Q Okay. And the extra visa data indicates that this compensation report, Exhibit 126, included additional visa information that was not on prior compensation snapshots?

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

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

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

Q Okay. And looking at Exhibit 126 which was produced in native format, Oracle provided compensation data to OFCCP in Excel spreadsheets, correct?

A Yes.

Q And why did Oracle provide the
11:11:33 compensation data to OFCCP in Excel format?
2 MR. PARKER: Beyond the scope. Calls for speculation.
3
4 THE WITNESS: OFCCP requested that we started in some of our earlier audits that we provide it in Excel format. We used to provide it in a PDF format, and that was at the request of-- as all the audits that we've gone through preceded, that was at the request of OFCCP.
11:11:46

11:12:08 BY MS. BREMER:
11 Q And with Excel spreadsheets, the data could be sorted, correct?
12
13 MR. PARKER: Beyond the scope.
14 THE WITNESS: Yes.
11:12:29 BY MS. BREMER:
16 Q And it could be used to create pivot tables?
17
18 MR. PARKER: Calls for speculation.
19 Beyond the scope.
11:12:42 THE WITNESS: Yes.
11:12:56 BY MS. BREMER:
21 Q Did Oracle retain copies of all the Excel
22 spreadsheets it sent to OFCCP during the compliance review?
23
24 MR. PARKER: Beyond the scope.
sent to -- or that you provided to OFCCP also sent to anyone in the HR group?

MR. PARKER: Vague and ambiguous.

Outside the scope.

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

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

BY MS. BREMER:

Q Okay. Looking at Exhibit 126.

A Okay.

Q Again, this was a voluminous Excel spreadsheet, and what I did was what I described with the other compensation snapshot. I selected the first rows of data in the Excel spreadsheet and printed them. And because of the large number of columns in this spreadsheet, this first rows of data that I selected printed on approximately 20 pages.
So the approximately 20 pages in Exhibit 126 show the data for the first 23 people listed in the database.

Does that make sense?

A Yes.

Q Okay. Why don't -- just look at the --

the data fields that Oracle provided to OFCCP as part of the 2014 compensation snapshot which is --

A Yeah, if you give me a minute just to look through this, I appreciate it.

Q Sure.

A Okay, thank you.

Q Sure.

So the first -- the first data field is the -- is the last name.

Is that the last name of the employee?

A Yes.

Q And then the third column of information is ID number.

Is that a unique employee identifier?

A Yes.

Q And then the next column in the compensation snapshot shows the employee's gender, correct?

A Yes.
Q And then Oracle has also provided the race for the employee?
A Yes.
Q And then the next column is for national origin.
Q Did Oracle provide data regarding the national origin of its employees?
A No, we don't track that data.
Q Oracle provided data in the compensation snapshot for each employee's job title, correct?
A Yes.
Q And then tuning to the next page, the compensation snapshot provided by Oracle provided each employee's job function, right?
A Yes.
Q It also provided each employee's job specialty?
A Yes.
Q Looking at the job function column for data, there's data that says "PRODEV."
Q Does that stand for the product development job function?
A Yes.
Q And then "INFTECH" stands for information technology job function?
A Yes.

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

A Where is -- where is that one?

Q It's -- the first few people on this snapshot were not in the support job function.

A Oh, oh. Yes, I believe there is.

Without looking at the sheet, I couldn't tell you for certain, but that sounds like a type of coding that would have been used.

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

A Yes, I believe so.

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

A Yes.

Q The next column of data is H1B status.

And at least all the data fields on this page indicate number sign N/A.

What does that mean.

A That means that that particular person didn't have a Visa according to the categories
listed in the next three columns. So I know that
that was -- Visa information was provided, but --
and the particular cut that you would have here,
it's not applicable to the people that were
listed --

Q Okay. Let's --
A -- in those -- in the categories. You've
got like the three -- three categories.
Q The three categories you're referring to
are: Visa types held from 1-1-13 to 6-30-14, All
Visas Held, and Status Change History or -- and H1B
Status, not a Status Change History?
A Yes. Yes, all these -- yes, the three
columns that you just mentioned.
Q And what about Status Change History?
A Status Change History, I would have to --
that would have been, I believe, related to that
also because of the -- and -- and simply because --
and I -- and I'm remised as far as, you know, what
that is but I'm assuming because of the color coding
at the top.
Whenever we added a new -- frequently,
not whenever -- but often when we added a new
section, we would color code it for OFCCP to find it
more easily.
Q And when you say I believe it related to that, you mean to Visa data as well?
A It could have, yeah. I want to -- to double-check everything and see the entire spreadsheet to be able to say for certain.

Q Okay. Turning to the next page, the second column is entitled "Job Group."
A Yes.
Q So in the 2014 compensation spreadsheet Oracle provided job group information to OFCCP for all -- all employees at HQCA, right?
A Yes.
Q And it also provided their grade, right?
A Yes.
Q And what does -- what does "grade" refer to?
A Pay grade would refer to -- if you look at it, you'll see an "either" on some, and you'll see "and" on others. That refers to whether the person was exempt or non-exempt. And then you'll see a number, and that that categorizes people according to whatever pay range their job has been classified in.
Q When you say "their job," are you referring to job code?
A Well, job code is representational of job title. It's not exact. But I'm referring to --
yes, I think that that would be -- that would be fair, whatever their -- their job had been
classified in as represented by the job code.

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

A Yes.

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

A Yes.

Q And there's a column that's Global Career Level.

What is that?

A That is the way that Oracle uses -- it's a coding system, and it -- it organizes people according to, generally, the job that their doing,
you know, how -- some of the different responsibilities they have.

So, for instance, a person that would come in with absolutely no experience, work experience at all, might come in as a IC0, a con- -- an individual contributor zero. And as they -- the
job requires more experience, the person would -- the numbering would increase.

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

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

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

Q So the managers also -- and someone with an M1 global career level would have less experience than somebody with an M5 global career level?

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

Q Okay. And so Oracle provided --

A I want to qualify --
Q -- data --
A I want to qualify something.
It doesn't necessarily mean less
experience. It would be less experience as required
by the job. So I might have a person that has 20
years experience, but, you know, they're an
individual contributor at a specific level. And,
you know, that's -- that's kind of like the job that
they are performing. So it's related to both of
them.

Q It's related to both the job that they're
performing and -- and their experience in that job?
A Correct.
Q And Oracle provided -- provided data in
the 2014 compensation snapshot for each employee's
global career level?
A Yes.
Q And the next column of data that Oracle
provided in the snapshot is entitled "Department,"
correct?
A Yes.
Q The next column on the next page is Work
Unit Flow.
Is this the same information that was
provided in the original Item 11 response?
A I believe so.
Q And then Exhibit 126 has a column "Original Hire Date."
A Uh-huh.
Q Was -- was that the date that the employee was originally hired by Oracle?
A Not necessarily. It could be.
Q Okay. What -- what is "Original Hire Date"?
A It could be the original date that the employee was hired by Oracle, but it could also be a hire date that we were given by a company, or Oracle was given by a company, it acquired for the hire date with that particular company.
Q Okay. And -- and so Oracle included that data as well in the compensation snapshot --
A Yes.
Q -- to OFCCP?
A Yeah.
Q Okay. What does the column "Date and Time" refer to?
A We were trying to do some calculations for some of the requests that OFCCP had, and so we used -- or Neil, when he put this together, he put the -- he put everything effective as of that date,
as of 1/1/14, for the compensation snapshot. And
then he took hire date and ran some kind of a
mathematical formula to get the -- the timing at
Oracle in years.

Okay. And so date -- "Date and Time"
also reflects that this is a compensation snapshot
as of January 1st, 2014?

Yes.

Okay. So the data also included -- the
data that Oracle provided to OFCCP as part of the
2014 compensation snapshot also included a time with
company years and also time with company months?

Yes.

And -- and what does that information
reflect?

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

Okay. So it's the total amount of time
that -- that each employee had been with Oracle,
employed by Oracle?

Yes.

MR. PARKER: Misstates the testimony.

THE WITNESS: It -- yes, it -- yes, it
could be, or it could also include -- and I'd have
to look to be absolutely certain. It also could
include maybe the time with the company that Oracle
acquired.

BY MS. BREMER:

Q So either the -- the time that the
employee had been employed by Oracle or one of its
predec- --
A Right.

Q -- acquisitions?
A Yeah.

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

What is that?

A Okay, wait a minute. I think I'm --
maybe I flipped too much. Let's see, we've got
that.

MR. GARCIA: I think she skipped a page.

BY MS. BREMER:

Q Yeah, this is the page after --
A Oh.

Q -- the page with time with company months
and --
A This was either part time or full time.

Q Okay. And -- and does "P" indicate part
11:35:33 time?
2
A Yes.
3
Q And -- and "F" in that column indicates full time?
11:35:40 A Yes.
5
Q Okay. So as part of the 2014 compensation snapshot that Oracle provided to OFCCP, it included data showing whether each employee was full time or part time?
11:35:58 A Yes.
10
Q Okay. And it also implied -- provided data showing exempt status, correct?
11:36:12 A Yes.
15
Q And -- and what is that?
11:36:22 A What is exempt status?
20
Q What -- what is that column indicating?
23
A The one that says "Exempt Status"?
26
Q Yes.
29
A Whether -- whether they are exempt or nonexempt under the Fair Labor Standards Act, or -- or if they're exempt from the Fair Labor Standards Act or not.
32
Q And -- and what does an "E" in that column mean?
11:36:34 A That they're exempt.
Q And what about an "N"?
A Nonexempt.
Q Okay. The next column of data in the 2014 compensation snapshot is "Salary," correct?
A Yes.
Q Is that annual salary?
A That particular column was the annual salary that was reported on the initial Item 11 submission for their base salary in the system.
Q Okay. And then turning to the next page, there is also a data field for "Regular Wages" and then "Total Compensation."
What are those?
MR. PARKER: Compound.
THE WITNESS: Well, you've got regular salary, and then you've got regular wages, and that has to do with whether a person is exempt or nonexempt as far as their -- their wages.
And then the total compensation, that was -- that was pulled -- some of that data that I told you about that was pulled from OAL, that would be the total compensation that the employee earned.
BY MS. BREMER:
Q And that -- would that include bonuses?
A It should. I'd have to -- to look to
verify that. It -- let me -- let me look across a
second real quick. Because we've organized it a
little differently on the most recent audits. I
would have to double-check and make absolutely
certain. But I'm thinking so because I'm looking at
the one where it has the -- the regular wages, yeah.
So I'm not sure.

MR. PARKER: Shauna, you don't have to
talk out loud.

THE WITNESS: Okay. Or think out loud,
you mean?

MR. PARKER: Yeah.

THE WITNESS: Okay.

MR. PARKER: You can just -- you told her
you would --

THE WITNESS: Yeah, I'd have to check.

MR. PARKER: You don't know. You
think -- you thought it -- it should include
bonuses.

THE WITNESS: Okay.

MR. PARKER: You said you would have to
check.

THE WITNESS: I -- yeah, to be absolutely
certain.
Q But in any event, there were different
types of compensation information that Oracle
provided to OFCCP during the compliance audit,
different types of compensation that each employee
received?

MR. PARKER: Vague and ambiguous.

THE WITNESS: There were different
categories of compensation.

BY MS. BREMER:

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

A I know. I know, right?

Q So flip to the page where at the top in
the left-hand column it says "Perf Rating 2013"?

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

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

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

BY MS. BREMER:

Q Okay. So the column on the far right
says "Education."
Was education data provided for anyone in the 2014 compensation snapshot?

A No.

Q Looking at the next page of Exhibit 126, the column is "School Attended."

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

A No.

Q And what about the next column, "Prior Salary/Acquired"?

A I would have to look and see if -- if there was an amount, it -- if it -- they came -- I would have to -- I would have to double-check and see a full spreadsheet to be able to answer that.

Q And what is "Prior Salary/Acquired"?

What -- what does that reference?

A That would have been the salary at the company, what they were making at the company that we acquired -- that Oracle acquired.

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

A If it's the spreadsheet -- if it is in
fact the spreadsheet that was attached to the 10/29
e-mail, the answer is yes.

Q And so that would be the most complete
compensation snapshot for 2014 that was provided to
OFCCP?

MR. PARKER: Vague and ambiguous.

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

BY MS. BREMER:

Q Yes.

A Yes.

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

A Let me find it. And you said 38?

Q Yes. It was previously marked as 38.

That's the -- that's the --

A This one.

Q -- 10/29 e-mail.

A Got it. Thank you.

Q Okay. So on Exhibit 38, the darker print
is OFCCP's request to Oracle, right?

A Yes.

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

A Yes.

Q Okay. Looking at Item 2, it says:
with regard to conciliation.

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

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

A Not to the best of my memory, no.

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

"Argument of counsel, affirmations of good faith in making individual decisions and cohort comparisons are insufficient to rebut statistical evidence of systemic discrimination."

Do you see that?

A Which -- which paragraph is it in? Is it in the -- his letter, right? This first --

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

A Yeah, how far down on the page? That's 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 statement that cohort comparisons are insufficient to rebut statistical evidence of systemic discrimination?
4 A My understanding was that OFCCP said there was a systemic issue and it was not going to look at people that were doing essentially the same work and comparing those people against each; rather, they were going -- they were looking at an overall comparison regardless of if they were doing the same work.
5 Q What's your understanding of the term "cohort"?
6 A A cohort would be somebody doing the same type of work that somebody else would be doing. So, for instance, on my team, I have a couple of people that are doing -- doing compliance or diversity from a compliance perspective, and they would be cohorts. However, I have a counterpart that has people on her team that -- that do diversity, but they do it from an inclusions perspective.
7 My team, they were -- they're required to do a lot of data manipulation and -- and research
and that type of thing. And her team, they -- you know, they -- they meet and greet with people and they -- they build branding. So we -- they would not be cohorts with us; however, two people on my team that are doing the same work would be cohorts.

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

MR. PARKER: Asked and answered.

THE WITNESS: Yes.

BY MS. BREMER:

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

A I don't understand the question.

Q I'm sorry.

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

Q OFCCP's position that -- was that it was conducting a statistical analysis of the evidence not looking at individuals, right?

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

MS. BREMER: Okay. I'm going to show you Exhibit 6 to Jane Suhr's PMK deposition.
didn't -- didn't go into the whole process, I mean, didn't weigh different things differently.

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

Q And with respect -- well, we'll go over the -- that October 6th meeting letter later.

A Okay. Sure.

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

(Exhibit 7 previously marked for identification.)

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

A Yes.

Q So in this response, OFCCP responded to some of Oracle's questions, right?

A A few of them.

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

A From the OFCCP's perspective.
MS. BREMER: I'm going to show you what has been marked as Exhibit 9 to Jane Suhr's PMK deposition.

(Exhibit 9 previously marked for identification.)

Q Exhibit 9 is Oracle's position statement, correct?

MR. PARKER: Misstates the document.

BY MS. BREMER:

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

You nodded --

A You mean on -- on this? Yes.

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

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

So this was Oracle's position statement to OFCCP's NOV, right?

A Yes.

Q And with respect to the compensation discrimination violations, Oracle's position was the OFCCP's statistical model was defective, right?
Q -- from Gary Siniscalco.
A Yes, thank you.
Q Okay. So looking at Roman numeral IV, it says:

"OFCCP's statistical model is defective and no counter statistical model is warranted."

Do you see that?
A Yes.
Q So that was -- at least part of Oracle's position was that OFCCP's statistical model was flawed?
A Yes.
Q And Oracle did not offer any factor that OFCCP should consider that would explain the disparities described in the NOV, right?
A Well, Oracle -- no, I don't -- Oracle asked -- told the OFCCP that they -- they thought a cohort analysis should be done because each job is so different at Oracle that they did not feel the groupings that OFCCP chose to use were comparing -- was comparing apples to apples. They did not con- -- consider that these jobs were performing the same -- the same work.
Q Okay. So Oracle's position throughout
the conciliation period was that OFCCP should conduct a cohort analysis?

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

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

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

BY MS. BREMER:

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

A Yes, that they should consider true comparators because the jobs that they were comparing were not true comparators.

Q So OF -- Oracle's position during the conciliation period were -- was that a statistical model would not account for differences in jobs?

MR. PARKER: Sorry. The documents speak for themselves on -- on this particular point. And I -- to the extent there's an implication that this was the only position taken by Oracle in conciliation, I would object on that basis as well.
Q -- was -- well, let me just rephrase it to be absolutely clear.

After OFCCP issued the NOV in March of 2016 up until January of 2017, did Oracle present any competing statistical model for OFCCP to consider?

MR. PARKER: Asked and answered.

THE WITNESS: No.

BY MS. BREMER:

Q Let's see here.

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

A Okay.

Q -- these questions --

A I gotcha.

Q -- involve that same time frame.

A Okay.

Q Did Oracle offer any factors that OFCCP should consider in its statistical analysis that would explain the disparities found?

A No.

Q Oracle -- let's see here.

A I think, though -- you know, I was thinking -- I'm trying to think back on the communication, and I think there was something in
was made in that time frame.

BY MS. BREMER:

Q  Okay. A suggestion that -- so Oracle
made a suggestion that OFCCP look at -- at
cohorts --
A  Yes.
Q  -- which could be groupings of -- of just
a few employees, right?

MR. PARKER: That misstates the
testimony.

BY MS. BREMER:

Q  Okay. Let's just look at -- back at this
letter that's Exhibit -- Exhibit 9, and this --
A  Is that Erin's letter?
Q  No, this is Gary's letter still that --
A  Okay.
Q  -- that we were looking at before, and it
says in Roman numeral IV.
A  Okay. I'm -- of course I already
shuffled this.
Q  I think that's the one.
Q  It is.
So back to Page 3 --
A  Okay.
Q -- of the letter --

A Sure, sure.

Q -- from Gary to Hea Jung Atkins.

A Okay.

Q Okay. So at the bottom of -- of this Roman numeral IV, it says:

"In many cases, no two employees at HQCA have the same or similar job unless they have no or possibly just one or two comparators."

So Oracle was taking the position that OFCCP would need to consider groupings of -- of employees, some of which would be just two or three employees, right?

A It could be.

Q Okay. Looking at Page 16.

A Sixteen of 18?

Q Yes, 16 of 18.

Okay. At the very top of the page, it says:

"None of variables the OFCCP considered addresses this specific type of work performed by individual employees."

A Is that in the very first par-- oh, I see. Okay, it starts with "However," okay.
Q Did Oracle suggest a factor or a variable that OFCCP should consider that would address the specific types of work performed by individual employees?

A No, not any -- not anything -- one factor.

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

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

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

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

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

A Okay.

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

"Each of the regression models" --
those are compensation regression models -- "simply -- state simply that the model involved the natural log of annual salary as its dependent variable and accounted for differences in employee's gender, race, et cetera, work experience at Oracle, work experience prior to Oracle, full-time, part-time status, exempt status, global career level, job specialty and job title."
So the footnote to -- to work experience at Oracle is referring to that factor that OFCCP used in the model described in the NOV, right?
A Yes.
Q Okay. And so Oracle states that it presumes that work experience at Oracle means the length of hire -- or the length of time at Oracle since hire or acquisition?
A Yes.
Q Okay. And then Oracle also makes an assumption regarding the -- what work experience prior to Oracle meant in OFCCP's model that it described in the NOV, right?
MR. PARKER: The document speaks for
THE WITNESS: Yes.

BY MS. BREMER:

Q And there aren't any other footnotes -- the other -- the other factors -- Oracle knew what data OFCCP was considering for these other factors, right?

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

THE WITNESS: The question was, did Oracle know what data the OFCCP was considering for these other factors? Is that the question that you asked.

BY MS. BREMER:

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

A Yes.

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

A Yes.

Q Exempt status was a field of data in the
compensation snapshot?

A Yes. But not all of these were, so I don't know -- I think they -- the answer to your question is for some of them but not -- not all of them.

Q Okay.

A Not all of these factors.

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

A Yeah.

Q -- one by one.

A Okay.

Q Global -- global career level was also a -- that was also a column of data that was included in the compensation snapshot?

A Yes.

Q Job specialty was as well?

A Yes.

Q And job title was another data field?

A Yes.

Q Okay. Okay. And so on Pages 17 and 18 of 18, Oracle provides OFCCP with some comparisons of individual employees, correct?

A Yes.

Q And this was after OFCCP had already advised Oracle that it would not consider a cohort.
analysis in response to the NOV, right?

A Yes.

Q If you look at -- back at -- back at Page 3 of the actual letter, after Gary Siniscalco's signature, it's cc'ed to Patricia Shiu, Director OFCCP.

Do you see that?

A Yes.

Q What did you understand Patricia Shiu's position to be in May of 2016?

MR. PARKER: Outside the scope.

THE WITNESS: What do you mean her position? Her job?

BY MS. BREMER:

Q Yes.

A She -- she's -- she was the director of the OFCCP, the main person.

Q For all of OFCCP?

A Yes.

Q And she was -- she's a political appointee?

A Yes.

Q And located in Washington, D.C.?

A Yes.

Q Why did Oracle copy Patricia Shiu on its
15:56:20 1 position statement?
2
3 MR. PARKER: Outside the scope.
4
5 THE WITNESS: I think it -- just to state
6 the obvious, to make her aware of this situation.
7
8 15:56:36 5 MS. BREMER: Okay. I'm going to mark as
9 Exhibit 130 a document dated June 8th, 2016. It's
10 the Show Cause Notice.
11 (Exhibit 130 marked for identification.)
12
13 THE REPORTER: Exhibit 130.
14
16
17 BY MS. BREMER:
18 Q Did Oracle receive a copy of a Show Cause
19 Notice from OFCCP on or about June 8th, 2016?
20 A Yes.
21
22 Q And is this a true and correct copy of
23 the Show Cause Notice that was sent to Oracle?
24 A It looks like it.
25
26 Q And after -- after OFCCP issued this Show
27 Cause Notice, Oracle requested an in-person
28 meeting -- a conciliation meeting with OFCCP,
29 correct?
30 A To the best of my memory, yes.
31 Q And Oracle and OFCCP agreed to meet on
32 October 6th, 2016?
33 A Yes.
MR. PARKER: Vague and ambiguous.

THE WITNESS: No.

BY MS. BREMER:

Q And Oracle didn't suggest that there was a data field that OFCCP should be considering in order to make its statistical model more accurate?

A The suggestions that Oracle made were not in relation to a statistical model. It was in relation to the cohort analysis and the different responsibilities that people have and the -- how jobs are different since there's so many different types of jobs at Oracle.

Q Okay. So Oracle -- during the conciliation period, Oracle was advocating a cohort analysis?

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

THE WITNESS: Yes.

BY MS. BREMER:

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

A Yes. Yes, we were.

Q -- during October 6th, 2016
16:16:40 conciliation meeting.

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

16:17:02 A Yes.

Q And what notes have you reviewed?

A I reviewed the notes that I took and that
I sent to Charles Nyakundi, and then he added his
notes to the set of notes that I took, so the final
product of that.

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

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

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

A No.

16:18:06 MS. BREMER: Okay. I'm going mark as

Exhibit 131 a document that is Bates-numbered

ORACLE_HQCA_607319 through 607325.

(Exhibit 131 marked for identification.)

MS. BREMER: And just for the record, I'd

like to state that this -- that these notes -- or
this document was produced last night at approximately 4:55. I did not become aware that Oracle had produced this document until our lunch break during this deposition.

For that reason alone, I'm going to keep this deposition open for further questions because of the lateness of -- of this.

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

MS. BREMER: Okay.

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

BY MS. BREMER:

Q Do you recognize Exhibit 131?

A Yes.

Q And what is it?

A These are Charles Nyakundi's and my notes.

Q So these are the notes that you were talking about that Charles combined both -- his notes with your notes?

A Yes.

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

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
that Charles Nyakundi took?

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

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

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

14 Q Okay.

15 MS. BREMER: So, Counsel --

16 THE WITNESS: Work computer.

17 MS. BREMER: Okay. So, Counsel, I

18 request the original notes be produced.

19 BY MS. BREMER:

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

23 Who -- is it your understanding that that
reflects someone's statement, or was that included by either you or Charles to describe?

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

Q Okay. So let's do that.

A Uh-huh.

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

A Yes.

Q And then it says -- in the second sentence of -- after the Janette with a colon, it says:

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

Q Do you see that?

A Yes.
Q So there was in fact some information after the hiring and recruiting header that related to compensation violations, right?

MR. PARKER: Vague and ambiguous.

THE WITNESS: Yes.

BY MS. BREMER:

Q So Janette indicated that with respect to the compensation, everything is out of your data. Did you understand -- did Oracle understand that OFCCP's analysis of the compensation was based on the -- on the compensation data that Oracle had provided to OFCCP during the compliance review?

MR. PARKER: Asked and answered.

THE WITNESS: Yes.

BY MS. BREMER:

Q She says: "It -- it is easy to replicate and pick our analysis apart."

Did Oracle attempt to replicate the analysis -- the compensation analysis done by OFCCP?

MR. PARKER: Again, the instructions are going to be if it was done at the direction of counsel or by counsel, you cannot answer, that question. Otherwise if that's not true or counsel
was not otherwise involved, you can answer.

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

BY MS. BREMER:

Q She indicates: "Other contractors have given us expert reports."

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

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

THE WITNESS: That was determined by our attorneys.

BY MS. BREMER:

Q Okay. And between March 11th, 2016 and January 17th, 2017, Oracle did not provide an expert report to OFCCP, right?

A Yes.

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

A We did not, yes.

Q Right.

Okay. And then the next paragraph has
"Gary" with a colon. Is that referring to what Gary Siniscalco said?

A Yes.

Q And at the end of -- at the end of this paragraph, it says:

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

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

MR. PARKER: I'm sorry. It assumes facts.

THE WITNESS: Okay.

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

BY MS. BREMER:

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

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

Q Okay. So at -- at the October 6th meeting, with respect to compensation, Oracle was taking the position that OFCCP should be looking at
individuals; is that right?

A Yes.

Q And in response, in the next paragraph, Janette says:

"We're not interested in specific comparators. We are looking at systemic issues. We are not going to engage in a cohort analysis."

Is -- is that accurate?

A Yes.

Q And it's your understanding that is referencing again the compensation violations, right?

A Yes.

Q Okay. Let's look at Page 3 of the notes. And at the bottom of the page, it says -- there's Janette with a colon, and it says:

"Do you want to talk about compensation?"

Do you see that?

A Let's see. Where does it say "Do you want to talk about compensation?"

Q Near the bottom.

A Oh. Oh, there. Yes, I see. Okay. I was looking at the wrong Janette. I was looking at
the last one.

Q Okay. And so then in the last paragraph on this page, Janette Wipper explained the -- or described the variables used in OFCCP's compensation analysis.

Do you see that?

A Yes.

Q And -- and is that accurate as far as -- is this an accurate reflection of what occurred at that meeting?

A Yes.

Q And when discussing the compensation model, she indicated:

"We don't see evidence that supports supervisor."

What -- what was she talking about, or do you understand what he was saying?

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

THE WITNESS: Okay.

MR. PARKER: Lacks foundation.

BY MS. BREMER:

Q What -- what -- what was your understanding of what she was saying?

A And -- and generally -- when we look at
counsel?

A Yes.

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

MR. PARKER: Document speaks for itself.

Could you point her to -- are you quoting something?

MS. BREMER: Yes, this is in the middle --

THE WITNESS: She is.

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

THE WITNESS: Yes, that's what he said.

BY MS. BREMER:

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

A Yes.

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

"When a focal review is done, the question is looked at as far as how people look in compensation compared to
A: Yeah.

Q: So -- so the compensation report's referring to that Item 11 response?

A: Yes, I believe so, in addition to the -- in addition to the focal.

Q: And -- so he -- and he also talked about focal separately. Okay.

MR. PARKER: I'm sorry. Move to strike the --

MS. BREMER: What, I don't get to testify?

MR. PARKER: Yeah, that's exactly right. So let me just be clear. Move to strike "And so he also talked about focal separately.

Okay."

BY MS. BREMER:

Q: Okay. And then -- so looking -- then it looks like -- let me just ask about the notes that were prepared.

These notes that we're looking at, they were taken -- your original notes were taken during the meeting, right?

A: Yes.

Q: Okay. And -- and Charles also took notes during the meeting?
A: Yes.

Q: Did you take your notes on a computer?

A: Yes.

Q: And what about Charles?

A: I don't know if he took his by hand or by computer. I know he -- he -- I -- I'm not sure, because sometimes he actually takes handwritten notes.

Q: Okay. And when you were taking your notes, were you trying to capturing everything that was said during the meeting?

A: Yes.

Q: And you were trying to create an accurate description of what had occurred during the conciliation meeting?

A: Yes. Yes.

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

A: Yes.

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

"You can come in and talk to some managers and tell us what -- what you
think some of the -- what you think
some of the jobs and find out if you
think they are doing the same thing
even if we think they are doing
different things."

So what exactly was Oracle proposing?

A Gary -- I think just what Gary -- the
notation to Gary is, telling the OFCCP they can talk
to some of the managers that we think are doing
different things, even if we think they're doing
different things, that you think are -- are doing
same of the same thing and make -- and see what you
think.

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

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

Q Okay. So -- so the -- the suggestion was
that OFCCP conduct further -- further investigation
at that point?

MR. PARKER: Asked and answered.

THE WITNESS: That's as it -- as it
appears from what I'm reading.
BY MS. BREMER:

Q. And then it looks like Ian -- that's Ian Eliasoph, right?

A. His -- you said Ian what?

Q. Eliasoph.

A. That is -- okay, I wasn't sure. I wanted to -- I thought you said his last name.

Q. I just know him as Ian. I -- yes.

A. Okay. And then there is a -- a question that the notes reflect him asking:

"Are you saying that the statistical analysis is so nuanced that it can't be done? And not a different one is needed."

And then Gary responds:

"Both. We were saying that a different one needs to be done, and we need to be able to look at cohorts and can't draw systemic conclusions because the jobs are different so different one needs to be done."

A. Correct.

Q. Okay. So when Oracle took the position you can't draw systemic conclusions, part of what Oracle was saying was that it could -- that a
letter from Erin Connell that gave some examples of why, you know, it had to be looked at, at a deeper level.

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

BY MS. BREMER:

Okay. So at the -- on Page 4 at the very end, the notes reflect Janette as saying:

"This is a difficult one to accept. Oracle has been a contractor for years, and we have not seen documentation of the required self-audit."

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

A Yes.

And Janette says -- or the document reflects her saying:

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

Did Oracle have any data documenting the products that its employees were working on?
At that time there was not a comprehensive documentation of products that people were working. There -- there -- it's -- it's more in depth now. But at that time it was not an in-depth model. There was some documentation, but it wasn't, you know, for all jobs.

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

Q And --

A At that point in time.

Q And when -- when did it -- did Oracle start documenting product or providing more -- when did Oracle start providing more documentation regarding products?

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

Q And you don't know when that documentation began?

MR. PARKER: Asked and answered.

THE WITNESS: No.

BY MS. BREMER:

Q Okay. And then on Page 5 of the notes,
there is an exchange. Erin is reflected saying:

"Your allegation says that there is a compensation issue, not that women and men are being steered into different product lines with different pay, correct?"

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

A Yes. That should be a question yes.

Q And Janette's response is reflected as being:

"You can make that argument, but if most of the women end up in lower paying jobs and the men end up in higher paying jobs, then we will argue that the compen-- the comp system is tainted."

Do you see that?

A Yes.

Q Did you understand her to be referring to the compensation system?

A Yes.

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

A I think that the document speaks for
itself on this. I don't want to -- I don't want to say what she was thinking. But I think that if you look at it, it says most -- what her statement is, I -- that's the only thing that I can say that is what she meant.

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

Do you see that?

A Yes.

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

What are these -- can you describe what -- what Janette said about the remedy for the compensation violations?

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

But that's the best notes, I mean, that
we can get. We were -- or I was typing really fast.

So -- yeah.

Q  Do you -- when she said "for one year," did -- did OFCCP explain that the one year was

because that's all the data that OFCCP had at that point from the compliance review?

A  I don't remember.

Q  Is this three years, colon, 66 million?

How do you understand that OFCCP arrived at that number?

A  Just from looking at this. And I could be wrong, but it looks like they multiplied 22 million times three.

Q  And did -- did Janette explain that during the meeting?

A  I don't remember.

Q  And do you recall her explaining at the beginning that she was -- that OFCCP was only considering base pay in its calculations?

A  I don't remember that.

Q  And then Juana, does that refer to Juana Sherman?

A  Yes.

Q  She asked at the meeting:

"Are there any nonmonetary aspects?"
And then Janette responded:
"Yes, we would want to propose some changes, for example, training in pay equity analysis, clearly documenting what the justification is for discrepancies, pay transparency, and explaining to the employees. There are a variety of ideas we would have for policy changes as part of the settlement."

Do you recall her discussing any other nonmonetary aspects of the settlement?

A I don't recall anything other than --

There's a redaction in the next section. Do you know what that is?

A Yes.

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

THE WITNESS: There was a question asked of one of the attorneys when we sent this in, and that's what that is.
I -- we took down as far as the notes.

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

A I don't have a lot of experience with -- with violations, so I'll take your -- I'll take your word for it. I don't have the experience you have with regard to that, so I'll take your word for it.

Q Okay. And then the next, Page 7, the notes reflect Ian saying:

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

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

MS. BREMER: Ian. It says -- first, he says:

"These are not hard numbers."

MR. PARKER: Okay.

BY MS. BREMER:

Q And then he says:

"But with compensation, numbers are more firm."

Did you understand OFCCP to be saying that -- that there was more flexibility with the -- the hiring remedies than the compensation remedies?
Q And then the notes reflect Ian saying:

"We will ask you for more information.
Formula for -- for this calculation is
described in the agency directive under
remedies on the agency's website."

And what did -- what did you understand
this to mean?

A Just all I can say is, you know, what --
what's written there, that there's a formula for --
for the calculation and it's described in the
agency's directive under remedies on agency's
website.

I don't understand it to mean anything
other than that.

Q Okay. So OFCCP was -- was just
explaining to Oracle where it could find the how to
calculate -- how to calculate the -- the remedies?

A That's what it says.

Q Okay. And then the next time Ian speaks,
or is reflected as speaking in these notes, it
says -- well, let's -- let's ask -- let's start with
Gary's question above. It says:

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

proceed?"
the October 6, 2016 meeting that OFCCP did not
answer?

MR. PARKER: Exhibit 131 speaks for
itself.

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

BY MS. BREMER:

Q And you have nothing further to add?

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

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

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

MS. BREMER: Okay. Let's -- let's look
at Exhibit 17 to the Jane Suhr PMK deposition.
(Exhibit 17 previously marked for identification.)

A Do I have it?

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

THE WITNESS: Oh. I'm looking for
Exhibit 17. Do we already have that?

BY MS. BREMER:

Q During the deposition today, you've a couple times mentioned a letter from Erin Connell. Is this the letter that you've been referring to?

A Let me take a look.

Yes.

Q Okay. And the compensation discrimination violations are discussed starting on Page 6 of the letter.

Do you see that?

A Yes.

Q Okay. So then on -- on Page 7 of the letter, it says, at the very top:

"Oracle is a highly diverse company in terms of people, skills, products and customers. As a result, generalized statistics that might be probative in assessing employers with large numbers of teamsters, teachers, bank tellers, retail store clerks or cashiers, car assemblers or other similar positions or not meaningful here."

A Is that on Page 7 of her -- of
October 31st -- her October 31st letter?

Q: Yes.

A: Okay. I don't see that. It says:

"Oracle does not -- does not have hundreds, or even dozens, of employees who are" --

MR. PARKER: You don't have to read it out loud.

THE WITNESS: Okay.

MR. PARKER: You can just read it to yourself.

BY MS. BREMER:

Q: It's at the top --

A: Oh, I see, to the contrary. Okay, I see where it starts. All right.

Q: Was -- was Oracle taking the position that, A, that generalized -- a generalized statistical analysis of Oracle's compensation could not be done?

MR. PARKER: Document speaks for itself.

THE WITNESS: I don't -- I don't see that it says -- it says that -- where she's saying that -- it says:

"As a result of generalized statistics that might be probative in assessing
employers with large numbers of teamsters" -- and it goes on to talk about -- "are not meaningful here."

So it says that it would be very difficult to do one.

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

A It suggested a cohort analysis, I believe, and she provides some examples in here.

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

A Correct.

Q And did Oracle suggest any nonmonetary remedies to resolve the violations?

A I'd have to read this thoroughly again. I've read it. I -- I don't believe so, but I -- I have -- to be -- give you exactly accurate one, I'd have to read it again.

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

A I don't see -- see any just skimming
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

[Signature]
ASHLEY SOEYEN
CSR No. 12019