

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

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

Plaintiff,

v.

ORACLE AMERICA, INC.,

Defendant.

OALJ Case No. 2017-OFC-00006

**DECLARATION OF DAVID L. EDELI IN SUPPORT OF  
OFCCP'S RESPONSE TO ORACLE AMERICA INC.'S EVIDENTIARY OBJECTIONS  
TO EVIDENCE IN SUPPORT OF OFCCP'S MOTION FOR SUMMARY JUDGMENT**

I, David L. Edeli, state and declare as follows:

1. I am a Trial Attorney for the U.S. Department of Labor, Office of the Solicitor. I submit this declaration in support of OFCCP's Response to Oracle America Inc.'s Evidentiary Objections to Evidence in Support of OFCCP's Motion for Summary Judgement. I have personal knowledge of the matter set forth in this declaration, and I could and would competently testify thereto if called upon to do so.

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

3. Attached hereto as **Exhibit B** is a true and correct copy of excerpts from the July 19, 2019, 30(b)(6) deposition of Kate Waggoner.

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

I declare under the penalty of perjury that the foregoing is true and correct and that this declaration was executed in San Francisco, California on November 8, 2019.

/s/ David L. Edeli  
DAVID L. EDELI

Office of the Solicitor  
U.S. Department of Labor

# Exhibit A

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UNITED STATES DEPARTMENT OF LABOR  
OFFICE OF ADMINISTRATION LAW JUDGES

OFFICE OF FEDERAL CONTRACT	)	
COMPLIANCE PROGRAMS, UNITED	)	
STATES DEPARTMENT OF LABOR,	)	
	)	
Plaintiff,	)	OALJ Case No.
	)	2017-OFC-00006
vs.	)	
	)	OFCCP No. R00192699
ORACLE AMERICA, INC.,	)	
	)	
Defendant.	)	
	)	

VIDEOTAPED DEPOSITION OF MADHAVI CHERUVU  
San Francisco, California  
June 11, 2019

REPORTED BY:  
JOHNNA PIPER  
CSR 11268  
Job No. 10057054

1 THE WITNESS: I -- 15:58:30

2 MR. PARKER: Compound. 15:58:34

3 THE WITNESS: I don't know. 15:58:34

4 BY MS. FLORES: 15:58:34

5 Q. Do you know what a quartile is? 15:58:45

6 MR. PARKER: Asked and answered but -- 15:58:49

7 THE WITNESS: I -- I -- not an expert. I 15:58:50

8 don't know. I have not heard that that -- or I 15:58:52

9 wouldn't be able to explain it. 15:58:55

10 BY MS. FLORES: 15:58:56

11 Q. I'm sorry. I think we did discuss it. It 15:58:56

12 was in the -- when talking about salary ranges and 15:58:59

13 quartiles. 15:59:02

14 A. I'm not an expert. 15:59:03

15 Q. In the job ads that you've posted, do you 15:59:07

16 include the range of salary that an employee may be 15:59:24

17 paid? 15:59:27

18 MR. PARKER: Vague and ambiguous. 15:59:28

19 THE WITNESS: I personally don't post the 15:59:28

20 ad. The recruiter does, and I don't believe that's 15:59:37

21 included, but I'm not sure since I don't post it. 15:59:39

22 BY MS. FLORES: 15:59:41

23 Q. Have you received any training -- any 15:59:59

24 affirmative action training as Oracle being a 16:00:03

25 government contractor? 16:00:08

1 A. No, I have not. 16:00:10

2 Q. Are you aware of any of the affirmative 16:00:11

3 action requirements that Oracle has to meet because 16:00:18

4 they're a government contractor? 16:00:23

5 MR. PARKER: Assumes facts; calls for a 16:00:25

6 legal conclusion. 16:00:28

7 THE WITNESS: That's -- that's not in my 16:00:28

8 scope. I don't know. 16:00:31

9 BY MS. FLORES: 16:00:32

10 Q. You are not aware of any? 16:00:33

11 A. I'm not aware. 16:00:34

12 Q. Does HR have a role in implementing any 16:00:38

13 type of affirmative action program for Oracle? 16:00:40

14 MR. PARKER: Lacks foundation; vague and 16:00:44

15 ambiguous. 16:00:46

16 THE WITNESS: It would mean -- and, again, 16:00:46

17 I'd go back to what is HR. There's just so many 16:00:50

18 functions within HR. That's not my role. 16:00:53

19 BY MS. FLORES: 16:00:55

20 Q. Do you know of any functions within HR that 16:00:56

21 have a role in applying affirmative action 16:00:59

22 regulations for Oracle? 16:01:06

23 MR. PARKER: Vague and ambiguous. 16:01:08

24 THE WITNESS: I -- I just -- I don't know. 16:01:09

25

1 A. My -- don't know. 16:02:39

2 Q. Does there's anyone in the product 16:02:42

3 development and in Thomas Kurian's old team have to 16:02:52

4 do affirmative action training? 16:02:56

5 MR. PARKER: Lacks foundation. 16:02:59

6 THE WITNESS: And -- I don't know. 16:03:00

7 BY MS. FLORES: 16:03:04

8 Q. Does anyone in your team have to keep any 16:03:05

9 records to comply with Oracle's affirmative action 16:03:07

10 plan? 16:03:09

11 MR. PARKER: Calls for legal conclusion; 16:03:10

12 lacks foundation. 16:03:11

13 THE WITNESS: I -- I don't think so. 16:03:15

14 BY MS. FLORES: 16:03:17

15 Q. Does anyone on Thomas Kurian's team have to 16:03:24

16 keep records to comply with affirmative action 16:03:29

17 regulations? 16:03:33

18 MR. PARKER: Lacks foundation. 16:03:33

19 THE WITNESS: I -- 16:03:36

20 MR. PARKER: Calls for legal conclusion. 16:03:36

21 THE WITNESS: I don't know. 16:03:38

22 BY MS. FLORES: 16:03:39

23 Q. Did you have any involvement in the 16:03:42

24 compliance review that the Department of Labor 16:03:44

25 conducted of Oracle headquarters? 16:03:46

## 1 CERTIFICATE OF REPORTER

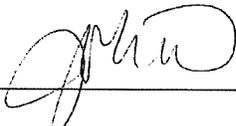
2 I, JOHNNNA PIPER, a Certified Shorthand  
3 Reporter, hereby certify that the witness in the  
4 foregoing deposition was by me duly sworn to tell  
5 the truth, the whole truth and nothing but the truth  
6 in the within-entitled cause;

7 That said deposition was taken down in  
8 shorthand by me, a disinterested person, at the time  
9 and place therein stated, and that the testimony of  
10 the said witness was thereafter reduced to  
11 typewriting, by computer, under my direction and  
12 supervision;

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

17 I further certify that I am not of counsel  
18 or attorney for either or any of the parties to the  
19 said deposition nor in any way interested in the  
20 event of this cause and that I am not related to any  
21 of the parties thereto.

22 DATED: June 18, 2019

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JOHNNNA PIPER, CSR 11268

## Exhibit B

CONFIDENTIAL

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UNITED STATES DEPARTMENT OF LABOR  
OFFICE OF ADMINISTRATIVE LAW JUDGES

OFFICE OF FEDERAL CONTRACT	)	
COMPLIANCE PROGRAMS,	)	
UNITED STATES DEPARTMENT	)	
OF LABOR,	)	
	)	
	)	Plaintiff,
	)	OALJ Case No.
	)	2017-OFC-00006
v.	)	
	)	OFCCP No.
ORACLE AMERICA, INC.,	)	R00192699
	)	
	)	Defendant.
	)	

CONFIDENTIAL VIDEOTAPE RULE 30(B)(6) DEPOSITION OF:  
KATE WAGGONER

PURSUANT TO NOTICE, the 30(b)(6) videotaped deposition of KATE WAGGONER was taken on behalf of the Plaintiff at U.S. Department of Labor, 1244 Speer Boulevard, Suite 515, Denver, Colorado, on July 19, 2019, at 9:54 a.m., before K. Michelle Dittmer, Registered Professional Reporter and Notary Public within Colorado.

JOB No. 190719HGE

1                   And -- and then that overall high budget,  
2 once again, gets approved by our CEOs. And -- and then I  
3 break that down into what it means for each one of their  
4 direct reports based on their head count, in which  
5 countries, in which functions, and all those kinds of  
6 things.

7                   So similarly, it works its way down kind  
8 of one at a time.

9                   Q.    Okay. And what are RSUs?

10                  A.    Restricted stock units.

11                  Q.    Okay. What's the difference between that  
12 and the stock option that you mentioned?

13                  A.    So a stock option gives you the -- gives  
14 you the right to purchase Oracle shares in the future at  
15 the -- at the price at which they were granted.

16                  So, for example, if somebody got a grant  
17 on January 1 of 2019 at \$54, in -- and there's an  
18 expiration of ten years. They vest 25 percent a year for  
19 four years, and after each vesting, they could sell them  
20 or they could hang on -- they could exercise them or hang  
21 onto them. But they have ten years to do something with  
22 them.

23                  If -- say they got 100 -- 100 stock --  
24 I'll say 1,000 stock options on January 1 of 2019 at \$54.  
25 2020, 250 of them vest, and if the price was up to 60,

1 they could decide to either buy those 250 at \$54 and  
2 they've already gained \$6 a share, or they could just  
3 sit on it and wait for more to vest. And they have ten  
4 years to decide what they want to do with them. Within  
5 that ten years, if the price goes up to \$100, they've  
6 just gained \$46 on all thousand shares.

7 With RSUs, restricted stock units, that  
8 also has a four-year vesting period, but when they vest,  
9 one year -- the first year out when they vest, we  
10 automatically -- there's a taxable event and we  
11 automatically distribute them right away. So it's  
12 more -- it's more like a -- it doesn't have as much of a  
13 retention capability in it because they get the value of  
14 it every year on the year.

15 Q. Okay.

16 A. Whereas with options, the longer --  
17 generally, the longer you hold onto the options, the more  
18 money you're going to make as long the company continues  
19 to grow and as long as the stock price grows.

20 Q. Okay. And who's making those stock  
21 decisions?

22 A. What decisions?

23 Q. Like to -- whether to give somebody a  
24 stock option and who gets them?

25 A. The managers.

1 Q. (By Mr. Song) Okay. And are -- okay.  
2 So lateral transfer, but when -- when --  
3 I've seen those terms used -- and actually, I think  
4 you've used lateral and transfer today, too. Do you mean  
5 the same thing, lateral -- does that lateral mean  
6 transfer, or is that -- or are they different terms or  
7 different definitions?

8 MS. CONNELL: Objection. Vague.

9 A. I mean, in general, when we discuss a  
10 lateral, it would be a transfer to a different team or a  
11 different manager, probably.

12 Q. (By Mr. Song) All right.

13 A. Yeah. I mean, I think so.

14 Q. Okay. And when you mean lateral or  
15 transfer, you're talking within Oracle, correct?

16 A. Correct.

17 Q. Okay. And if somebody transfers, does  
18 that always include a pay raise?

19 MS. CONNELL: Objection. Assumes facts.  
20 Lacks foundation.

21 Q. (By Mr. Song) Or does it never include a  
22 pay raise?

23 A. So this is -- when I say "lateral," if I  
24 say "lateral," that means same level, same pay.

25 Q. Okay.

1                   And the factors considered would be the  
2 same?

3                   MS. CONNELL: Objection. Incomplete  
4 hypothetical.

5                   A. So the factors to give a raise, they --  
6 position and range, whether there's an increase -- if  
7 there's a -- in a transfer, maybe it is somebody who  
8 is -- who is applying for a higher-level position and  
9 they've been selected for a higher-level position.

10                   If it is essentially the same level of  
11 job, performing overall similar duties and  
12 responsibilities that they were previously performing,  
13 that's mostly when we really say that -- that it should  
14 be lateral and a pay raise would not be warranted. And  
15 the reason for that is because we don't want a toxic  
16 environment of infighting and --

17                   Q. (By Mr. Song) Poaching?

18                   A. -- poaching and people trying to lure  
19 people from one job to another by just giving them more  
20 money.

21                   Q. All right. What if some -- what if a  
22 manager wanted to give a transfer a pay raise, how would  
23 that work?

24                   A. So it would be part of the Workflow.

25                   Q. Uh-huh.

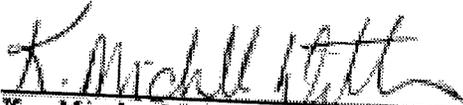
1 STATE OF COLORADO )  
2 CITY & COUNTY OF DENVER ) ss.  
3 )

4 I, K. Michelle Dittmer, a Registered  
5 Professional Reporter and Notary Public within the State  
6 of Colorado, do hereby certify that previous to the  
7 commencement of the examination, the said deponent was  
8 duly sworn or affirmed by me to testify to the truth.

9 I further certify this deposition was taken in  
10 shorthand by me at the time and place herein set forth  
11 and thereafter reduced to typewritten form, and that the  
12 foregoing transcript constitutes a true and correct  
13 record.

14 I further certify that I am not related to,  
15 employed by, nor of counsel for any of the parties or  
16 attorneys herein, nor otherwise interested in the result  
17 of the within action.

18 My commission expires: April 13, 2020.

19   
20 K. Michelle Dittmer  
21 Registered Professional Reporter  
22 Notary Public

23 Dated: July 29, 2019  
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# Exhibit C

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UNITED STATES DEPARTMENT OF LABOR  
OFFICE OF ADMINISTRATIVE LAW JUDGES

OFFICE OF FEDERAL CONTRACT ) OALJ Case No.  
COMPLIANCE PROGRAMS, UNITED ) 2017-OFC-00006  
STATES DEPARTMENT OF LABOR, )  
 ) OFCCP No.  
Plaintiff, ) R00192699  
 )  
vs. )  
 )  
ORACLE AMERICA, INC., )  
 )  
Defendant. )  
\_\_\_\_\_ )

VIDEOTAPED DEPOSITION OF JOYCE WESTERDAHL  
May 30, 2019  
Orange, California

Reported by:  
Michael McMorran  
CSR No. 13735  
JOB No. 190530RCR

05:13 1 brain cells right now, other than the proactive  
2 programs we do around diversity as well.

3 Q Okay. And that would include gender and  
4 racial disparities? So is there anything different  
05:13 5 regarding --

6 A No. I would consider them all in the same  
7 category.

8 Q Okay. Okay.

9 MR. SONG: Can we take a quick break, then?

05:13 10 THE WITNESS: Sure.

11 THE VIDEOGRAPHER: Going off the record, and  
12 the time is approximately 5:12 p.m.

13 (Off the record from 5:14 p.m. to 5:26 p.m.)

14 THE VIDEOGRAPHER: Going back on the record,  
05:26 15 and the time is approximately 5:25 p.m.

16 BY MR. SONG:

17 Q Okay. When I asked you a few minutes ago  
18 about efforts to identify disparities, you mentioned  
19 the focal review process; is that right?

05:26 20 A Yes.

21 Q All right. But when you're -- during the  
22 focal review process, you're -- the managers only  
23 have access to their employees, correct?

24 A Correct.

05:27 25 Q So they're not looking at large groups of

05:27 1 employees to see if men and women are being paid  
2 fairly, but they're only looking at their reports?

3 A Their organizations.

4 Q Yeah. So -- because they don't have access  
05:27 5 to salaries of people across the organization,  
6 correct?

7 A Correct.

8 Q Okay. But -- so if they only have access to  
9 their direct reports, then how can they ensure --  
05:27 10 how can they identify gender pay disparity, for  
11 example?

12 A Well, first of all, they don't just have  
13 access to their direct reports. They have access to  
14 their whole organization.

05:27 15 So -- and if it's a small group and --  
16 you're right. So maybe they don't make a big impact  
17 on the whole company, but they're responsible for  
18 their organizations.

19 Q Okay. So if -- let's say -- we'll take an  
05:28 20 M-1 manager, a lower -- lowest level manager, that  
21 manager would have access to salaries of the entire  
22 HR organization?

23 A No. What you said was in the focal review  
24 process, the manager would only have access to their  
05:28 25 direct reports.

05:28 1 Q Yes.

2 A They have access to their whole  
3 organization. So even if I'm an M-1, I have direct  
4 reports, and then I have people underneath my -- so  
05:28 5 we're talking -- I was just correcting you on -- so  
6 don't pick on me, let's just pick on a director.

7 So a director has -- can see the direct  
8 report information and has access to their entire  
9 organization.

05:28 10 Q Below them?

11 A Yes.

12 Q Okay. But if it was a really low level  
13 manager like an M-1, they would only have four or  
14 five -- like, a small group of reports or people --  
05:29 15 salaries that they could see, right?

16 A They would see everybody in their  
17 organization. If it was four people, it would be  
18 four people.

19 Q Okay. But the people below them?

05:29 20 A And they could see the people below them.

21 Q Yeah. Only below them?

22 A Yes.

23 Q Okay. And does Oracle have any compensation  
24 affirmative action goals?

05:29 25 MR. SHWARTS: Again, to your knowledge.

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DEPOSITION OFFICER'S CERTIFICATE

STATE OF CALIFORNIA            )  
  )  SS.  
COUNTY OF ORANGE            )

I, Michael McMorran, hereby certify:

I am a duly qualified Certified Shorthand Reporter in the state of California, holder of Certificate Number CSR 13735 issued by the Court Reporters Board of California and which is in full force and effect. (Fed. R. Civ. P. 28(a)).

I am authorized to administer oaths or affirmations pursuant to California Code of Civil Procedure, Section 2093(b), and prior to being examined, the witness was first duly sworn by me. (Fed. R. Civ. P. 28(a), 30(f)(1)).

I am not a relative or employee or attorney or counsel of any of the parties, nor am I a relative or employee of such attorney or counsel, nor am I financially interested in this action. (Fed. R. Civ. P. 28).

I am the deposition officer that stenographically recorded the testimony in the foregoing deposition and the foregoing transcript is  
a

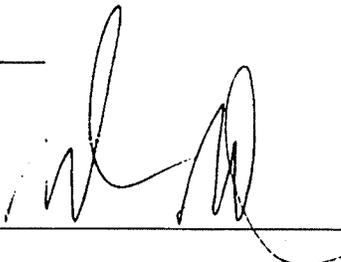
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/ / /

true record of the testimony given by the witness.  
(Fed. R. Civ. P. 30(f)(1)).

Before completion of the deposition, review  
of the transcript [ X ] was [ ] was not requested.  
If requested, any changes made by the deponent (and  
provided to the reporter) during the period allowed,  
are appended hereto. (Fed. R. Civ. P. 30(e)).

Dated: 6/3/2019



\_\_\_\_\_  
MICHAEL G. MCMORRAN, CSR No. 13735