

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

RECEIVED

OCT 30 2019

Office of Administrative Law Judges
San Francisco, Ca

**CORRECTED DECLARATION OF NORMAN E. GARCIA IN SUPPORT OF
OFCCP'S MOTION FOR SUMMARY JUDGEMENT**

I, Norman E. Garcia, state and declare as follows:

1. I am a Senior Trial Attorney for the U.S. Department of Labor, Office of the Solicitor, and counsel of record for Plaintiff in this action. I submit this declaration in support of OFCCP's Motion for Summary Judgement. I have personal knowledge of the matter set forth in this declaration, and I could and would competently testify thereto if called upon to do so.

2. Attached hereto as **Exhibit 1** is a true and correct copy of a letter from Erin Connell to Marc Pilotin, dated August 7, 2017.

3. Attached hereto as **Exhibit 2** is a true and correct copy of Oracle American, Inc.'s Responses and Objections to OFCCP's Second Set of Requests for Admissions, dated May 31, 2019.

4. Attached hereto as **Exhibit 3** is a true and correct copy of the Federal Contractor Selection System (FCSS) Scheduling report, DOL000038371-76.

5. Attached hereto as **Exhibit 4** is a true and correct copy of excerpts from the June 10, 2019, deposition of Hea Jung Atkins.

6. Attached hereto as **Exhibit 5** is a true and correct copy of excerpts from the August 1, 2019, deposition of Shauna Holman-Harries testifying as Oracle America, Inc's (Oracle) designee under Rule 30(b)(6) of the Federal Rules of Civil Procedure on behalf of Oracle.

7. Attached hereto as **Exhibit 6** is a true and correct copy of excerpts from the May 24, 2019, deposition of Lynne Carrelli.

8. Attached hereto as **Exhibit 7** is a true and correct copy of excerpts from the May 1, 2019, deposition of Kate Waggoner.

9. Attached hereto as **Exhibit 8** is a true and correct copy of Oracle's "Q4FY15 Oracle HR Webinar re: Compensation," dated May 2015, ORACLE_HQCA_0000056391.

10. Attached hereto as **Exhibit 9** is a true and correct copy of Oracle's "Oracle Compensation Guidelines," not dated, ORACLE_HQCA_0000380594-97.

11. Attached hereto as **Exhibit 10** is a true and correct copy of Oracle's "Global Compensation: Total Compensation" at www.my.oracle.com, dated December 18, 2017, ORACLE_HQCA_0000364301-03.

12. Attached hereto as **Exhibit 11** is a true and correct copy of Oracle's *U.S. Employee Handbook*, last revision date February 2014, ORACLE_HQCA_0000000464-569.

13. Attached hereto as **Exhibit 12** is a true and correct copy of an untitled Oracle Compensation Presentation, copyrighted 2012, ORACLE_HQCA_0000042098.

14. Attached hereto as **Exhibit 13** is a true and correct copy of Oracle's "Managing Compensation," dated July 2016, ORACLE_HQCA_0000056234.

15. Attached hereto as **Exhibit 14** is a true and correct copy of Oracle's "Managing Compensation at Oracle," not dated, ORACLE_HQCA_0000382580.

16. Attached hereto as **Exhibit 15** is a true and correct copy of Oracle's Global Job Table for Product Development, Information Technology, and Support Job Functions, not dated, ORACLE_HQCA_0000022905.

17. Attached hereto as **Exhibit 16** is a true and correct copy of Oracle's "Global Compensation Training: Salary Ranges at Oracle," copyright 2011, ORACLE_HQCA_0000364272.

18. Attached hereto as **Exhibit 17** is a true and correct copy of the Declaration of Hea Jung Atkins in support of OFCCP's Motion for Summary Judgment, dated October 16, 2019, with Tables 1 and 2.

19. Attached hereto as **Exhibit 18** is a true and correct copy of Oracle's "Global Compensation Training: Managing Pay Module," copyright 2011, ORACLE_HQCA_0000000407.

20. Attached hereto as **Exhibit 19** is a true and correct copy of excerpts from the June 11, 2019, deposition of Madhavi Cheruvu.

21. Attached hereto as **Exhibit 20** is a true and correct copy of Oracle's Global Approval Matrices from 2012-2017, ORACLE_HQCA_0000062710-12, 0000062720, 0000062720, 0000062732.

22. Attached hereto as **Exhibit 21** is a true and correct copy of Oracle's "Managing Compensation," dated April 2016, ORACLE_HQCA_0000380437.

23. Attached hereto as **Exhibit 22** is a true and correct copy of Oracle's "Global Compensation Training: Compensation Processes," copyright 2011, ORACLE_HQCA_0000364274.

24. Attached hereto as **Exhibit 23** is a true and correct copy of Oracle's "Dimensions of Diversity Newsletter," dated December 13, 2016, ORACLE_HQCA_0000053641-65.

25. Attached hereto as **Exhibit 24** is a true and correct copy of Oracle's "Annual Bonus Program and Workforce Compensation Manager Training," copyright 2018, ORACLE_HQCA_0000381306.

26. Attached hereto as **Exhibit 25** is a true and correct copy of Oracle's "Manager Training: Compensation Process for Global Corporate Bonus & Fusion Workforce Compensation," dated June 2014, ORACLE_HQCA_0000056242.

27. Attached hereto as **Exhibit 26** is a true and correct copy of Oracle's "New Manager Training: Compensation Processes/Compensation Workbench," dated May 2011, ORACLE_HQCA_0000056957.

28. Attached hereto as **Exhibit 27** is a true and correct copy of excerpts from the July 19, 2019, deposition of Kate Waggoner testifying as Oracle's designee under Rule 30(b)(6) of the Federal Rules of Civil Procedure on behalf of Oracle.

29. Attached hereto as **Exhibit 28** is a true and correct copy of Oracle's "Recruit & Hire at Oracle: Module 6: How to Create an Offer in iRecruitment," copyright 2017, ORACLE_HQCA_0000057179.

30. Attached hereto as **Exhibit 29** is a true and correct copy of "iRecruitment Candidate Details for Applicant Number 452780," dated February 17, 2014, ORACLE_HQCA_0000001729-32.

31. Attached hereto as **Exhibit 30** is a true and correct copy of emails between Oracle Managers in July 2014 regarding "Dive-and-Save," ORACLE_HQCA_0000432004-06.

32. Attached hereto as **Exhibit 31** is a true and correct copy of excerpts from the June 14, 2019, deposition of Juan Loaiza.

33. Attached hereto as **Exhibit 32** is a true and correct copy of "Memorandum: Investigation Results," dated December 7, 2017, ORACLE_HQCA_0000416837.

34. Attached hereto as **Exhibit 33** is a true and correct copy of a May 7, 2014 request for a "dive-and-save" salary adjustment, ORACLE_HQCA_0000437696-701.

35. Attached hereto as **Exhibit 34** is a true and correct copy of a June 15, 2015 out-of-cycle salary adjustment proposal, ORACLE_HQCA_0000434971-72.

36. Attached hereto as **Exhibit 35** is a true and correct copy of Oracle's "Dimensions of Diversity Newsletter," dated December 9, 2015, ORACLE_HQCA_0000049995.

37. Attached hereto as **Exhibit 36** is a true and correct copy of Oracle's "Speaker Biographies," dated September 19, 2016, ORACLE_HQCA_0000042275-77.

38. Attached hereto as **Exhibit 37** is a true and correct copy of excerpts from the May 30, 2019, deposition of Joyce Westerdahl.

39. Attached hereto as **Exhibit 38** is a true and correct copy of Oracle's "Performance Appraisals FY15," dated September 2015, ORACLE_HQCA_0000380158.

40. Attached hereto as **Exhibit 39** is a true and correct copy of Oracle's "Oracle Recruiting Program Manager (RPM) Training Manual," ORACLE_HQCA_0000056907-32.

41. Attached hereto as **Exhibit 40** is a true and correct copy of Oracle's "Oracle College Recruiting," dated July 14, 2014, ORACLE_HQCA_0000020125-79.

42. Attached hereto as **Exhibit 41** is a true and correct copy of the October 2, 2018 declaration of Shauna Holman-Harries, filed in *Jewett v. Oracle Corp. Inc.*, Case No. 17-cv-02669 (Sup. Ct. San Mateo) (Ex. 17 at Holman-Harries 30b6 Dep. re: conciliation), including as Ex. A thereto, the sworn statement of Lisa Gordon, Oracle Director of Compensation, dated February 11, 2015.

43. Attached hereto as **Exhibit 42** is a true and correct copy of an email dated February 10, 2015, from Shauna Holman-Harries to OFCCP, regarding revisions to Lisa Gordon's statement, DOL000039983-40002.

44. Attached hereto as **Exhibit 43** is a true and correct copy of excerpts from the May 8, 2019, deposition of Shauna Holman-Harries in her personal capacity as a percipient witness.

45. Attached hereto as **Exhibit 44** is a true and correct copy of a February 10, 2015, OFCCP interview statement containing Lisa Gordon's revisions that Shauna Holman-Harries sent to OFCCP that was marked as Ex. 33 to Shauna Holman-Harries May 8, 2019, deposition.

46. Attached hereto as **Exhibit 45** is a true and correct copy of an e-mail dated February 12, 2015, from Shauna Holman-Harries to OFCCP with Lisa Gordon's sworn statement, DOL000040003-22.

47. Attached hereto as **Exhibit 46** is a true and correct copy of Oracle's "HR Learning Session US Pay Equity Laws and Salary History Bans," dated October 18-19, 2017, ORACLE_HQCA_0000381118-37.

48. Attached hereto as **Exhibit 47** is a true and correct copy of Oracle's "US PAY EQUITY FAQ FOR MANAGERS AND HR," dated January 1, 2018, ORACLE_HQCA_0000381077-79.

49. Attached hereto as **Exhibit 48** is a true and correct copy of Oracle's "Candidate Offer Information" for [REDACTED] dated December 22, 2008, ORACLE_HQCA_0000472274-80.

50. Attached hereto as **Exhibit 49** is a true and correct copy of Oracle's "Candidate Offer Information" for [REDACTED] dated January 6, 2015, ORACLE_HQCA_0000464341-44.

51. Attached hereto as **Exhibit 50** is a true and correct copy of e-mails between a job applicant and an Oracle recruiter regarding prior salary, dated 2010, DOL000044390-93.

52. Attached hereto as **Exhibit 51** is a true and correct copy of an Oracle Hiring Presentation, copyright 2014, ORACLE_HQCA_0000056633.

53. Attached hereto as **Exhibit 52** is a true and correct copy of two Oracle's "Candidate Profile Summaries" from 2013, ORACLE HQCA0000029001, 0000033810.

54. Attached hereto as **Exhibit 53** is a true and correct copy of Oracle's iRecruitment requisition for "Senior Software Developer – Fusion Lifecycle Management," dated March 28, 2012, ORACLE_HQCA_0000027412.

55. Attached hereto as **Exhibit 54** is a true and correct copy of an e-mail exchange between Oracle's Senior Recruiter Todd Gorman and [REDACTED] dated May 2014, ORACLE_HQCA_0000034106-10.

56. Attached hereto as **Exhibit 55** is a true and correct copy of Oracle's Job Announcement for "Solution Architect," no date, from Oracle Senior Recruiter Stephanie Nguyen, ORACLE_HQCA0000033891-94.

57. Attached hereto as **Exhibit 56** is a true and correct copy of e-mails regarding "Changes to US Hiring Process Effective October 31, 2017," dated October 2017, ORACLE_HQCA_0000381115-17.

58. Attached hereto as **Exhibit 57** is a true and correct copy of Oracle's "Recruit & Hire at Oracle; Module 1: Introduction to Recruiting & Hiring," copyright 2017, ORACLE_HQCA_0000057181.

59. Attached hereto as **Exhibit 58** is a true and correct copy of Oracle's "Manager Essentials Product Development," dated March 2014, ORACLE_HQCA_0000380814-934.

60. Attached hereto as **Exhibit 59** is a true and correct copy of Oracle's "Global Compensation Guidelines Training North America: US," dated May 2013, ORACLE_HQCA_0000382399.

61. Attached hereto as **Exhibit 60** is a true and correct copy of Oracle's "NA Talent Advisory," copyright 2016, ORACLE_HQCA_0000056772.

62. Attached hereto as **Exhibit 61** is a true and correct copy of OFCCP's Notice of Violation of EO 11246 to Oracle America, Inc., dated March 11, 2016, DOL000000943-54.

63. Attached hereto as **Exhibit 62** is a true and correct copy of Oracle's Responses and Objections to *Jewett* Plaintiff's Third Set of Special Interrogatories, dated September 18, 2018, ORACLE_HQCA_0000607048-50.

64. Attached hereto as **Exhibit 63** is a true and correct copy of Oracle's "Affirmative Action Plan for Oracle America," dated January 2014, ORACLE_HQCA_0000004999-5015.

65. Attached hereto as **Exhibit 64** is a true and correct copy of Oracle's "Welcome to New Recruiter On-boarding!" copyright 2014, ORACLE_HQCA_0000056566.

66. Attached hereto as **Exhibit 65** is a true and correct copy of excerpts from the July 3, 2019, deposition of Tamerlane Baxter testifying as Oracle's designee under Rule 30(b)(6) of the Federal Rules of Civil Procedure on behalf of Oracle..

67. Attached hereto as **Exhibit 66** is a true and correct copy of OFCCP's Show Cause Notice, dated June 8, 2018.

68. Attached hereto as **Exhibit 67** is a true and correct copy of OFCCP's April 21, 2016 Response to Oracle America Inc.'s April 11, 2016 Letter, ORACLE_HQCA_0000002067-78.

69. Attached hereto as **Exhibit 68** is a true and correct copy of an attachment to Oracle America Inc.'s October 29, 2015, email, "HQCA Compensation Report no Vlookup with extra visa data 10-22-15," ORACLE_HQCA_0000000699 and attachment with no BSN.

70. Attached hereto as **Exhibit 69** is a true and correct copy of OFCCP's March 29, 2016, emailed Response to Oracle America, Inc.'s March 18, 2016 email, ORACLE_HQCA_0000000275-78.

71. Attached hereto as **Exhibit 70** is a true and correct copy of Oracle's March 25, 2016, email and attached Position Statement in response to OFCCP's March 11, 2016, ORACLE_HQCA_0000002094-115.

72. Attached hereto as **Exhibit 71** is a true and correct copy of Oracle's Consolidated Notes of Oracle employees Charles Nyakundi and Shauna Holman-Harries, produced by Oracle America Inc. on July 31, 2019, ORACLE_HQCA_0000607319-25.

73. Attached hereto as **Exhibit 72** is a true and correct copy of the October 2, 2018 declaration of Shauna Holman-Harries, filed in *Jewett v. Oracle Corp. Inc.*, Case No. 17-cv-02669 (Sup. Ct. San Mateo).

74. Attached hereto as **Exhibit 73** is a true and correct copy of Oracle's "Compensation Review & Oversight," no date, ORACLE_HQCA_0000382618.

75. Attached hereto as **Exhibit 74** is a true and correct copy of an e-mail from Shauna Holman-Harries to OFCCP sending Oracle's Handbook, dated February 9, 2015, ORACLE_HQCA_0000000443.

76. Attached hereto as **Exhibit 75** is a true and correct copy of an e-mail from Shauna Holman-Harries to OFCCP, sending Oracle's "Global Compensation Training," dated February 26, 2015, ORACLE_HQCA_0000000405-06.

77. Attached hereto as **Exhibit 76** is a true and correct copy of screenshots from Oracle's "Workforce Compensation Hints and Tips" video, circa 2017, ORACLE_HQCA_0000417060.

78. Attached hereto as **Exhibit 77** is a true and correct copy of Oracle's "Affirmative Action Training at Oracle," dated October 12, 2015, ORACLE_HQCA_0000416488.

79. Attached hereto as **Exhibit 78** is a true and correct copy of Oracle's "Oracle Compensation Guidelines," no date, ORACLE_HQCA_0000382600-603.

80. Attached hereto as **Exhibit 79** is a true and correct copy of Oracle's "Eligibility: FY14 Focal Stock Grant," no date, ORACLE_HQCA_0000022959.

81. Attached hereto as **Exhibit 80** is a true and correct copy of Oracle's "Eligibility: FY13 Focal Stock Grant," ORACLE_HQCA_0000380593.

82. Attached hereto as **Exhibit 81** is a true and correct copy of excerpts from Oracle's PMK Deposition (Kate Waggoner) Deposition in *Jewett, et al v. Oracle America*, produced by Oracle, ORACLE_HQCA_0000400584 and subsequent excerpts.

83. Attached hereto as **Exhibit 82** is a true and correct copy of Correspondence from J. Pitcher, counsel for Oracle, to L. Bremer, dated June 28, 2018.

84. Attached hereto as **Exhibit 83** is a true and correct copy of Oracle's "Stock Options/Restricted Stock Units (RSUs) FAQ-June 2016," ORACLE_HQCA_0000416489.

85. Attached hereto as **Exhibit 84** is a true and correct copy of an email from Stefanie Wittner, dated May 30, 2013, ORACLE_HQCA_0000022960-61.

86. Attached hereto as **Exhibit 85** is a true and correct copy of an email from J. Ridell, counsel for Oracle, to C. Song, dated July 12, 2019.

87. Attached hereto as **Exhibit 86** is a true and correct copy of Correspondence from J. Wipper to S. Catz, dated June 8, 2016, DOL000001392-94.

88. Attached hereto as **Exhibit 87** is a true and correct copy of Correspondence from OFCCP to Oracle, dated March 11, 2016, DOL000001395-1406.

89. Attached hereto as **Exhibit 88** is a true and correct copy of an excerpt of Dr. Saad's backup data entitled "re_yearly_incumbent_2013_2018."

90. Attached hereto as **Exhibit 89** is a true and correct copy of the October 11, 2019 deposition transcript of Dr. Ali Saad and Exhibit 9 to the same deposition (Declaration of Dr. Janice F. Madden, dated October 11, 2019, and attachments thereto).

91. Attached hereto as **Exhibit 90** is a true and correct copy of the October 10, 2019 deposition transcript of Dr. Janice F. Madden.

92. Attached hereto as **Exhibit 91** is a true and correct copy of the July 19, 2019 Expert Report of Dr. Janice F. Madden.

93. Attached hereto as **Exhibit 92** is a true and correct copy of the August 16, 2019 Expert Rebuttal Report of Dr. Janice F. Madden.

94. Attached hereto as **Exhibit 93** is a true and correct copy of the July 19, 2019 Expert Report of Dr. Ali Saad.

95. Attached hereto as **Exhibit 94** is a true and correct copy of the August 16, 2019 Expert Rebuttal Report of Dr. Ali Saad.

96. Attached hereto as **Exhibit 95** is a true and correct copy of excerpts from the October 10, 2019 deposition transcript of Dr. Madden.

97. Attached hereto as **Exhibit 96** is a true and correct copy of excerpts from the October 11, 2019 deposition transcript of Dr. Saad.

98. Attached hereto as **Exhibit 97** is a true and correct copy of the declaration of Christina Kolotouros, dated September 19, 2019.

99. Attached hereto as **Exhibit 98** is a true and correct copy of the declaration of Rachel Powers, dated October 1, 2019.

100. Attached hereto as **Exhibit 99** is a true and correct copy of the declaration of Donna Rosberg, dated October 2, 2019.

101. Attached hereto as **Exhibit 100** is a true and correct copy of the declaration of Donna Kit Yee Ng, dated October 9, 2019.

102. Attached hereto as **Exhibit 101** is a true and correct copy of the declaration of Lynn Snyder, dated October 10, 2019.

103. Attached hereto as **Exhibit 102** is a true and correct copy of the declaration of Kirsten Hanson Garcia, dated September 20, 2019.

104. Attached hereto as **Exhibit 103** is a true and correct copy of the declaration of Nicole Alexander, dated October 8, 2019.

105. Attached hereto as **Exhibit 104** is a true and correct copy of an excerpt from an Internal Revenue Services Circular from 2019.

106. Attached hereto as **Exhibit 105** is a true and correct copy of a letter from Erin Connell to Janette Wipper with attachment dated October 31, 2015.

107. Attached hereto as **Exhibit 106** is a true and correct copy of Supplemental Excerpts from Holman-Harries May Dep.

108. Attached hereto as **Exhibit 107** is a true and correct copy of an excerpt from the data file produced by Oracle on October 11, 2017 entitled Amp_Personal_Experience_Qualification_Assign_Details.xlsx with the bates number ORACLE_HQCA_0000070738. The excerpt is from the tab in the data labelled Emp Assignment Information, which contains voluminous data regarding employees' job assignments. The excerpt includes an example of employee data from the file in the following data fields: Employee_Job_Name, Job_Code, Job_Title, Job_Function, Specialist_Area, and Global_Career_Level. When the job levels are removed from the data in the "job title" column in this data file (creating, for example, a "Software Developer" job descriptor, there are 35 unique job descriptors in the Product Development, Information Technology, and Support job functions.¹

109. In the course of discovery, Oracle provided OFCCP with thousands of additional pages documenting Oracle's compensation procedures and practices.

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¹ Should the Court desire a copy of the entire data file, OFCCP will provide a copy in electronic format.

110. Attached hereto as **Exhibit 108** is a true and correct copy of the court reporter's certification page for Kate Waggoner's 30b6 deposition at Ex. 27. The previous certification page that was provided at Ex. 27 was not signed.

I declare under the penalty of perjury that the foregoing is true and correct and that this declaration was executed in San Francisco, California on October 30, 2019.

/s/ Norman E. Garcia
NORMAN E. GARCIA

Office of the Solicitor
U.S. Department of Labor