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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  
vs. )  
 ) OFCCP No.  
ORACLE AMERICA, INC., ) R00192699  
 )  
Defendants. )  
\_\_\_\_\_ )

VIDEOTAPED DEPOSITION OF SHAUNA HOLMAN-HARRIES  
UNDER RULE 30(b)(6)  
San Francisco, California  
Thursday, August 1, 2019

Reported By:  
Ashley Soevyn,  
CSR No. 12019  
Job No. 190801ASE

11:09:40 1 and how -- how he utilized it, but I just know that  
2 it had to do with him pulling data in.

3 Q Okay. And the extra visa data indicates  
4 that this compensation report, Exhibit 126, included  
11:09:59 5 additional visa information that was not on prior  
6 compensation snapshots?

7 A I believe so. Again, because there were  
8 so many submissions, I'd have to look at each and  
9 every submission to see what visa data was included,  
11:10:15 10 but it could be. I didn't create the file. I can  
11 only assume, so I can't be exact on it, but...

12 Q Does -- does the date 10-22-15 in the  
13 title of Exhibit 126 indicate that the data was  
14 pulled on that date?

11:10:44 15 A I -- I can't say. I think that -- it  
16 could have been the day he completed it or the day  
17 that he worked on it. It was some type of date  
18 reference for him, and he would have to answer that  
19 question.

11:10:53 20 Q Okay. And looking at Exhibit 126 which  
21 was produced in native format, Oracle provided  
22 compensation data to OFCCP in Excel spreadsheets,  
23 correct?

24 A Yes.

11:11:31 25 Q And why did Oracle provide the

11:11:33 1 compensation data to OFCCP in Excel format?  
2 MR. PARKER: Beyond the scope. Calls for  
3 speculation.  
4 THE WITNESS: OFCCP requested that we  
11:11:46 5 started in some of our earlier audits that we  
6 provide it in Excel format. We used to provide it  
7 in a PDF format, and that was at the request of-- as  
8 all the audits that we've gone through preceded,  
9 that was at the request of OFCCP.  
11:12:08 10 BY MS. BREMER:  
11 Q And with Excel spreadsheets, the data  
12 could be sorted, correct?  
13 MR. PARKER: Beyond the scope.  
14 THE WITNESS: Yes.  
11:12:29 15 BY MS. BREMER:  
16 Q And it could be used to create pivot  
17 tables?  
18 MR. PARKER: Calls for speculation.  
19 Beyond the scope.  
11:12:42 20 THE WITNESS: Yes.  
21 BY MS. BREMER:  
22 Q Did Oracle retain copies of all the Excel  
23 spreadsheets it sent to OFCCP during the compliance  
24 review?  
11:12:56 25 MR. PARKER: Beyond the scope.

11:15:38 1 sent to -- or that you provided to OFCCP also sent  
2 to anyone in the HR group?

3 MR. PARKER: Vague and ambiguous.  
4 Outside the scope.

11:15:55 5 THE WITNESS: The only -- the only  
6 per- -- I -- I don't know. I'd have to look at --  
7 and look at any blank carbons, and it would only  
8 have been -- if it had been anybody, it would be my  
9 supervisor in -- in that group.

11:16:08 10 I don't know if I ever provided it to the  
11 compensation department for any reference. I'd have  
12 to look -- you know, go back and look. But from --  
13 for the most part, the people that you see copied  
14 there, other than what's privileged, are the people  
11:16:27 15 that received a copy of it.

16 BY MS. BREMER:

17 Q Okay. Looking at Exhibit 126.

18 A Okay.

19 Q Again, this was a voluminous Excel  
11:16:52 20 spreadsheet, and what I did was what I described  
21 with the other compensation snapshot. I selected  
22 the first rows of data in the Excel spreadsheet and  
23 printed them. And because of the large number of  
24 columns in this spreadsheet, this first rows of data  
11:17:10 25 that I selected printed on approximately 20 pages.

11:17:13 1 So the approximately 20 pages in  
2 Exhibit 126 show the data for the first 23 people  
3 listed in the database.  
4 Does that make sense?  
11:17:25 5 A Yes.  
6 Q Okay. Why don't -- just look at the --  
7 the data fields that Oracle provided to OFCCP as  
8 part of the 2014 compensation snapshot which is --  
9 A Yeah, if you give me a minute just to  
11:17:59 10 look through this, I appreciate it.  
11 Q Sure.  
12 A Okay, thank you.  
13 Q Sure.  
14 So the first -- the first data field is  
11:19:40 15 the -- is the last name.  
16 Is that the last name of the employee?  
17 A Yes.  
18 Q And then the third column of information  
19 is ID number.  
11:19:51 20 Is that a unique employee identifier?  
21 A Yes.  
22 Q And then the next column in the  
23 compensation snapshot shows the employee's gender,  
24 correct?  
11:20:14 25 A Yes.

11:20:15 1 Q And then Oracle has also provided the  
2 race for the employee?

3 A Yes.

4 Q And then the next column is for national  
11:20:27 5 origin.

6 Did Oracle provide data regarding the  
7 national origin of its employees?

8 A No, we don't track that data.

9 Q Oracle provided data in the compensation  
11:20:47 10 snapshot for each employee's job title, correct?

11 A Yes.

12 Q And then tuning to the next page, Or- --  
13 the compensation snapshot provided by Oracle  
14 provided each employee's job function, right?

11:21:14 15 A Yes.

16 Q It also provided each employee's job  
17 specialty?

18 A Yes.

19 Q Looking at -- at the job function column  
11:21:32 20 for data, there's data that says "PRODEV."

21 Does that stand for the product  
22 development job function?

23 A Yes.

24 Q And then "INFTECH" stands for information  
11:21:54 25 technology job function?

11:22:00 1 A Yes.

2 Q And does "SUPP" stand for the support job  
3 function?

4 A Where is -- where is that one?

11:22:13 5 Q It's -- the first few people on this  
6 snapshot were not in the support job function.

7 A Oh, oh. Yes, I believe there is.  
8 Without looking at the sheet, I couldn't tell you  
9 for certain, but that sounds like a type of coding  
11:22:33 10 that would have been used.

11 Q And the 2014 compensation snapshot that  
12 Oracle provided to OFCCP during the compliance  
13 review did have -- include the job function of every  
14 employee at Oracle's headquarters, correct?

11:22:59 15 A Yes, I believe so.

16 Q Okay. And then it provided -- the  
17 snapshot provided job specialty information for  
18 Oracle's employees too?

19 A Yes.

11:23:20 20 Q The next column of data is H1B status.  
21 And at least all the data fields on this page  
22 indicate number sign N/A.

23 What does that mean.

24 A That means that that particular person  
11:23:45 25 didn't have a Visa according to the categories

11:23:50 1 listed in the next three columns. So I know that  
2 that was -- Visa information was provided, but --  
3 and the particular cut that you would have here,  
4 it's not applicable to the people that were  
11:24:03 5 listed --

6 Q Okay. Let's --

7 A -- in those -- in the categories. You've  
8 got like the three -- three categories.

9 Q The three categories you're referring to  
11:24:12 10 are: Visa types held from 1-1-13 to 6-30-14, All  
11 Visas Held, and Status Change History or -- and H1B  
12 Status, not a Status Change History?

13 A Yes. Yes, all these -- yes, the three  
14 columns that you just mentioned.

11:24:33 15 Q And what about Status Change History?

16 A Status Change History, I would have to --  
17 that would have been, I believe, related to that  
18 also because of the -- and -- and simply because --  
19 and I -- and I'm reminded as far as, you know, what  
11:24:53 20 that is but I'm assuming because of the color coding  
21 at the top.

22 Whenever we added a new -- frequently,  
23 not whenever -- but often when we added a new  
24 section, we would color code it for OFCCP to find it  
11:25:05 25 more easily.

11:25:16 1 Q And when you say I believe it related to  
2 that, you mean to Visa data as well?

3 A It could have, yeah. I want to -- to  
4 double-check everything and see the entire  
11:25:27 5 spreadsheet to be able to say for certain.

6 Q Okay. Turning to the next page, the  
7 second column is entitled "Job Group."

8 A Yes.

9 Q So in the 2014 compensation spreadsheet  
11:25:52 10 Oracle provided job group information to OFCCP for  
11 all -- all employees at HQCA, right?

12 A Yes.

13 Q And it also provided their grade, right?

14 A Yes.

11:26:05 15 Q And what does -- what does "grade" refer  
16 to?

17 A Pay grade would refer to -- if you look  
18 at it, you'll see an "either" on some, and you'll  
19 see "and" on others. That refers to whether the  
11:26:23 20 person was exempt or non-exempt. And then you'll  
21 see a number, and that that categorizes people  
22 according to whatever pay range their job has been  
23 classified in.

24 Q When you say "their job," are you  
11:26:46 25 referring to job code?

11:26:49 1 A Well, job code is representational of job  
2 title. It's not exact. But I'm referring to --  
3 yes, I think that that would be -- that would be  
4 fair, whatever their -- their job had been  
11:27:05 5 classified in as represented by the job code.

6 Q Okay. And Oracle provided data in the  
7 next four columns for each employee's supervisor in  
8 the compensation snapshot as well, correct?

9 A Yes.

11:27:33 10 Q So turning to the next page, Oracle  
11 provided data for employee's data of birth in the  
12 2014 compensation snapshot as well, correct?

13 A Yes.

14 Q And there's a column that's Global Career  
11:28:03 15 Level.

16 What is that?

17 A That is the way that Oracle uses -- it's  
18 a coding system, and it -- it organizes people  
19 according to, generally, the job that their doing,  
11:28:24 20 you know, how -- some of the different  
21 responsibilities they have.

22 So, for instance, a person that would  
23 come in with absolutely no experience, work  
24 experience at all, might come in as a IC0, a con- --  
11:28:37 25 an individual contributor zero. And as they -- the

11:28:41 1 job requires more experience, the person would --  
2 the numbering would increase.

3           So an IC1 would be, again, a person of  
4 low experience, at least for the job that they are  
11:28:57 5 performing. And then IC2 would be a little bit more  
6 and IC3 a little bit more and so on and so forth.

7           And then you've also got the manager  
8 levels, and they follow the same type of rationale  
9 with -- starting with M for your management levels,  
11:29:16 10 and like a -- a manager -- like an M6 is, I  
11 believe -- I would have to look, but I think -- I  
12 think that one is like a senior director, but I'd  
13 have to -- to look at -- back at the job title.

14           But -- but you -- you kind of get what I  
11:29:30 15 mean. Or maybe an M5 is a senior director, or a --  
16 an M6 might be a VP. But like -- but that type of  
17 thing going up. But I could be off one without  
18 looking at the titles next to it.

19           Q     So the managers also -- and someone with  
11:29:45 20 an M1 global career level would have less experience  
21 than somebody with an M5 global career level?

22           A     Yeah, for the job that they're performing  
23 would be less responsibilities.

24           Q     Okay. And so Oracle provided --

11:30:00 25           A     I want to qualify --

11:30:01 1 Q -- data --  
2 A I want to qualify something.  
3 It doesn't necessarily mean less  
4 experience. It would be less experience as required  
11:30:06 5 by the job. So I might have a person that has 20  
6 years experience, but, you know, they're an  
7 individual contributor at a specific level. And,  
8 you know, that's -- that's kind of like the job that  
9 they are performing. So it's related to both of  
11:30:19 10 them.  
11 Q It's related to both the job that they're  
12 performing and -- and their experience in that job?  
13 A Correct.  
14 Q And Oracle provided -- provided data in  
11:30:39 15 the 2014 compensation snapshot for each employee's  
16 global career level?  
17 A Yes.  
18 Q And the next column of data that Oracle  
19 provided in the snapshot is entitled "Department,"  
11:30:55 20 correct?  
21 A Yes.  
22 Q The next column on the next page is Work  
23 Unit Flow.  
24 Is this the same information that was  
11:31:18 25 provided in the original Item 11 response?

11:31:26 1 A I believe so.  
2 Q And then Exhibit 126 has a column  
3 "Original Hire Date."  
4 A Uh-huh.  
11:31:39 5 Q Was -- was that the date that the  
6 employee was originally hired by Oracle?  
7 A Not necessarily. It could be.  
8 Q Okay. What -- what is "Original Hire  
9 Date"?  
11:31:55 10 A It could be the original date that the  
11 employee was hired by Oracle, but it could also be a  
12 hire date that we were given by a company, or Oracle  
13 was given by a company, it acquired for the hire  
14 date with that particular company.  
11:32:14 15 Q Okay. And -- and so Oracle included that  
16 data as well in the compensation snapshot --  
17 A Yes.  
18 Q -- to OFCCP?  
19 A Yeah.  
11:32:28 20 Q Okay. What does the column "Date and  
21 Time" refer to?  
22 A We were trying to do some calculations  
23 for some of the requests that OFCCP had, and so we  
24 used -- or Neil, when he put this together, he put  
11:32:44 25 the -- he put everything effective as of that date,

11:32:46 1 as of 1/1/14, for the compensation snapshot. And  
2 then he took hire date and ran some kind of a  
3 mathematical formula to get the -- the timing at  
4 Oracle in years.

11:33:09 5 Q Okay. And so date -- "Date and Time"  
6 also reflects that this is a compensation snapshot  
7 as of January 1st, 2014?

8 A Yes.

9 Q Okay. So the data also included -- the  
11:33:34 10 data that Oracle provided to OFCCP as part of the  
11 2014 compensation snapshot also included a time with  
12 company years and also time with company months?

13 A Yes.

14 Q And -- and what does that information  
11:33:59 15 reflect?

16 A As far as the months, that -- that's all  
17 based off of this 1/1/14 date, so it would be the  
18 years and months. It's just broken up. So they --  
19 they're supposed to go together.

11:34:13 20 Q Okay. So it's the total amount of time  
21 that -- that each employee had been with Oracle,  
22 employed by Oracle?

23 A Yes.

24 MR. PARKER: Misstates the testimony.

11:34:25 25 THE WITNESS: It -- yes, it -- yes, it

11:34:26 1 could be, or it could also include -- and I'd have  
2 to look to be absolutely certain. It also could  
3 include maybe the time with the company that Oracle  
4 acquired.

11:34:36 5 BY MS. BREMER:

6 Q So either the -- the time that the  
7 employee had been employed by Oracle or one of its  
8 predec- --

9 A Right.

11:34:43 10 Q -- acquisitions?

11 A Yeah.

12 Q Okay. Let's turn to the next page on  
13 Exhibit 126. There's a column of "Data PT/FT."

14 What is that?

11:35:10 15 A Okay, wait a minute. I think I'm --  
16 maybe I flipped too much. Let's see, we've got  
17 that.

18 MR. GARCIA: I think she skipped a page.

19 BY MS. BREMER:

11:35:23 20 Q Yeah, this is the page after --

21 A Oh.

22 Q -- the page with time with company months  
23 and --

24 A This was either part time or full time.

11:35:32 25 Q Okay. And -- and does "P" indicate part

11:35:33 1 time?  
2 A Yes.  
3 Q And -- and "F" in that column indicates  
4 full time?  
11:35:40 5 A Yes.  
6 Q Okay. So as part of the 2014  
7 compensation snapshot that Oracle provided to OFCCP,  
8 it included data showing whether each employee was  
9 full time or part time?  
11:35:58 10 A Yes.  
11 Q Okay. And it also implied -- provided  
12 data showing exempt status, correct?  
13 A Yes.  
14 Q And -- and what is that?  
11:36:12 15 A What is exempt status?  
16 Q What -- what is that column indicating?  
17 A The one that says "Exempt Status"?  
18 Q Yes.  
19 A Whether -- whether they are exempt or  
11:36:22 20 nonexempt under the Fair Labor Standards Act, or --  
21 or if they're exempt from the Fair Labor Standards  
22 Act or not.  
23 Q And -- and what does an "E" in that  
24 column mean?  
11:36:34 25 A That they're exempt.

11:36:35 1 Q And what about an "N"?

2 A Nonexempt.

3 Q Okay. The next column of data in the

4 2014 compensation snapshot is "Salary," correct?

11:36:46 5 A Yes.

6 Q Is that annual salary?

7 A That particular column was the annual

8 salary that was reported on the initial Item 11

9 submission for their base salary in the system.

11:37:05 10 Q Okay. And then turning to the next page,

11 there is also a data field for "Regular Wages" and

12 then "Total Compensation."

13 What are those?

14 MR. PARKER: Compound.

11:37:27 15 THE WITNESS: Well, you've got regular

16 salary, and then you've got regular wages, and that

17 has to do with whether a person is exempt or

18 nonexempt as far as their -- their wages.

19 And then the total compensation, that

11:37:43 20 was -- that was pulled -- some of that data that I

21 told you about that was pulled from OAL, that would

22 be the total compensation that the employee earned.

23 BY MS. BREMER:

24 Q And that -- would that include bonuses?

11:38:00 25 A It should. I'd have to -- to look to

11:38:05 1 verify that. It -- let me -- let me look across a  
2 second real quick. Because we've organized it a  
3 little differently on the most recent audits. I  
4 would have to double-check and make absolutely  
11:38:49 5 certain. But I'm thinking so because I'm looking at  
6 the one where it has the -- the regular wages, yeah.  
7 So I'm not sure.  
8 MR. PARKER: Shauna, you don't have to  
9 talk out loud.  
11:39:02 10 THE WITNESS: Okay. Or think out loud,  
11 you mean?  
12 MR. PARKER: Yeah.  
13 THE WITNESS: Okay.  
14 MR. PARKER: You can just -- you told her  
11:39:05 15 you would --  
16 THE WITNESS: Yeah, I'd have to check.  
17 MR. PARKER: You don't know. You  
18 think -- you thought it -- it should include  
19 bonuses.  
11:39:09 20 THE WITNESS: Okay.  
21 MR. PARKER: You said you would have to  
22 check.  
23 THE WITNESS: I -- yeah, to be absolutely  
24 certain.  
11:39:15 25 BY MS. BREMER:

11:39:15 1 Q But in any event, there were different  
2 types of compensation information that Oracle  
3 provided to OFCCP during the compliance audit,  
4 different types of compensation that each employee  
11:39:32 5 received?

6 MR. PARKER: Vague and ambiguous.

7 THE WITNESS: There were different  
8 categories of compensation.

9 BY MS. BREMER:

11:39:39 10 Q Okay. Now we're going to flip a few  
11 pages. This is the problem with them not being  
12 numbered.

13 A I know. I know, right?

14 Q So flip to the page where at the top in  
11:40:02 15 the left-hand column it says "Perf Rating 2013"?

16 A Okay. I've to find that page. Just a  
17 minute.

18 MR. PARKER: Why don't you show her what  
19 it looks like.

11:40:11 20 THE WITNESS: Oh, I know what it looks  
21 like. I'm just -- I just have to flip through and  
22 find which one. But thank you, though. Okay.

23 BY MS. BREMER:

24 Q Okay. So the column on the far right  
11:40:45 25 says "Education."

11:40:45 1                   Was education data provided for anyone in  
2 the 2014 compensation snapshot?

3           A     No.

4           Q     Looking at the next page of Exhibit 126,  
11:41:05 5 the column is "School Attended."

6                   Was any information regarding school  
7 attended provided in the 2014 compensation snapshot  
8 to OFCCP?

9           A     No.

11:41:21 10           Q     And what about the next column, "Prior  
11 Salary/Acquired"?

12           A     I would have to look and see if -- if  
13 there was an amount, it -- if it -- they came -- I  
14 would have to -- I would have to double-check and  
11:41:43 15 see a full spreadsheet to be able to answer that.

16           Q     And what is "Prior Salary/Acquired"?  
17 What -- what does that reference?

18           A     That would have been the salary at the  
19 company, what they were making at the company that  
11:42:00 20 we acquired -- that Oracle acquired.

21           Q     Was -- was Exhibit 126 the last Excel  
22 spreadsheet containing compensation data for 2014  
23 that Oracle provided to OFCCP during the compliance  
24 review period?

11:43:10 25           A     If it's the spreadsheet -- if it is in

11:43:13 1 fact the spreadsheet that was attached to the 10/29  
2 e-mail, the answer is yes.

3 Q And so that would be the most complete  
4 compensation snapshot for 2014 that was provided to  
11:43:27 5 OFCCP?

6 MR. PARKER: Vague and ambiguous.

7 THE WITNESS: You mean the spreadsheet on  
8 10/29?

9 BY MS. BREMER:

11:43:34 10 Q Yes.

11 A Yes.

12 Q Okay. Let's look back at Exhibit 38.

13 A Let me find it. And you said 38?

14 Q Yes. It was previously marked as 38.

11:44:21 15 That's the -- that's the --

16 A This one.

17 Q -- 10/29 e-mail.

18 A Got it. Thank you.

19 Q Okay. So on Exhibit 38, the darker print  
11:44:32 20 is OFCCP's request to Oracle, right?

21 A Yes.

22 Q And then the lighter print is Oracle's  
23 response?

24 A Yes.

11:44:55 25 Q Okay. Looking at Item 2, it says:

15:12:23 1 with regard to conciliation.

2 As the -- as the correspondence went on,  
3 we had a discussion and we agreed to conciliate and,  
4 in fact, had a meeting, I believe it was, in October  
15:12:39 5 of 2016, if my memory serves me correctly, with --  
6 in our first efforts to conciliate.

7 Q Was there any meeting prior to October 6,  
8 2016 between OFCCP and Oracle regarding  
9 conciliation?

15:13:12 10 A Not to the best of my memory, no.

11 Q In the letter at the bottom of this third  
12 paragraph that we were talking about before the  
13 break, OFCCP says:

14 "Argument of counsel, affirmations of  
15:13:36 15 good faith in making individual  
16 decisions and cohort comparisons are  
17 insufficient to rebut statistical  
18 evidence of systemic discrimination."

19 Do you see that?

15:13:55 20 A Which -- which paragraph is it in? Is it  
21 in the -- his letter, right? This first --

22 Q Yes, yes, the -- the first page of  
23 Exhibit 5 to the Suhr PMK.

24 A Yeah, how far down on the page? That's  
15:14:05 25 probably an easier question.

15:15:53 1 review them. I correct myself.

2 BY MS. BREMER:

3 Q What was your understanding of OFCCP's  
4 statement that cohort comparisons are insufficient  
15:16:20 5 to rebut statistical evidence of systemic  
6 discrimination?

7 A My understanding was that OFCCP said  
8 there was a systemic issue and it was not going to  
9 look at people that were doing essentially the same  
15:16:45 10 work and comparing those people against each;  
11 rather, they were going -- they were looking at an  
12 overall comparison regardless of if they were doing  
13 the same work.

14 Q What's your understanding of the term  
15:17:02 15 "cohort"?

16 A A cohort would be somebody doing the same  
17 type of work that somebody else would be doing. So,  
18 for instance, on my team, I have a couple of people  
19 that are doing -- doing compliance or diversity from  
15:17:25 20 a compliance perspective, and they would be cohorts.  
21 However, I have a counterpart that has people on her  
22 team that -- that do diversity, but they do it from  
23 an inclusions perspective.

24 My team, they were -- they're required to  
15:17:39 25 do a lot of data manipulation and -- and research

15:17:46 1 and that type of thing. And her team, they -- you  
2 know, they -- they meet and greet with people and  
3 they -- they build branding. So we -- they would  
4 not be cohorts with us; however, two people on my  
15:17:57 5 team that are doing the same work would be cohorts.

6 Q So cohorts under your definition would be  
7 people who are doing the -- the same -- the same  
8 work, individuals who are doing the same work?

9 MR. PARKER: Asked and answered.

15:18:20 10 THE WITNESS: Yes.

11 BY MS. BREMER:

12 Q And OFCCP indicated in March 2016 that it  
13 would be looking for statistical evidence of  
14 systemic discrimination from Oracle, right?

15:19:01 15 A I don't understand the question.

16 Q I'm sorry.

17 A That's okay. It's getting late.

18 Q OFCCP's position that -- was that it was  
19 conducting a statistical analysis of the evidence  
15:19:21 20 not looking at individuals, right?

21 A They said they were looking at -- at  
22 groups of people. They were not looking at doing a  
23 cohort analysis.

24 MS. BREMER: Okay. I'm going to show you  
15:19:57 25 Exhibit 6 to Jane Suhr's PMK deposition.

15:27:54 1 didn't -- didn't go into the whole process, I mean,  
2 didn't weigh different things differently.

3           It -- we didn't know the -- how you did  
4 it type of thinking. We knew some of the factors  
15:28:04 5 and we knew some of the results, but we didn't know  
6 the how. And we -- we asked that. And I know even  
7 when we went to the meeting with you on October 6,  
8 we asked that, and we were told that that would --  
9 would not be shared with us.

15:28:20 10           Q     And with respect -- well, we'll go over  
11 the -- that October 6th meeting letter later.

12           A     Okay. Sure.

13                   MS. BREMER: Show you what's been marked  
14 as Exhibit 7 to the Jane Suhr PMK deposition.

15:30:13 15                   (Exhibit 7 previously marked for identification.)

16           Q     Was Exhibit 7 OFCCP's response to  
17 Oracle's letter which was marked as Exhibit 6 to the  
18 Jane Suhr PMK deposition?

19           A     Yes.

15:31:06 20           Q     So in this response, OFCCP responded to  
21 some of Oracle's questions, right?

22           A     A few of them.

23           Q     And it also -- the letter also stated why  
24 other questions were inappropriate, right?

15:31:31 25           A     From the OFCCP's perspective.

15:31:40 1 MS. BREMER: I'm going to show you what  
2 has been marked as Exhibit 9 to Jane Suhr's PMK  
3 deposition.

4 (Exhibit 9 previously marked for identification.)

15:32:03 5 Q Exhibit 9 is Oracle's position statement,  
6 correct?

7 MR. PARKER: Misstates the document.

8 BY MS. BREMER:

9 Q Okay. Just looking at the -- the first  
15:32:16 10 page is an e-mail cover letter from Gary Siniscalco  
11 to Hea Jung Atkins dated May 25th, 2016, correct?

12 You nodded --

13 A You mean on -- on this? Yes.

14 Q Yes. So the cover -- the cover letter  
15:32:42 15 that's attaching the May 25th, 2016 letter says:

16 "Attached please find our position  
17 statement in response to Mr. Dole's  
18 letter of March 11, 2016 as requested  
19 by you."

15:32:56 20 So this was Oracle's position statement  
21 to OFCCP's NOV, right?

22 A Yes.

23 Q And with respect to the compensation  
24 discrimination violations, Oracle's position was the  
15:33:27 25 OFCCP's statistical model was defective, right?

15:34:35 1 Q -- from Gary Siniscalco.  
2 A Yes, thank you.  
3 Q Okay. So looking at Roman numeral IV, it  
4 says:  
15:34:50 5 "OFCCP's -- OFCCP's statistical model  
6 is defective and no counter statistical  
7 model is warranted."  
8 Do you see that?  
9 A Yes.  
15:35:02 10 Q So that was -- at least part of Oracle's  
11 position was that OFCCP's statistical model was  
12 flawed?  
13 A Yes.  
14 Q And Oracle did not offer any factor that  
15:35:26 15 OFCCP should consider that would explain the  
16 disparities described in the NOV, right?  
17 A Well, Oracle -- no, I don't -- Oracle  
18 asked -- told the OFCCP that they -- they thought a  
19 cohort analysis should be done because each job is  
15:35:51 20 so different at Oracle that they did not feel the  
21 groupings that OFCCP chose to use were comparing --  
22 was comparing apples to apples. They did not  
23 con- -- consider that these jobs were performing the  
24 same -- the same work.  
15:36:07 25 Q Okay. So Oracle's position throughout

15:36:18 1 the conciliation period was that OFCCP should  
2 conduct a cohort analysis?

3 MR. PARKER: I'm sorry. If you don't  
4 mind, there is a series of documents which speak for  
15:36:26 5 themselves. They are back and forth.

6 You can answer to the extent you --  
7 you -- you understand that question.

8 THE WITNESS: Okay. Just -- so I'm --  
9 I'm sorry to do this to you, Laura, but could you  
15:36:38 10 repeat the question?

11 BY MS. BREMER:

12 Q Oracle's position throughout the  
13 conciliation period was that OFCCP should conduct a  
14 cohort analysis, right?

15:36:49 15 A Yes, that they should consider true  
16 comparators because the jobs that they were  
17 comparing were not true comparators.

18 Q So OF -- Oracle's position during the  
19 conciliation period were -- was that a statistical  
15:37:26 20 model would not account for differences in jobs?

21 MR. PARKER: Sorry. The documents speak  
22 for themselves on -- on this particular point. And  
23 I -- to the extent there's an implication that this  
24 was the only position taken by Oracle in  
15:37:43 25 conciliation, I would object on that basis as well.

15:42:48 1 Q -- was -- well, let me just rephrase it  
2 to be absolutely clear.

3 After OFCCP issued the NOV in March of  
4 2016 up until January of 2017, did Oracle present  
15:43:14 5 any competing statistical model for OFCCP to  
6 consider?

7 MR. PARKER: Asked and answered.

8 THE WITNESS: No.

9 BY MS. BREMER:

15:43:41 10 Q Let's see here.

11 Did -- and during that same time frame --  
12 and --

13 A Okay.

14 Q -- these questions --

15:43:47 15 A I gotcha.

16 Q -- involve that same time frame.

17 A Okay.

18 Q Did Oracle offer any factors that OFCCP  
19 should consider in its statistical analysis that  
15:44:02 20 would explain the disparities found?

21 A No.

22 Q Oracle -- let's see here.

23 A I think, though -- you know, I was  
24 thinking -- I'm trying to think back on the  
15:44:50 25 communication, and I think there was something in

15:45:51 1 was made in that time frame.  
2 BY MS. BREMER:  
3 Q Okay. A suggestion that -- so Oracle  
4 made a suggestion that OFCCP look at -- at  
15:46:03 5 cohorts --  
6 A Yes.  
7 Q -- which could be groupings of -- of just  
8 a few employees, right?  
9 MR. PARKER: That misstates the  
15:46:11 10 testimony.  
11 BY MS. BREMER:  
12 Q Okay. Let's just look at -- back at this  
13 letter that's Exhibit -- Exhibit 9, and this --  
14 A Is that Erin's letter?  
15:46:27 15 Q No, this is Gary's letter still that --  
16 A Okay.  
17 Q -- that we were looking at before, and it  
18 says in Roman numeral IV.  
19 A Okay. I'm -- of course I already  
15:46:39 20 shuffled this.  
21 Q I think that's the one.  
22 A Is it? Nine. Okay.  
23 Q It is.  
24 So back to Page 3 --  
15:46:46 25 A Okay.

15:46:46 1 Q -- of the letter --  
2 A Sure, sure.  
3 Q -- from Gary to Hea Jung Atkins.  
4 A Okay.  
15:46:57 5 Q Okay. So at the bottom of -- of this  
6 Roman numeral IV, it says:  
7 "In many cases, no two employees at  
8 HQCA have the same or similar job  
9 unless they have no or possibly just  
10 one or two comparators."  
11 So Oracle was taking the position that  
12 OFCCP would need to consider groupings of -- of  
13 employees, some of which would be just two or three  
14 employees, right?  
15:47:31 15 A It could be.  
16 Q Okay. Looking at Page 16.  
17 A Sixteen of 18?  
18 Q Yes, 16 of 18.  
19 Okay. At the very top of the page, it  
15:48:22 20 says:  
21 "None of variables the OFCCP considered  
22 addresses this specific type of work  
23 performed by individual employees."  
24 A Is that in the very first par- -- oh, I  
15:48:31 25 see. Okay, it starts with "However," okay.

15:48:35 1 Q Did Oracle suggest a factor or a variable  
2 that OFCCP should consider that would address the  
3 specific types of work performed by individual  
4 employees?

15:49:01 5 A No, not any -- not anything -- one  
6 factor.

7 Q Okay. Looking at Page 15 of 18, there's  
8 Footnote 17 which says:

9 "We presume, quote, work experience at  
10 Oracle means simply length of time at  
11 Oracle since hire or acquisition."

12 And that was referring to -- was Oracle  
13 presuming that the work experience that OFCCP  
14 considered in its model meant length of time at  
15:50:15 15 Oracle since hire or acquisition?

16 A I'm not certain. I -- I believe that  
17 they were just basically talking about at time --  
18 time -- time at Oracle rather than relevant work  
19 experience. And I just know that from some of the  
15:50:37 20 different discussions with regard to this item.

21 Q Okay. Actually, let's -- let's just look  
22 up at the text where these footnotes appear --

23 A Okay.

24 Q -- the text of the letter. It says:

15:50:46 25 "Each of the regression models" --

15:50:47 1 those are compensation regression  
2 models -- "simply -- state simply that  
3 the model involved the natural log of  
4 annual salary as its dependent variable  
15:51:00 5 and accounted for differences in  
6 employee's gender, race, et cetera,  
7 work experience at Oracle, work  
8 experience prior to Oracle, full-time,  
9 part-time status, exempt status, global  
15:51:11 10 career level, job specialty and job  
11 title."

12 So the footnote to -- to work experience  
13 at Oracle is referring to that factor that OFCCP  
14 used in the model described in the NOV, right?

15:51:29 15 A Yes.

16 Q Okay. And so Oracle states that it  
17 presumes that work experience at Oracle means the  
18 length of hire -- or the length of time at Oracle  
19 since hire or acquisition?

15:51:45 20 A Yes.

21 Q Okay. And then Oracle also makes an  
22 assumption regarding the -- what work experience  
23 prior to Oracle meant in OFCCP's model that it  
24 described in the NOV, right?

15:52:05 25 MR. PARKER: The document speaks for

15:52:06 1    itself.

2                    THE WITNESS:    Yes.

3    BY MS. BREMER:

4                    Q    And there aren't any other footnotes --  
15:52:20 5    the other -- the other factors -- Oracle knew what  
6    data OFCCP was considering for these other factors,  
7    right?

8                    MR. PARKER:    Misstates the testimony.  
9    Asked and answered.

15:52:34 10                   THE WITNESS:    The question was, did  
11    Oracle know what data the OFCCP was considering for  
12    these other factors? Is that the question that you  
13    asked.

14    BY MS. BREMER:

15:52:50 15                   Q    Okay. Let me -- these other factors --  
16    okay. So, for example, gender, that was included --  
17    gender was a field of data that was included in the  
18    compensation snapshot that Oracle provided to OFCCP,  
19    right?

15:53:09 20                   A    Yes.

21                   Q    Okay. And full-time, part-type status,  
22    that was also a field of data that was in the  
23    snapshot?

24                   A    Yes.

15:53:22 25                   Q    Exempt status was a field of data in the

15:53:25 1 compensation snapshot?

2 A Yes. But not all of these were, so I

3 don't know -- I think they -- the answer to your

4 question is for some of them but not -- not all of

15:53:34 5 them.

6 Q Okay.

7 A Not all of these factors.

8 Q Right. I'm just going through them --

9 A Yeah.

15:53:38 10 Q -- one by one.

11 A Okay.

12 Q Global -- global career level was also

13 a -- that was also a column of data that was

14 included in the compensation snapshot?

15:53:49 15 A Yes.

16 Q Job specialty was as well?

17 A Yes.

18 Q And job title was another data field?

19 A Yes.

15:53:58 20 Q Okay. Okay. And so on Pages 17 and 18

21 of 18, Oracle provides OFCCP with some comparisons

22 of individual employees, correct?

23 A Yes.

24 Q And this was after OFCCP had already

15:54:50 25 advised Oracle that it would not consider a cohort

15:54:58 1 analysis in response to the NOV, right?  
2 A Yes.  
3 Q If you look at -- back at -- back at  
4 Page 3 of the actual letter, after Gary Siniscalco's  
15:55:26 5 signature, it's cc'ed to Patricia Shiu, Director  
6 OFCCP.  
7 Do you see that?  
8 A Yes.  
9 Q What did you understand Patricia Shiu's  
15:55:38 10 position to be in May of 2016?  
11 MR. PARKER: Outside the scope.  
12 THE WITNESS: What do you mean her  
13 position? Her job?  
14 BY MS. BREMER:  
15:55:52 15 Q Yes.  
16 A She -- she's -- she was the director of  
17 the OFCCP, the main person.  
18 Q For all of OFCCP?  
19 A Yes.  
15:56:02 20 Q And she was -- she's a political  
21 appointee?  
22 A Yes.  
23 Q And located in Washington, D.C.?  
24 A Yes.  
15:56:16 25 Q Why did Oracle copy Patricia Shiu on its

15:56:20 1  
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15:56:36 5  
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15:57:26 15  
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15:58:40 25

position statement?  
MR. PARKER: Outside the scope.  
THE WITNESS: I think it -- just to state the obvious, to make her aware of this situation.  
MS. BREMER: Okay. I'm going to mark as Exhibit 130 a document dated June 8th, 2016. It's the Show Cause Notice.  
(Exhibit 130 marked for identification.)  
THE REPORTER: Exhibit 130.  
THE WITNESS: Thank you.  
BY MS. BREMER:  
Q Did Oracle receive a copy of a Show Cause Notice from OFCCP on or about June 8th, 2016?  
A Yes.  
Q And is this a true and correct copy of the Show Cause Notice that was sent to Oracle?  
A It looks like it.  
Q And after -- after OFCCP issued this Show Cause Notice, Oracle requested an in-person meeting -- a conciliation meeting with OFCCP, correct?  
A To the best of my memory, yes.  
Q And Oracle and OFCCP agreed to meet on October 6th, 2016?  
A Yes.

16:15:23 1 perspective?

2 MR. PARKER: Vague and ambiguous.

3 THE WITNESS: No.

4 BY MS. BREMER:

16:15:32 5 Q And Oracle didn't suggest that there was  
6 a data field that OFCCP should be considering in  
7 order to make its statistical model more accurate?

8 A The suggestions that Oracle made were not  
9 in relation to a statistical model. It was in  
16:15:56 10 relation to the cohort analysis and the different  
11 responsibilities that people have and the -- how  
12 jobs are different since there's so many different  
13 types of jobs at Oracle.

14 Q Okay. So Oracle -- during the  
16:16:11 15 conciliation period, Oracle was advocating a cohort  
16 analysis?

17 MR. PARKER: Again, I object to the term  
18 "conciliation period." And it's been asked and  
19 answered.

16:16:22 20 THE WITNESS: Yes.

21 BY MS. BREMER:

22 Q Okay. We were talking about who was  
23 taking notes --

24 A Yes. Yes, we were.

16:16:37 25 Q -- during October 6th, 2016

16:16:40 1 conciliation meeting.

2           What notes have you -- or have you  
3 reviewed notes of the October 6, 2016 meeting in  
4 preparation for this deposition?

16:17:02 5           A     Yes.

6           Q     And what notes have you reviewed?

7           A     I reviewed the notes that I took and that  
8 I sent to Charles Nyakundi, and then he added his  
9 notes to the set of notes that I took, so the final  
16:17:21 10 product of that.

11          Q     Okay. And when did Charles Nyakundi add  
12 his notes to your notes?

13          A     I don't know the exact date, but it was  
14 shortly after the -- the October 6th meeting.

16:17:49 15          Q     Have you seen any other notes other than  
16 your notes and Charles Nyakundi's notes that just --  
17 that reflect what happened at the October 6th,  
18 2016 meeting?

19          A     No.

16:18:06 20           MS. BREMER: Okay. I'm going mark as  
21 Exhibit 131 a document that is Bates-numbered  
22 ORACLE\_HQCA\_607319 through 607325.

23           (Exhibit 131 marked for identification.)

24           MS. BREMER: And just for the record, I'd  
16:18:57 25 like to state that this -- that these notes -- or

16:19:00 1 this document was produced last night at  
2 approximately 4:55. I did not become aware that  
3 Oracle had produced this document until our lunch  
4 break during this deposition.

16:19:13 5 For that reason alone, I'm going to keep  
6 this deposition open for further questions because  
7 of the lateness of -- of this.

8 MR. PARKER: Do whatever you want to do,  
9 but I'll disagree with it.

16:19:29 10 MS. BREMER: Okay.

11 MR. PARKER: I'm not going to agree to  
12 continue the deposition, so have at it.

13 BY MS. BREMER:

14 Q Do you recognize Exhibit 131?

16:19:42 15 A Yes.

16 Q And what is it?

17 A These are Charles Nyakundi's and my  
18 notes.

19 Q So these are the notes that you were  
16:19:50 20 talking about that Charles combined both -- his  
21 notes with your notes?

22 A Yes.

23 Q And was that done -- that was done in  
24 2016?

16:20:06 25 MR. PARKER: Asked and answered.

16:20:06 1

THE WITNESS: Yes.

2 BY MS. BREMER:

3 Q Are there other -- did you retain the  
4 original notes that you took and the original notes  
16:20:19 5 that Charles Nyakundi took?

6 A I don't have his notes separate from  
7 mine. I have my notes separate from his that I took  
8 electronically.

9 Q Okay. Speaking on behalf of Oracle, do  
16:20:40 10 you -- does Oracle have Charles Nyakundi's original  
11 notes of the October 6th, 2016 conciliation  
12 meeting?

13 A They would be -- if -- they would be  
14 retained on Charles Nyakundi's computer.

16:21:00 15 Q Okay.

16 MS. BREMER: So, Counsel --

17 THE WITNESS: Work computer.

18 MS. BREMER: Okay. So, Counsel, I  
19 request the original notes be produced.

16:21:11 20 MR. PARKER: I hear your request.

21 BY MS. BREMER:

22 Q Looking at Page 1 of the notes, there is  
23 a header after the first paragraph that says "Hiring  
24 and recruiting portion of the NOV," with a colon.

16:21:37 25 Who -- is it your understanding that that

208

16:21:43 1 reflects someone's statement, or was that included  
2 by either you or Charles to describe?

3 A I'm not sure if it reflects a statement  
4 or not. It prob- -- it could have been an organizer  
16:22:03 5 that either Charles or I used. Because these notes  
6 were taken al- -- well, almost three years ago. So  
7 not sure -- absolutely certain. But if -- if --  
8 if -- that. But I think that if you look at some of  
9 the data, that it may explain it.

16:22:30 10 Q Okay. So let's do that.

11 Af- -- in the first paragraph after that  
12 header there's Janette with a colon.

13 A Uh-huh.

14 Q In these notes, if there is a person's  
16:22:43 15 name with a colon, does that indicate that they were  
16 the one speaking?

17 A Yes.

18 Q And then it says -- in the second  
19 sentence of -- after the Janette with a colon, it  
16:23:00 20 says:

21 "With respect to compensation with  
22 regard to gender and race, shows ranges  
23 from three standard deviations."

24 Do you see that?

16:23:09 25 A Yes.

16:23:10 1 Q So there was in fact some information  
2 after the hiring and recruiting header that related  
3 to compensation violations, right?

4 MR. PARKER: Vague and ambiguous.

16:23:21 5 THE WITNESS: Yes.

6 BY MS. BREMER:

7 Q So Janette indicated that with respect to  
8 the compensation, everything is out of your data.

9 Did you understand -- did Oracle  
16:23:58 10 understand that OFCCP's analysis of the compensation  
11 was based on the -- on the compensation data that  
12 Oracle had provided to OFCCP during the compliance  
13 review?

14 MR. PARKER: Asked and answered.

16:24:16 15 THE WITNESS: Yes.

16 BY MS. BREMER:

17 Q She says:

18 "It -- it is easy to replicate and pick  
19 our analysis apart."

16:24:30 20 Did Oracle attempt to replicate the  
21 analysis -- the compensation analysis done by OFCCP?

22 MR. PARKER: Again, the instructions are  
23 going to be if it was done at the direction of  
24 counsel or by counsel, you cannot answer, that

16:24:52 25 question. Otherwise if that's not true or counsel

16:24:56 1 was not otherwise involved, you can answer.

2 THE WITNESS: Okay. Any attempt at  
3 replication was done by counsel.

4 BY MS. BREMER:

16:25:23 5 Q She indicates:

6 "Other contractors have given us expert  
7 reports."

8 Did Oracle consider providing an expert  
9 report to rebut the compensation analysis?

16:25:35 10 MR. PARKER: Again, that would be the --  
11 the same. Don't disclose attorney-client  
12 communication. If Oracle considered it independent  
13 of any advice or discussions with attorneys, feel  
14 free to answer that question.

16:25:46 15 THE WITNESS: That was determined by our  
16 attorneys.

17 BY MS. BREMER:

18 Q Okay. And between March 11th, 2016 and  
19 January 17th, 2017, Oracle did not provide an

16:26:03 20 expert report to OFCCP, right?

21 A Yes.

22 Q Yes, as -- as in it did not?

23 A We did not, yes.

24 Q Right.

16:26:18 25 Okay. And then the next paragraph has

16:26:23 1 "Gary" with a colon. Is that referring to what Gary  
2 Siniscalco said?

3 A Yes.

4 Q And at the end of -- at the end of this  
16:26:47 5 paragraph, it says:

6 "We have to look at specific issues and  
7 individuals and look at that" -- and  
8 then it trails off.

9 It says -- do you know what else he said?

16:27:03 10 MR. PARKER: I'm sorry. It assumes  
11 facts.

12 THE WITNESS: Okay.

13 MR. PARKER: I'm not sure that it's a  
14 trailing off at all, so it assumes fact.

16:27:10 15 BY MS. BREMER:

16 Q Okay. Is that a -- is that -- is it your  
17 understanding that that is what he said or if he  
18 said anything else?

19 A That's what the notes indicate. I don't  
16:27:22 20 remember if he said anything else, but I -- I just  
21 know that we tried to take as good of notes as we  
22 could.

23 Q Okay. So at -- at the October 6th  
24 meeting, with respect to compensation, Oracle was  
16:27:38 25 taking the position that OFCCP should be looking at

16:27:43 1 individuals; is that right?

2 A Yes.

3 Q And in response, in the next paragraph,

4 Janette says:

16:27:53 5 "We're not interested in specific

6 comparators. We are looking at

7 systemic issues. We are not going to

8 engage in a cohort analysis."

9 Is -- is that accurate?

16:28:06 10 A Yes.

11 Q And it's your understanding that is

12 referencing again the compensation violations,

13 right?

14 A Yes.

16:28:28 15 Q Okay. Let's look at Page 3 of the notes.

16 And at the bottom of the page, it says -- there's

17 Janette with a colon, and it says:

18 "Do you want to talk about

19 compensation?"

16:28:45 20 Do you see that?

21 A Let's see. Where does it say "Do you

22 want to talk about compensation?"

23 Q Near the bottom.

24 A Oh. Oh, there. Yes, I see. Okay. I

16:28:54 25 was looking at the wrong Janette. I was looking at

16:28:57 1 the last one.

2 Q Okay. And so then in the last paragraph

3 on this page, Janette Wipper explained the -- or

4 described the variables used in OFCCP's compensation

16:29:20 5 analysis.

6 Do you see that?

7 A Yes.

8 Q And -- and is that accurate as far as --

9 is this an accurate reflection of what occurred at

16:29:34 10 that meeting?

11 A Yes.

12 Q And when discussing the compensation

13 model, she indicated:

14 "We don't see evidence that supports

16:30:01 15 supervisor."

16 What -- what was she talking about, or do

17 you understand what he was saying?

18 MR. PARKER: I'm sorry. Calls for

19 speculation.

16:30:10 20 THE WITNESS: Okay.

21 MR. PARKER: Lacks foundation.

22 BY MS. BREMER:

23 Q What -- what -- what was your

24 understanding of what she was saying?

16:30:17 25 A And -- and generally -- when we look at

16:35:37 1 counsel?

2 A Yes.

3 Q Okay. And so the next paragraph after  
4 this, did Gary take the position as well that this  
16:36:12 5 is individualized and some employees don't have a  
6 comparator in job title product?

7 MR. PARKER: Document speaks for itself.  
8 Could you point her to -- are you quoting something?

9 MS. BREMER: Yes, this is in the  
16:36:27 10 middle --

11 THE WITNESS: She is.

12 MS. BREMER: -- of -- after Gary, colon.  
13 In the next paragraph after Janette's request, do  
14 you have a document?

16:36:41 15 THE WITNESS: Yes, that's what he said.

16 BY MS. BREMER:

17 Q And was it Oracle's position that some  
18 employees would not have any comparator?

19 A Yes.

16:37:09 20 Q Okay. And then the next time that Gary's  
21 reflected as saying something in -- in the notes, it  
22 says, starting with the second sentence:

23 "When a focal review is done, the  
24 question is looked at as far as how  
16:37:30 25 people look in compensation compared to

16:41:10 1 A Yeah.

2 Q So -- so the compensation report's

3 referring to that Item 11 response?

4 A Yes, I believe so, in addition to the --

16:41:20 5 in addition to the focal.

6 Q And -- so he -- and he also talked about

7 focal separately. Okay.

8 MR. PARKER: I'm sorry. Move to strike

9 the --

16:41:35 10 MS. BREMER: What, I don't get to

11 testify?

12 MR. PARKER: Yeah, that's exactly right.

13 So let me just be clear. Move to strike

14 "And so he also talked about focal separately.

16:41:48 15 Okay."

16 BY MS. BREMER:

17 Q Okay. And then -- so looking -- then it

18 looks like -- let me just ask about the notes that

19 were prepared.

16:42:12 20 These notes that we're looking at, they

21 were taken -- your original notes were taken during

22 the meeting, right?

23 A Yes.

24 Q Okay. And -- and Charles also took notes

16:42:30 25 during the meeting?

16:42:33 1 A Yes.

2 Q Did you take your notes on a computer?

3 A Yes.

4 Q And what about Charles?

16:42:41 5 A I don't know if he took his by hand or by  
6 computer. I know he -- he -- I -- I'm not sure,  
7 because sometimes he actually takes handwritten  
8 notes.

9 Q Okay. And when you were taking your  
16:42:54 10 notes, were you trying to capturing everything that  
11 was said during the meeting?

12 A Yes.

13 Q And you were trying to create an accurate  
14 description of what had occurred during the  
16:43:06 15 conciliation meeting?

16 A Yes. Yes.

17 Q Okay. And is it your understanding that  
18 Charles was doing the same?

19 A Yes.

16:43:21 20 Q Okay. So then -- okay. After the  
21 paragraph we were just discussing, it looks like you  
22 said something. And then Gary -- the notes reflect  
23 that he said:

24 "You can come in and talk to some  
16:43:36 25 managers and tell us what -- what you

16:43:39 1 think some of the -- what you think  
2 some of the jobs and find out if you  
3 think they are doing the same thing  
4 even if we think they are doing  
16:43:51 5 different things."

6 So what exactly was Oracle proposing?

7 A Gary -- I think just what Gary -- the  
8 notation to Gary is, telling the OFCCP they can talk  
9 to some of the managers that we think are doing  
16:44:09 10 different things, even if we think they're doing  
11 different things, that you think are -- are doing  
12 same of the same thing and make -- and see what you  
13 think.

14 Q So is he suggesting that we need to talk  
16:44:22 15 to -- do an -- do an analysis of all -- all of the  
16 jobs in order to analyze Oracle's compensation?

17 A I -- I can't say what his intent was. I  
18 just -- I'm just going by the notes as -- as -- as  
19 they're written.

16:44:45 20 Q Okay. So -- so the -- the suggestion was  
21 that OFCCP conduct further -- further investigation  
22 at that point?

23 MR. PARKER: Asked and answered.

24 THE WITNESS: That's as it -- as it  
16:45:03 25 appears from what I'm reading.

16:45:05 1 BY MS. BREMER:  
2 Q And then it looks like Ian -- that's Ian  
3 Eliasoph, right?  
4 A His -- you said Ian what?  
16:45:23 5 Q Eliasoph.  
6 A That is -- okay, I wasn't sure. I wanted  
7 to -- I thought you said his last name.  
8 I just know him as Ian. I -- yes.  
9 Q Okay. And then there is a -- a question  
16:45:33 10 that the notes reflect him asking:  
11 "Are you saying that the statistical  
12 analysis is so nuanced that it can't be  
13 done? And not a different one is  
14 needed."  
16:45:44 15 And then Gary responds:  
16 "Both. We were saying that a different  
17 one needs to be done, and we need to be  
18 able to look at cohorts and can't draw  
19 systemic conclusions because the jobs  
16:46:02 20 are different so different one needs to  
21 be done."  
22 A Correct.  
23 Q Okay. So when Oracle took the position  
24 you can't draw systemic conclusions, part of what  
16:46:24 25 Oracle was saying was that it could -- that a

16:49:07 1 letter from Erin Connell that gave some examples of  
2 why, you know, it had to be looked at, at a deeper  
3 level.

4 And then in the -- the letter that we  
16:49:17 5 talked about a little while ago that Gary wrote, he  
6 gave a couple of examples in that too as to why --  
7 you know, why -- why jobs are different and you  
8 really have to look at them carefully.

9 BY MS. BREMER:

16:49:33 10 Q Okay. So at the -- on Page 4 at the very  
11 end, the notes reflect Janette as saying:

12 "This is a difficult one to accept.

13 Oracle has been a contractor for years,  
14 and we have not seen documentation of  
16:49:50 15 the required self-audit."

16 Did you -- did Oracle understand OFCCP to  
17 be referencing the compensation analysis required by  
18 41 C.F.R. Section 60-2.17?

19 A Yes.

16:50:22 20 Q And Janette says -- or the document  
21 reflects her saying:

22 "I don't understand why what product a  
23 person is working on isn't documented."

24 Did Oracle have any data documenting the  
16:50:51 25 products that its employees were working on?

16:50:58 1 A At that time there was not a  
2 comprehensive documentation of products that people  
3 were working. There -- there -- it's -- it's more  
4 in depth now. But at that time it was not an  
16:51:13 5 in-depth model. There was some documentation, but  
6 it wasn't, you know, for all jobs.

7 And -- and different areas had -- you  
8 know, relied on different information, so it wasn't  
9 comprehensive to where we could just go in and pull  
16:51:30 10 it up really quickly at that point in time --

11 Q And --

12 A At that point in time.

13 Q And when -- when did it -- did Oracle  
14 start documenting product or providing more -- when  
16:51:51 15 did Oracle start providing more documentation  
16 regarding products?

17 A I don't know the exact date. I can say  
18 that I've become aware of better documentation in  
19 the last year.

16:52:07 20 Q And you don't know when that  
21 documentation began?

22 MR. PARKER: Asked and answered.

23 THE WITNESS: No.

24 BY MS. BREMER:

16:52:31 25 Q Okay. And then on Page 5 of the notes,

16:52:37 1 there is an exchange. Erin is reflected saying:  
2 "Your allegation says that there is a  
3 compensation issue, not that women and  
4 men are being steered into different  
16:52:51 5 product lines with different pay,  
6 correct?"

7 I guess, that's -- that's a question by  
8 Erin, right?

9 A Yes. That should be a question yes.

16:53:08 10 Q And Janette's response is reflected as  
11 being:

12 "You can make that argument, but if  
13 most of the women end up in lower  
14 paying jobs and the men end up in  
16:53:18 15 higher paying jobs, then we will argue  
16 that the compen- -- the comp system is  
17 tainted."

18 Do you see that?

19 A Yes.

16:53:25 20 Q Did you understand her to be referring to  
21 the compensation system?

22 A Yes.

23 Q And was she explaining that compensation  
24 disparities could be due to assignment problems?

16:53:50 25 A I think that the document speaks for

16:53:52 1     itself on this. I don't want to -- I don't want to  
2     say what she was thinking. But I think that if you  
3     look at it, it says most -- what her statement is,  
4     I -- that's the only thing that I can say that is  
16:54:09 5     what she meant.

6             Q     Okay. Let's look at Page 6. And then at  
7     the bottom there's a header "Janette provided  
8     settlement information." And then there's a header  
9     for "Compensation."

16:54:33 10            Do you see that?

11            A     Yes.

12            Q     Then it says one year, colon, 22 million  
13     for all violations.

14                     What are these -- can you describe  
16:54:48 15     what -- what Janette said about the remedy for the  
16     compensation violations?

17            A     Well, just -- just what it says here.  
18     She's saying for one year, there were 22 million for  
19     all violations, women and Asians are not counted  
16:55:10 20     twice, 7.7 million for women and product,  
21     African-Americans 250,000, Asians 13 to 14 million,  
22     information technology 670,000 for females and  
23     487,000 for females and support. And she said it  
24     impacted 3,561 employees.

16:55:34 25                     But that's the best notes, I mean, that

16:55:37 1 we can get. We were -- or I was typing really fast.

2 So -- yeah.

3 Q Do you -- when she said "for one year,"

4 did -- did OFCCP explain that the one year was

16:55:58 5 because that's all the data that OFCCP had at that

6 point from the compliance review?

7 A I don't remember.

8 Q Is this three years, colon, 66 million?

9 How do you understand that OFCCP arrived at that

16:56:18 10 number?

11 A Just from looking at this. And I could

12 be wrong, but it looks like they multiplied

13 22 million times three.

14 Q And did -- did Janette explain that

16:56:27 15 during the meeting?

16 A I don't remember.

17 Q And do you recall her explaining at the

18 beginning that she was -- that OFCCP was only

19 considering base pay in its calculations?

16:56:42 20 A I don't remember that.

21 Q And then Juana, does that refer to Juana

22 Sherman?

23 A Yes.

24 Q She asked at the meeting:

16:57:02 25 "Are there any nonmonetary aspects?"

16:57:06 1

A Yes.

2

Q And then Janette responded:

3

"Yes, we would want to propose some

4

changes, for example, training in pay

16:57:17 5

equity analysis, clearly documenting

6

what the justification is for

7

discrepancies, pay transparency, and

8

explaining to the employees. There are

9

a variety of ideas we would have for

16:57:33 10

policy changes as part of the

11

settlement."

12

Do you recall her discussing any other

13

nonmana- -- nonmonetary aspects of the settlement?

14

A I don't recall anything other than --

16:57:48 15

than on these notes, in all honesty. I wish I did,

16

but...

17

Q There's a redaction in the next section.

18

Do you know what that is?

19

A Yes.

16:58:04 20

Q Do you know, why -- why was that --

21

MR. PARKER: It's attorney-client --

22

attorney-client privilege.

23

THE WITNESS: There was a question asked

24

of one of the attorneys when we sent this in, and

16:58:16 25

that's what that is.

16:59:35 1 I -- we took down as far as the notes.

2 Q And in your experience discussing  
3 remedies for violations, mitigation typically comes  
4 up with respect to hiring claims, right?

16:59:53 5 A I don't have a lot of experience with --  
6 with violations, so I'll take your -- I'll take your  
7 word for it. I don't have the experience you have  
8 with regard to that, so I'll take your word for it.

9 Q Okay. And then the next, Page 7, the  
17:00:19 10 notes reflect Ian saying:

11 "With -- with compensation, the numbers  
12 are more firm."

13 MR. PARKER: Sorry, where you are reading  
14 from?

17:00:38 15 MS. BREMER: Ian. It says -- first, he  
16 says:

17 "These are not hard numbers."

18 MR. PARKER: Okay.

19 BY MS. BREMER:

17:00:40 20 Q And then he says:

21 "But with compensation, numbers are  
22 more firm."

23 Did you understand OFCCP to be saying  
24 that -- that there was more flexibility with the --  
17:00:49 25 the hiring remedies than the compensation remedies?

17:00:54 1 A Yes.

2 Q And then the notes reflect Ian saying:

3 "We will ask you for more information.

4 Formula for -- for this calculation is

17:01:10 5 described in the agency directive under

6 remedies on the agency's website."

7 And what did -- what did you understand

8 this to mean?

9 A Just all I can say is, you know, what --

17:01:28 10 what's written there, that there's a formula for --

11 for the calculation and it's described in the

12 agency's directive under remedies on agency's

13 website.

14 I don't understand it to mean anything

17:01:40 15 other than that.

16 Q Okay. So OFCCP was -- was just

17 explaining to Oracle where it could find the how to

18 calculate -- how to calculate the -- the remedies?

19 A That's what it says.

17:02:04 20 Q Okay. And then the next time Ian speaks,

21 or is reflected as speaking in these notes, it

22 says -- well, let's -- let's ask -- let's start with

23 Gary's question above. It says:

24 "How do we -- how do you want us to

17:02:24 25 proceed?"

17:05:44 1 the October 6, 2016 meeting that OFCCP did not  
2 answer?

3 MR. PARKER: Exhibit 131 speaks for  
4 itself.

17:05:56 5 THE WITNESS: Yes. Yeah, I was going to  
6 say the exact same thing, that it speaks for itself.  
7 I -- anything that -- the answer to that question  
8 would be in those notes.

9 BY MS. BREMER:

17:06:05 10 Q And you have nothing further to add?

11 A No. No. I -- no, I don't.

12 Q And as of the October 6, 2019 meeting,  
13 Oracle still had not produced the 2013 compensation  
14 snapshot data, right?

17:06:45 15 A No. I don't believe so. I don't know  
16 when it was produced. I'd have to look and see, you  
17 know, the date. But I think it was after that  
18 meeting.

19 MS. BREMER: Okay. Let's -- let's look  
17:07:24 20 at Exhibit 17 to the Jane Suhr PMK deposition.

21 (Exhibit 17 previously marked for identification.)

22 A Do I have it?

23 MR. GARCIA: No. She's trying to hand it  
24 to you.

17:07:55 25 THE WITNESS: Oh. I'm looking for

17:07:55 1 Exhibit 17. Do we already have that?  
2 BY MS. BREMER:  
3 Q During the deposition today, you've a  
4 couple times mentioned a letter from Erin Connell.  
17:08:01 5 Is this the letter that you've been  
6 referring to?  
7 A Let me take a look.  
8 Yes.  
9 Q Okay. And the compensation  
17:08:57 10 discrimination violations are discussed starting on  
11 Page 6 of the letter.  
12 Do you see that?  
13 A Yes.  
14 Q Okay. So then on -- on Page 7 of the  
17:09:12 15 letter, it says, at the very top:  
16 "Oracle is a highly diverse company in  
17 terms of people, skills, products and  
18 customers. As a result, generalized  
19 statistics that might be probative in  
17:09:30 20 assessing employers with large numbers  
21 of teamsters, teachers, bank tellers,  
22 retail store clerks or cashiers, car  
23 assemblers or other similar positions  
24 or not meaningful here."  
17:09:43 25 A Is that on Page 7 of her -- of

17:09:43 1 October 31st -- her October 31st letter?  
2 Q Yes.  
3 A Okay. I don't see that. It says:  
4 "Oracle does not -- does not have  
17:09:52 5 hundreds, or even dozens, of employees  
6 who are" --  
7 MR. PARKER: You don't have to read it  
8 out loud.  
9 THE WITNESS: Okay.  
17:09:57 10 MR. PARKER: You can just read it to  
11 yourself.  
12 BY MS. BREMER:  
13 Q It's at the top --  
14 A Oh, I see, to the contrary. Okay, I see  
17:10:03 15 where it starts. All right.  
16 Q Was -- was Oracle taking the position  
17 that, A, that generalized -- a generalized  
18 statistical analysis of Oracle's compensation could  
19 not be done?  
17:10:22 20 MR. PARKER: Document speaks for itself.  
21 THE WITNESS: I don't -- I don't see that  
22 it says -- it says that -- where she's saying  
23 that -- it says:  
24 "As a result of generalized statistics  
17:10:42 25 that might be probative in assessing

17:10:44 1 employers with large numbers of  
2 teamsters" -- and it goes on to talk  
3 about -- "are not meaningful here."  
4 So it says that it would be very  
17:10:52 5 difficult to do one.

6 Q And in the October 31st, 2016 letter,  
7 Oracle did not suggest an alternative statistical  
8 analyst of -- of Oracle's compensation?

9 A It suggested a cohort analysis, I  
17:11:16 10 believe, and she provides some examples in here.

11 Q And Oracle's October 31st, 2016 letter  
12 did not include any monetary offer to resolve the  
13 violations either, right?

14 A Correct.

17:11:34 15 Q And did Oracle suggest any nonmonetary  
16 remedies to resolve the violations?

17 A I'd have to read this thoroughly again.  
18 I've read it. I -- I don't believe so, but I -- I  
19 have -- to be -- give you exactly accurate one, I'd  
17:11:50 20 have to read it again.

21 Q And the letter doesn't provide any  
22 response to the violations for Oracle's failure to  
23 supply documents during the compliance review, does  
24 it?

17:12:17 25 A I don't see -- see any just skimming

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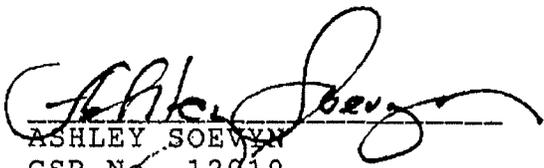
I, the undersigned, a Certified Shorthand Reporter of the State of California, do hereby certify:

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: August 5, 2019

  
\_\_\_\_\_  
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