail: [REDACTED]@cornell.edu
cell: 785-312-2818

Education
Cornell University Ithaca, NY
PhD candidate, College of Electrical and Computer Engineering,
Olin Fellowship, August 2012-May 2013

Massachusetts Institute of Technology; Cambridge, MA
Masters of Engineering in Electrical Engineering, September 2009
GPA: 4.6/5.0
Concentration: Devices, Circuits & Systems

Bachelor of Science in Electrical Engineering, June 2008;
GPA: 4.3/5.0

Lawrence High School; Lawrence, KS
National Merit Scholar; Valedictorian, June 2004;
GPA: 4.0/4.0

Leadership experience:
Raytheon's Engineering Leadership Development Program (RELDP), Class of 2012
selected for Raytheon's corporate program with senior leadership mentoring to
develop technical leadership

Department of Defense Secret Clearance; Six Sigma Specialist
Title: Engineer II-Senior Engineer I, 2009-2012

Engineer Week 2010 at Raytheon, Planning Committee
Society of Women Engineers: Treasurer ('10) & Publicity Committee Chair ('09), Planning
committee for 2009 Northeast regional SWE conference

Work Experience:

Raytheon, Network Centric Systems; North Dallas, Tx
Experience Software/Systems Radar Integration, (November 2011-August 2012)
Responsible for component radar integration on a Ku-band radar product. Tasks include
integrating and executing embedded software in a ground radar product.
Raytheon, Integrated Defense Systems; Andover, MA

Semiconductor Process Engineer, (March 2011-November 2011)
Worked in clean-clean room facility. Responsible for various process improvement and failure
analysis in the fabrication of microwave GaN power amplifier.
Process improvement to SiN passivation on AlGaIn/GaN HEMTs: investigating effects of thin film
characteristics and stress on film to improve electric breakdown and reliability
Optimizing ohmic contacts on AlGaIn/GaN HEMTs: specifically improving surface morphology and
electric contact
. RF/DC Failure analysis: Confocal imaging, light emission to understand device reliability
and fabrication irregularities.

Raytheon, Network Centric Systems; Fort Wayne, IN
Hardware Engineer, (July 2009-March 2011)
VHDL code and test integration to support a built-in self-test capability in wideband
software-defined radios. Test capability checks the operation of transmit and receive paths of
the radio by comparisons of 3 detector values in the RF/RE circuit.
Also designed testbench and simulation to analyze expansion of channel capacity and
encoding/decoding for multiple-input multiple output (MIMO) software defined radios

MIT Microsystems Technology Laboratories; Cambridge, MA
Graduate Research Assistant, (Jun. 2008-July 2009)
Advisor: Professor A. Akinwande

Research focus: Designing, fabricating and characterizing of high aspect ratio silicon
pillars with ohmic contacts as test structures for the un-gated FET. The test structure was
constructed (1) to provide accurate and precise characterization of a single un-gated FET
device; (2) demonstrate high saturation current (1 mA) capability; (3) investigate the
effects on key device parameters when connecting different-sized array of pillars in parallel.

Undergraduate Research Assistant, (Feb. 2007-Jun. 2008)
Advisor: Professor A. Akinwande

Research focus: understanding and modeling device behavior of a proposed un-gated FET device
fabricated by vertical high-aspect ratio (~1 x 1 μm x 100 μm) silicon pillars that exhibits
current-limiting behavior. Efforts include (1) developing analytical models to accurately
describe device behavior; (2) simulating single transistor behavior to verify device
operation. (3) extracting key device parameters for device analysis. (4) characterizing the
prototype device fabricated by Principal Research Scientist, Dr. L. Velasquez.

University of Kansas, Information and Telecommunication Technology Center; Lawrence, KS
Summer Research Assistant, (June-August 2006)

Mentor: Professor Victor Frost

Research focus: Applied statistical methods of hypothesis and likelihood ratio testing to detect route change in communication networks. Verified results through simulations to detect borders of two distinct sets of random gamma distributed data.

NSF Research Experience for Undergraduates (REU), (June-August 2005)

Mentor: Professor Victor Frost

Research focus: Explored use of discrete packet simulation in place of fluid network simulation to model fractional Brownian motion in communication networks.

List of Publications:

Y. Niu, D. Mussmann, "FPGA based Waveform PHY Architecture for MIMO in a Two-Channel Software Defined Radio System," Raytheon Symposium Information Systems and Computing Technology network (ISaCTN), June 2011.

Y. Niu, D. Mussmann, "Hardware-in-the-Loop Design Verification Testing for Software-Defined Radio Waveforms," Software Defined Radio Wireless Innovation Forum, Dec 2010.

Y. Niu, A.I. Akinwande, "Current limiters based on silicon pillar un-gated FET for Field Emission application," Master of Engineering Thesis, Massachusetts Institute of Technology, Dept. of Electrical Engineering and Computer Science, July 2009.

L.F. Velasquez-Garcia, Y. Niu, and A.I. Akinwande, "Advanced Cathodes for Novel Sub mm-Wave Compact Sources," Government Microcircuit Application & Critical Technology Conference, March 2009.

Y. Niu, L.F. Velasquez-Garcia, A.I. Akinwande, "Uniform High Current Field Emission of Electrons from Si and CNF FEAs individually controlled by Si Pillar Ungated FETs," Microsystems Annual Research Conference, Jan 2009

L.F. Velasquez-Garcia, Y. Niu, and A.I. Akinwande, "Fabrication of Nanosharp High-Aspect-Ratio Probes for Biomedical Sensing" MTL Workshop on Next-Generation Medical Electronic Systems, Dec. 4-5 2008.

L.F. Velasquez-Garcia, B. Adeoti, Y. Niu, and A.I. Akinwande, "Uniform High Current Field Emission of Electrons from Si and CNF FEAs Individually controlled by Si Pillar Ungated FETs," IEEE International Electron Devices Meeting, 2007, pp. 599-602.

Relevant Courses:

Microelectronics, Circuits and Devices (major concentration):

Integrated Microelectronics Devices (6.720), Nanoelectronics (6.719), Microelectronics Processing Technology (6.152J), Microelectronic Devices and Circuits (6.012), Circuits and Electronics (6.002)

Electromagnetics (minor concentration):

Electromagnetic Fields, Forces & Motion (6.641), Electromagnetics (6.013), Modern Optics Lab (6.161), Physics II: Electricity & Magnetism (8.02),

Signal Processing and Communications (minor concentration):

Digital Image Processing (6.344), Communication, Control, and Signal Processing (6.011), Signals and Systems (6.003)

Mathematics and Computer Science:

Computation Structures (6.004), Mathematics for Computer Science (6.042), Artificial Intelligence (6.034), Structure and Interpretation of Computer Programs (6.001), Probabilistic Systems Analysis & Applied Probability (6.041), Differential Equations (18.03), Linear Algebra (18.06), Partial Differential Equations (18.303).

Languages:

Fluent in English; Conversational German and (Mandarin) Chinese

Interests:

MathMovesU Ambassadors-taking MMU program into area schools (2011). Three Rivers Ping Pong club (2010-2011); Volunteer for Rube-Goldberg Middle School Project(2010); Volunteer for Study Connections (2009-2011); Piano; Pencil Sketching; Badminton MIT Club (2008-2009); Ping Pong MIT Club (2006-2009); Volleyball MIT Club (2004-2008)

Master's Thesis Abstract:

This research investigates the use of vertical silicon un-gated field effect transistors (FETs) as current limiters to individually ballast field emitter arrays and provide a simple solution to three problems that have plagued field emission arrays—emission current uniformity, emission current stability and reliability. The un-gated FET consists of high aspect ratio silicon pillars individually connected in series with silicon or carbon nanofiber (CNF) emission tips. The transistors were designed as high aspect ratio silicon

pillars in order to achieve velocity saturation of carriers and obtain current source-like characteristics. Device and process simulations were initially conducted using SILVACO software to solidify the derived analytical model and optimize design parameters. Devices were fabricated and characterized in the Microsystems Technology Laboratory. The main outcome of this study is that individual control of field emitter current is feasible using un-gated FETs

based vertical Si pillars.

--

Liz Lee | Sr. Recruiting Program Manager
Phone: +1 650 506 5219 | Fax: 1 650 633 1184
Oracle College Recruiting
600 Oracle Parkway | Redwood Shores, 94065

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Liz Lee | Sr. Recruiting Program Manager
Phone: +1 650 506 5219 | Fax: 1 650 633 1184
Oracle College Recruiting
600 Oracle Parkway | Redwood Shores, 94065

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Neal Pollack | Senior Manager, Engineering Site Leader
Oracle Solaris Platform Software Engineering
5750 Hannum Ave., Suite 200, Culver City, CA 90230
Phone: +1 (310)-258-7545 | Mobile: +1 (310)-704-7416

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Liz Lee | Sr. Recruiting Program Manager
Phone: +1 650 506 5219 | Fax: 1 650 633 1184
Oracle College Recruiting
600 Oracle Parkway | Redwood Shores, 94065

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Les Cundall | Senior Manager, College Recruiting
Phone: +1 6505065259 | Fax: +1 6506331184 | Mobile: +1 6503077080
Oracle College Recruiting
500 Oracle Parkway, 60p953 | Redwood Shores, California 94065
Oracle is committed to developing practices and products that help protect the environment

--

Les Cundall | Senior Manager, College Recruiting
Phone: +1 6505065259 | Fax: +1 6506331184 | Mobile: +1 6503077080

Oracle College Recruiting

500 Oracle Parkway, 60p953 | Redwood Shores, California 94065

Oracle is committed to developing practices and products that help protect the environment

--

ORACLE

Les Cundall | Senior Manager, College Recruiting

Phone: +1 6505065259 | Fax: +1 6506331184 | Mobile: +1 6503077080

Oracle College Recruiting

500 Oracle Parkway, 60p953 | Redwood Shores, California 94065



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EXHIBIT R

EXHIBIT 28
TO
DECLARATION OF
BREMER ISO OFCCCP'S
OPPOSITION TO MSJ

From: chantal dumont
To: satarupa bhattacharya
CC: Les Cundall
Sent: 5/17/2013 6:45:08 PM
Subject: Fwd: RE: Re: Fwd: Re: +++UNIVERSITY OFFER APPROVAL REQUEST FOR [REDACTED]

Hey Sat,

I returned that offer to you as I cannot put it through in good conscience with that number.

Les, please handle or let me know if you need my help. I'd like to see that offer at least in the neighborhood of [REDACTED]

Thanks,

Chantal

On 5/16/2013 3:40 PM, satarupa bhattacharya wrote:

> Fowler Offer for Austin office.
> I discussed salary range at length with manager but he refused to go
> above [REDACTED] (his first suggestion was [REDACTED]
> based upon salaries in his team and also candidate's qualifications.
> Doug has discussed this salary with [REDACTED] and [REDACTED] has said that he
> will accept at this salary
> thanks,
> Satarupa

>

>

>

> ----- Original Message -----

> Subject: RE: Re: Fwd: Re: +++UNIVERSITY OFFER APPROVAL REQUEST FOR

> [REDACTED]

> Date: Thu, 16 May 2013 11:22:46 -0700 (PDT)

> From: Phil Bullinger <phil.bullinger@oracle.com>

> To: Satarupa Bhattacharya <satarupa.bhattacharya@oracle.com>

> CC: Scott Tracy <scott.tracy@oracle.com>, Douglas Patrick

> <douglas.patrick@oracle.com>

>

>

>

> I approve.

>

> -- Phil

>

> *From:*satarupa bhattacharya

> *Sent:* Thursday, May 16, 2013 11:58 AM

> *To:* PHIL.BULLINGER

> *Cc:* SCOTT.TRACY; Douglas Patrick

> *Subject:* Fwd: Re: Fwd: Re: +++UNIVERSITY OFFER APPROVAL REQUEST FOR

> [REDACTED]

>

> Dear Phil,

> Please approve the following offer for [REDACTED] and return to me as
> soon as possible.

> Thanks,

> Satarupa

>

>

>

> ----- Original Message -----

>

> *Subject: *

>

>
>
> Re: Fwd: Re: +++UNIVERSITY OFFER APPROVAL REQUEST FOR [REDACTED]
>
> *Date: *
>
>
>
> Wed, 15 May 2013 16:49:25 -0600
>
> *From: *
>
>
>
> Mike Milillo <mike.milillo@oracle.com> <mailto:mike.milillo@oracle.com>
>
> *Organization: *
>
>
>
> Oracle
>
> *To: *
>
>
>
> satarupa bhattacharya <satarupa.bhattacharya@oracle.com>
> <mailto:satarupa.bhattacharya@oracle.com>
>
> *CC: *
>
>
>
> Douglas Patrick <douglas.patrick@oracle.com>
> <mailto:douglas.patrick@oracle.com>
>
>
>
> Approved.
>
> On 5/15/13 4:27 PM, satarupa bhattacharya wrote:
>
> Dear Mike,
> Please approve the following offer for [REDACTED] and return to me as
> soon as possible.
>
> Thanks,
> Satarupa
>
> ----- Original Message -----
>
> *Subject: *
>
>
>
> Re: +++UNIVERSITY OFFER APPROVAL REQUEST FOR [REDACTED]
>
> *Date: *
>
>
>
> Wed, 15 May 2013 15:26:25 -0500
>
> *From: *
>
>
>
> Douglas Patrick <douglas.patrick@oracle.com>

> <mailto:douglas.patrick@oracle.com>
>
> *Organization: *
>
>
>
> ZFS Storage Appliance, Solaris NFS Development
>
> *To: *
>
>
>
> satarupa.bhattacharya@oracle.com
> <mailto:satarupa.bhattacharya@oracle.com>
>
> Approved. Thanks!!
>
>
>
> Douglas Patrick
>
>
>
> On 05/15/13 14:58, satarupa bhattacharya wrote:
>
> >
> >
> >
> >
> > Dear Doug,
>
> > Please approve the following offer for [REDACTED] and return to
>
> > me as soon as possible.
>
> >
> > Candidate: [REDACTED]
>
> > Title: Senior Software Engineer - 10530
>
> > Group: Solaris Network File System
>
> > Cost center: AV09
>
> > Location: Austin-Riata (5300 Riata Park Ct)
>
> > Hiring Manager: Douglas Patrick
>
> > Salary: [REDACTED]
>
> > Sign-on: [REDACTED]
>
> > Stock: As approved by Larry Lynn
>
> > Intended Start date: Summer 2013
>
> > Relocation Package: Silver for College Recruits
>
> >
> > Thanks,
>
> > Satarupa
>
> > _____

>
> > Satarupa Bhattacharya
>
> > Recruiting Program Manager
>
> > University Development Recruiting
>
> > phone: 650.633.5761
>
> > fax: 650.633.1184
>
> >
> >
> >
> > _____ resume _____
> [REDACTED]
> [REDACTED]
> [REDACTED]
> [REDACTED]
> [REDACTED]@yahoo.com <mailto:[REDACTED]@yahoo.com>
>
>

> > EDUCATION

> > Doctorate of Philosophy in Computer Science, 09/2006 -- 05/2011
>
> > GPA: 3.91/4.00

> > The University of Texas at San Antonio

> > Dissertation: Scheduling for Energy and Reliability Management on
> > Multiprocessor Real-Time Systems

> > Bachelor of Science in Computer Science, 09/2001 - 06/2005

> > Beijing University of Posts and Telecommunications

> > HIGHLIGHTS OF QUALIFICATIONS

>
> >
>
> > \$ Extensive C/C++ development experience on Linux and Windows
>
> >
>
> > \$ Extensive experience with developing and implementing sophisticated
>
> > real-time scheduling algorithms
>
> >
>
> > \$ Extensive experience on performance profiling and optimization for
>
> > scientific computing applications
>
> >
>
> > \$ Substantial experience on multi-threaded programming (pthread and OpenMP)
>
> >
>
> > \$ In-depth knowledge of algorithms, OS, and computer architecture
>
> >
>
> > \$ Experience with large code base and ability to quickly understand
>
> > complicated software system and algorithms
>
> >
>
> > \$ Familiar with fundamental network concepts and protocols (TCP/IP,
>
> > HTTP, DNS, ARP, NFS) and experience with socket programming
>
> >
>
> >
>
> > EXPERTISE
>
> >
>
> > \$ Real-Time Scheduling Algorithms, High Performance Computing, Parallel
>
> > Programming, Linear Algebra, Numerical Analysis, Networking Protocols,
>
> > Socket Programming
>
> >
>
> >
>
> > SKILLS
>
> >
>
> > \$ Languages: C/C++, STL, x86 and PowerPC Assembly, Java, Bash, Perl,
>
> > HTML, XML
>
> >

>
>> § Operating Systems: Windows, Linux, Solaris, Mac OS
>
>>
>
>> § Applications: Latex, Gnuplot, Awk, Sed, SVN, CVS, Xfig, Windows
>
>> Performance Toolkit, Visio
>
>>
>
>> § Developing Tools: Visual Studio, Intel Composer XE 2011, Intel Math
>
>> Kernel Library, Matlab, Eclipse, NI Labview
>
>>
>
>>
>
>>
>
>> Experience
>
>>
>> Software Engineer (07/2011 - Present) Nanometrics, Inc., Austin, TX
>
>>
>> Work on software (NanoDiffract) for advanced product quality control for
>
>> semiconductor manufactures
>
>>
>> § Design and implement various new functionalities in complex
>
>> multithreaded software (NanoDiffract).
>
>>
>> § Designed and implemented GUI and algorithms to support new data types
>
>> of measurement. (C++ and MFC)
>
>>
>> § Designed and implemented GUI and algorithms to automate the process of
>
>> determining pre-defined parameters of the model to measure. (C++ and MFC)
>
>>
>> § Developed algorithm for conducting sensitivity analysis for new data
>
>> type. (C++ and Matlab)
>
>>
>> § Designed and implemented the feature to insert a layer or region above
>
>> current layer or region in the geometry model through the graphical
>
>> editor. Developed mechanism to ensure the regions that are coupled or
>
>> aligned to each other still couple or align properly after insertion.
>
>> (C++ and MFC)

>
>
>
> > § Optimize algorithms to construct the geometry model for modeling
>
> > complex 3D structures on wafers. (C and C++)
>
>
>
> > § Optimized the computation engine of NanoDiffract which uses sin and
>
> > cos computation extensively in a five-level loop. Re-wrote the algorithm
>
> > and moved the sin and cos computation out of the inner-most loop by
>
> > using temporary buffers to hold the pre-computed sin and cos values or
>
> > by computing the sin and cos values of iteration i+1 from iteration i.
>
> > Achieved 5% to 35% performance improvement depending on the bottleneck.
>
> > (C and Windows Performance Toolkit)
>
>
>
> > § Evaluated and tuned the computation engine of NanoDiffract which
>
> > extensively uses level2 and level3 BLAS algorithms and LAPACK algorithms
>
> > on Intel Sandy Bridge processors with 256-bit VPUs. Investigated the
>
> > speedup gained by using AVX by linking to different versions of Intel
>
> > Math Kernel Library (MKL) (version 10.1, 10.2, and 10.3). Found the best
>
> > compilation flags by extensive empirical experiments. (C, Intel AVX, and
>
> > Intel MKL)
>
>
>
> > § Profiled and discovered performance bottlenecks of NanoDiffract under
>
> > various use cases using Windows Performance Toolkit.
>
>
>
> > Research Assistant (09/2006 -- 05/2011) The University of Texas at
>
> > San Antonio
>
>
>
> > Real-Time Systems
>
>
>
> > Worked on NSF funded projects on Real-Time Scheduling Algorithms and
>
> > Low-Power Reliable Real-Time Systems
>
>
>
> > § Developed a cluster-based real-time scheduling algorithm for
>
> > multiprocessor systems and implemented it in a simulator to compare the
>
> > proposed algorithm with existing algorithms on context switches, task

>
> > migrations, and scheduler invocation time. Results show that the
>
> > proposed scheduler reduces context switches and migrations by at least
>
> > 32% and 35% respectively. (C++)
>
> >
>
> > § Developed a real-time scheduling algorithm for multiprocessor systems
>
> > to minimize the power consumption and ensure system reliability.
>
> > Implemented the algorithm in an event-driven simulator to investigate
>
> > energy saving and reliability improvement. (C++)
>
> >
>
> > § Experimented dynamic CPU frequency adjustments on Triton-270 embedded
>
> > test bed by modifying the system configuration file which specifies the
>
> > current running speed.
>
> >
>
> > Parallel Computing
>
> >
>
> > Parallelized various algorithms using pthread, OpenMP, and MPI
>
> >
>
> > § Used pthread to parallelize the simulator for cluster scheduling
>
> > algorithms for real-time systems. Implemented it as a thread pool, where
>
> > the schedule for each cluster is a task and an idle thread picks up a
>
> > new task until all tasks are accomplished. (C)
>
> >
>
> > § Used pthread to parallelize blocked double precision general matrix
>
> > multiply on an 8-core SPARC machine. Observed up to 5.3 times speedup
>
> > when thread number is 7 comparing to the serial implementation. (C)
>
> >
>
> > § Used MPI to parallelize 3-D Monte Carlo Integration on a Sun cluster.
>
> > Observed that the initialization time on different nodes varies
>
> > significantly due to the cluster structure, network traffic, and system
>
> > workload. (C)
>
> >
>
> > § Used OpenMP to parallelize 3-D Monte Carlo Integration and achieved up
>
> > to 7.4 times speedup on an 8-core SPARC machine. (C)
>
> >

>
> > High Performance Computing
>
> >
>
> > Conducted performance optimization for linear algebra algorithms on x86,
>
> > PPC, and SPARC machines using memory optimization and instruction level
>
> > optimization tricks
>
> >
>
> > § Optimized single precision general matrix rank update on PowerPC
>
> > machine by unrolling the loop by 32, software pipelining, and
>
> > pre-fetching. (Altivec Assembly)
>
> >
>
> > § Optimized in-L2-cache single precision general matrix vector multiply
>
> > with SSE by loop unrolling. Achieved 2592 MFLOPS on a 2.13GHz Intel
>
> > machine. (x86 Assembly)
>
> >
>
> > § Implemented blocked matrix multiply to fit the working set in L1/L2
>
> > cache. Observed that only applying L1 blocking gave better speedup.
>
> > Empirically tuned the block size and found a best block size that gave
>
> > the most speedup. Achieved up to 4 times speedup comparing to the
>
> > implementation without blocking. (C)
>
> >
>
> > § Designed and implemented a program to achieve floating point peak on a
>
> > 1062MHz UltraSPARC machine. Achieved 89% of floating point peak by
>
> > unrolling the loop by 12 and software pipelining. (C)
>
> >
>
> > Satellite Image Processing Intern Remote
>
> > Sensing/Geographic Information
>
> >
>
> > (05/2006 -- 08/2006) System Lab, Utah State
>
> > University
>
> >
>
> > Worked on NASA funded projects on Satellite Image Processing
>
> >
>
> > § Developed an application to extract layers from huge satellite images
>
> > with size up to 2GB and re-project the extracted layers to user-friendly

>
> > images. (C and Leica ERDAS)
>
> >
>
> >
>
> >
>
> >
>
> >
>
> > SELECTED PUBLICATIONS
>
> >
>
> > § A Study of Utilization Bound and Run-Time Overhead for Cluster
>
> > Scheduling in Multiprocessor Real-Time Systems, with Dakai Zhu and Hakan
>
> > Aydin, in the Proc. of the 16th IEEE Intl. Conference on Embedded and
>
> > Real-Time Computing Systems and Applications (RTCSA), Macau SAR, China,
>
> > Aug. 2010.
>
> >
>
> > § Power Management for Real-Time Embedded Systems on Block-Partitioned
>
> > Multicore Platforms, with Dakai Zhu, in the Proc. of the IEEE Intl.
>
> > Conference on Embedded Software and Systems (ICCESS), Chengdu, P.R.China,
>
> > Jul. 2008; Best Paper Award.
>
> >
>
> > § Priority-Monotonic Energy Management for Real-Time Systems with
>
> > Reliability Requirements, with Dakai Zhu and Hakan Aydin, in the Proc.
>
> > of the IEEE Intl. Conference on Computer Design (ICCD), Lake Tahoe, CA,
>
> > Oct. 2007.
>
> >
>
> >
>
> >
>
> > Affiliations & Honors
>
> >
>
> > § ACM Member (2009 - Present)
>
> >
>
> > § IEEE Member (2007 - Present)
>
> >
>
> > § Southwestern Bell Fellowship (2010)
>
> >

EXHIBIT S

EXHIBIT 29
TO
DECLARATION OF
BREMER ISO OFCCCP'S
OPPOSITION TO MSJ

From: Wendy Lee <wendy.l.lee@oracle.com>
To: [REDACTED]@mit.edu
Sent: 10/25/2013 9:24:05 PM
Subject: Re: About our MAP Program - for [REDACTED]

Will do.

thanks,
wendy

On 10/25/2013 11:21 AM, [REDACTED] wrote:
Hi Wendy,

Thank you very much for the good news! I am very happy to receive the offer. Could you please mail it to my new address at [REDACTED] Cambridge, MA 02142? I just moved there not long ago and have not updated it yet.

All the best,
[REDACTED]

On Fri, Oct 25, 2013 at 1:56 PM, Wendy Lee <wendy.l.lee@oracle.com> wrote:
Hi [REDACTED]

It was nice speaking with you today. Below is a write up of the MAP Program that we would like to offer you. Please let me know if you have questions. I hope to get the official offer out to you by mid-next week. When it is officially approved by the CEO, I can mail it out to you at: [REDACTED] Cambridge, MA 02142.

Best,
Wendy

MAP OFFER

WHAT IS IT?

The Multiple Alternative Program (MAP) offer is very unique. The MAP offer was conceived by Oracle's CEO, Larry Ellison. Mr. Ellison wanted an additional method for top graduates to select their first career opportunity. It has many benefits for the candidate and is certainly unique in our industry.

Oracle has numerous development openings each fiscal year. The goal is, of course, to find a Developer position, which is optimal for the candidate. For graduates, the best fit includes what they will be working on and whom they will be working with. At times, an on site visit lasting 2 to 3 days does not produce that "best fit". Another visit or a MAP offer are alternatives. The MAP offer gives the graduate the time and flexibility to examine and choose the very best Oracle job available to them.

HOW DOES IT WORK?

The offer originates from the CEOs office and it has all the elements of other offers except a specific job position. The Manager and Director of Recruiting work closely with the graduate throughout the process. Once the offer is accepted the graduate is temporarily assigned to the CEOs development staff.

The MAP candidates are given free hand to look at a wide spectrum of development groups. They can meet the team members, have dinner with managers and directors and carefully examine their options. An Oracle employee works with them and acts as an aid in the selection process.

MAP is a special program with several benefits and we are proud to offer it to a few exceptional graduates.

Larry Lynn

VP of College Recruiting

larry.lynn@oracle.com

Chantal Dumont

Director of College Recruiting

chantal.dumont@oracle.com

[1-800-915-7246](tel:1-800-915-7246)

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ORACLE

Wendy Lee | Team Lead

Phone: [+1 650 5065556](tel:+16505065556) | Fax: [+1 650 6331184](tel:+16506331184)

Oracle College Recruiting

600 Oracle Parkway | Redwood Shores, CA 94065



| Oracle is committed to developing practices and products that help protect the environment

--

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EXHIBIT T

EXHIBIT 30
TO
DECLARATION OF
BREMER ISO OFCCCP'S
OPPOSITION TO MSJ

1 JANET M. HEROLD
Regional Solicitor
2 LAURA C. BREMER
Acting Counsel for Civil Rights
3 IAN H. ELIASOPH
Counsel
4 PAIGE B. PULLEY
Trial Attorney
5 United States Department of Labor
6 Office of the Solicitor
90 7th Street, Suite 3-700
7 San Francisco, CA 94103
Telephone: (415) 625-2707
8 Facsimile: (415) 625-7772
9 Email: pulley.paige.b@dol.gov

10 Attorneys for Plaintiff, Eugene Scalia, Secretary
United States Department of Labor

11
12 UNITED STATES DISTRICT COURT FOR THE
13 NORTHERN DISTRICT OF CALIFORNIA

14 **OFFICE OF FEDERAL CONTRACT**) Case No.: 2017-OFC-00006
15 **COMPLIANCE PROGRAMS, UNITED**)
16 **STATES DEPARTMENT OF LABOR**) **DECLARATION OF BHAVANA**
17) **SHARMA**
18)
19)
20)
21)
22)
23)
24)
25)
26)
27)
28)

16 Plaintiff,
17 V.
18 **ORACLE AMERICA, INC.**
19 Defendant.

1 I, Bhavana Sharma, state and declare as follows.

2 1. I am providing this declaration pursuant to a request from the U.S.
3 Department of Labor, Office of the Solicitor.

4 2. I am an Asian woman and I worked for Oracle America, Inc. at the Redwood
5 Shores facilities from approximately September 2001 to October 2017. I have personal
6 knowledge of the matters stated herein and, if necessary, I could and would testify to the
7 facts stated below.

8
9 3. I obtained a Master's degree in Enterprise Software Engineering from San
10 Jose State University, and a Bachelor's degree in Instrumentation and Controls from the
11 Delhi Institute of Technology.

12 4. Prior to joining Oracle, I had 4 years of experience in the technology industry.
13 In the job I had prior to working at Oracle, I held the title of Systems Engineer where I was
14 responsible for developing and testing the application to ensure customers' requirements
15 were met. In my prior position we used Oracle technologies, for example Oracle forms and
16 reports, and Oracle's database to develop these application.

17
18 5. In 2001, I began my career at Oracle as a Senior Quality Assurance (QA)
19 Engineer, as an Individual Contributor (IC) 2, position in Product Development. In around
20 April of 2005, I was promoted to Principal QA Engineer, an IC 3 position. I completed my
21 Master's Degree in 2007 while I was working full time at Oracle. I took classes in the
22 evening to finish this degree. In around the spring of 2007, I took a position as a Senior
23 Product Manager, and my IC level was lowered back to an IC 2. Before accepting the
24 position, I spoke with Earl Eldridge, who later became my manager, about the position as
25 Senior Product Manager, and I asked him why my IC level would be lowered. I explained
26 that I would like to stay as an IC 3, considering that I had just completed my master's degree.
27 Earl told me that because my current role was not in a Product Manager role, I would need to

1 accept a lower IC level initially, but he would put me in for a promotion during the next focal
2 review. I worked as a Senior Product Manager for approximately three years, and then
3 received a promotion to Principal Product Manager and was returned to an IC 3. I was a
4 Principal Product Manager from approximately 2010 until around 2014. The last promotion
5 I received while working for Oracle was to Senior Principal Product Manager, an IC 4
6 position, which occurred in around 2014. I held the position of Senior Principal Product
7 Manager until I separated from employment with Oracle in October 2017.

8
9 6. Generally speaking as a Senior QA Engineer, I worked on testing the Oracle
10 Quoting product, and my duties included: setting up the product, promotions, and ATP
11 (availability to promise). As a Principal QA Engineer, my duties were the same as when I
12 was a Senior QA Engineer. I was doing the job of a Principal QA prior to my promotion.

13 7. As a Senior Product Manager, I worked on four Oracle sales products, which
14 included: Oracle Field Sales, Oracle Telesales, Oracle Sales Off-line, and Oracle Mobile
15 Sales. I also worked on Oracle Advanced Pricing and Oracle Territory Manager. In this role I
16 was generally responsible for creating the product functionality requirement documents and
17 prototyping the user experience navigation. I interacted with QA, Engineers, and
18 Documentation Writers to ensure they understood the product requirements, the correct
19 testing methods, and I helped create proper implementation and user guides. I also created
20 product training videos to ensure users understood how to use the products' new features. As
21 a Principal Product Manager, my duties remained the same as when I had been a Senior
22 Product Manager. I was doing the job of Principal Product Manager prior to my promotion. I
23 had no additional responsibilities in my role as a Senior Product Manager.

24
25 8. While working for Oracle, I found it frustrating that my male coworkers
26 would often get credit for my work. For example, my manager Earl, requested that I help my
27 male co-worker, [REDACTED] create a prototype for channel revenue management

1 because Earl told me that [REDACTED] did not know how to create the prototype properly. I
2 complied with Earl's request and after I completed the prototype I was not given credit for
3 my work. During this time, [REDACTED] was an IC 4 and I was an IC 3. On another occasion, a
4 product manager left and there was extra work that our team needed to do. Earl asked me to
5 take on this new product, called Advanced Pricing, because he did not think [REDACTED] had the
6 skills to complete the work on Advanced Pricing. Earl told me that when he gave me a task
7 to do, he knew I would be able to complete it without him having to follow-up with me
8 again.

9
10 9. In fact, I often helped my male coworkers with their work. We had another
11 team member located in [REDACTED] who would come to headquarters every so often, his name
12 was [REDACTED] was Product Manager for Oracle's Marketing product. Earl requested
13 that I help [REDACTED] with some of his duties on his product that Earl felt I might be better at
14 completing than [REDACTED] I believe [REDACTED] was an IC 3, which was my level at that time. On one
15 occasion, when [REDACTED] was working from the Redwood Shores office, we attended a large
16 technology conference hosted by Oracle, called Oracle Open World [REDACTED] and I gave a joint
17 presentation and after the presentation [REDACTED] discouraged me from attending an informal event
18 that only male colleagues were planning to attend. I did not end up attending this event.

19 10. After I helped [REDACTED] with his work, I remember asking Earl for a raise and he
20 rebuffed my request saying he did not have enough money in his budget to give me a raise.
21 On another occasion, I asked Earl for a raise, and he indicated that he needed to show that I
22 had recently done something special in order to get a raise approved by his higher-ups. I
23 asked Earl if my prior good work for him counted, and Earl replied that if I had done
24 something special recently he would be able to give me a raise. When he used the word
25 "special" I did not understand why all of the projects I had done for Earl, that he had
26 described to me as "special projects" did not qualify me for a raise.

