

**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

OFCCP No. R00192699

**DEPOSITION DESIGNATIONS  
RE THE DEPOSITION OF  
DEPOSITION OF SHIRONG  
ANDY LEU – JULY 1, 2019**

Pursuant to the Court's Order on December 9, 2019, Oracle hereby submits the following deposition designations, including any errata and/or objections to such testimony by either party.  
Respectfully submitted,

December 20, 2019

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ORACLE AMERICA, INC.

DEPOSITION DESIGNATIONS RE THE DEPOSITION OF DEPOSITION OF  
SHIRONG ANDY LEU – JULY 1, 2019

CASE NO. 2017-OFC-00006

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San Francisco, Ca

**DEPOSITION OF SHIRONG ANDY LEU – JULY 1, 2019**

**11:14-20**

14. . . . . SHIRONG “ANDY” LEU,  
15. ·having been administered an oath, was examined and  
16. ·testified as follows:  
17. . . . . EXAMINATION  
18. ·BY MS. MANTOAN:  
19. . . ·Q.· Good morning, Dr. Leu.  
20. . . ·A.· Good morning.

**35:19-36:8**

19. . . ·Q.· So when you left Answer think in 2001 or  
20. ·2002, where did you next work?  
21. . . ·A.· USDA, government.  
22. . . ·Q.· Was this your first time working for the  
23. ·U.S. --  
24. . . ·A.· Government.  
25. . . ·Q.· -- Government?

**36**

1. . . ·A.· Yes.  
2. . . ·Q.· And what was your first role at USDA?  
3. . . ·A.· FSIS.  
4. . . ·Q.· What does that stand for? Let me ask this,  
5. ·is that food safety and inspection service?  
6. . . ·A.· (Witness gives a thumbs up.)  
7. . . ·Q.· “Yes”?  
8. . . ·A.· Yes.

**37:19-25**

19. . . ·Q.· So I think that takes us to around 2005?  
20. . . ·A.· 2005, yeah.  
21. . . ·Q.· Okay.  
22. . . ·A.· Let’s start with the -- okay. I’m sorry.  
23. . . ·Q.· And where were you next employed after  
24. ·FSIS?  
25. . . ·A.· DOL OFCCP --

**38:2-3**

2. ·THE WITNESS:· DOL, department of labor.

**DEPOSITION OF SHIRONG ANDY LEU – JULY 1, 2019**

3 · Yeah, DOL. Sorry.

**40:10-18**

10 · So what did you do once you moved over to  
11 · the department of labor?  
12 · · · · A · Statisticians --  
13 · · · · Q · And what --  
14 · · · · A · -- within OFCCP.  
15 · · · · Q · You did statistical work for OFCCP?  
16 · · · · A · That's correct.  
17 · · · · Q · Okay. And what kind of statistical work?  
18 · · · · A · Regressions.

**40:20**

20 · THE WITNESS: Regression.

**40:22-24**

22 · · · · Q · Is that regression?  
23 · · · · A · Regression analysis as a statistical  
24 · regression analysis (sic).

**40:25-43:5**

25 · · · · Q · Is this the first position in your

**41**

1 · employment history in which you regularly did  
2 · regression analyses?  
3 · · · · A · That's correct -- can I change? Can I  
4 · correct?  
5 · · · · Q · Yes.  
6 · · · · A · When I was in the Answerthink, I do  
7 · regression every day too. Sorry about that.  
8 · · · · Q · What --  
9 · · · · A · We had to do the forecasting, you know,  
10 · demanding, yeah.  
11 · · · · Q · What kind of regression analyses were you  
12 · doing at Answerthink?  
13 · · · · A · I give example. For example, in Florida  
14 · they provide a lot -- they have import/export of  
15 · flowers. So flower is a for-sale product, so I need  
16 · to forecast the demanding next week or next two

**DEPOSITION OF SHIRONG ANDY LEU – JULY 1, 2019**

17· weeks, you know, the demand -- forecast the demand  
18· for the company.

19· · · · Q· · Okay· So you were using regression

20· analysis at Answerthink to forecast product demand?

21· · · · A· · Yes· And in Gateway, when I work in the

22· marketing department, I have to run the regressions

23· also.

24· · · · · 'Cause marketing -- for example, company

25· want me to -- like, forecasting the computer units,

**42**

1· short term and the long term, you know.

2· · · · Q· · So in that kind of forecasting regression

3· what would typically be, like, the dependent

4· variable and what would be the independent

5· variables?

6· · · · A· · Oh, dependent -- like, you know, units is

7· dependent.

8· · · · Q· · Uh-hm.

9· · · · A· · And, you know, the independent, such like

10· the factors· They have many kind· They have a --

11· similar GDP factors, or like, you know, the new

12· computer train, right, or like the past or

13· historical data, right?· So they have a lot of

14· factors· I cannot name all of them· You know, they

15· have too many some time, yeah.

16· · · · Q· · Okay· Do the types of regression analyses

17· that you were doing at the department of labor

18· differ from the types of regression analyses that

19· you had been doing in your prior work?

20· · · · A· · I don't know· As a statistician I think

21· regression is a very -- is kind of standard for

22· every kind of the applications, --

23· · · · Q· · Okay.

24· · · · A· · --- you know.

25· · · · Q· · And when you first moved over to the

**43**

1· department of labor were you actually running

2· regression analyses or were you involved in making

3· policy about how the agency would run regression

4· analyses?

5· · · · A· · No, I just simply run regressions.

///

**DEPOSITION OF SHIRONG ANDY LEU – JULY 1, 2019**

44:23-45:5

23. . . .Q. Has your role at OFCCP changed at any point  
24. between when you first began working there in 2005  
25. and now?

45

1. . . .A. No.  
2. . . .Q. Does your work typically involve doing  
3. statistical analyses in connection with a compliance  
4. review?  
5. . . .A. Yes, uh-hm, it do.

46:10-47:1

10. . . .Q. So with that understanding of an estimate,  
11. can you give me an estimate of the number of  
12. compliance reviews on which you've worked at OFCCP?  
13. . . .A. You mean how many cases I running?  
14. . . .Q. Correct.  
15. . . .A. I really –  
16. . . . MR. ELIASOPH: It might be helpful if  
17. you –  
18. . . . THE WITNESS: Because –  
19. . . . MR. ELIASOPH: -- can provide a range,  
20. perhaps.  
21. . . . THE WITNESS: Yeah.  
22. BY MS. MANTOAN:  
23. . . .Q. Is it more than a hundred?  
24. . . .A. More than a hundred, yes.  
25. . . .Q. Would it be more than 500?

47

1. . . .A. I think more than 500, yes.

47:11-48:5

11. . . .Q. So I'm trying to understand more about your  
12. particular role on compliance reviews. You said you  
13. do statistical analyses, but can you give me some  
14. more detail or understanding about the work that you  
15. do?  
16. . . .A. Oh. They send the data to me and, of  
17. course, they -- you know, everybody know the -- we  
18. have a directive, so they're based on directive.  
19. Send the datas to me and, you know, I have

**DEPOSITION OF SHIRONG ANDY LEU – JULY 1, 2019**

20· to verify that you say dependent variable,  
21· independent variable. I review the data is  
22· consistent or not consistent; in effect is it  
23· legitimate or not -- not legitimate, something like  
24· that.  
25· . . . Q· Okay. I want to break down a couple things

**48**

1· in that answer.  
2· You said they're based on a directive. Is  
3· there a particular directive that you have in mind?  
4· . . . A· Okay. We have -- okay, and a recent  
5· directive usually is a 307.

**48:6-49:7**

6· . . . Q· Okay. Am I right that Directive 307 became  
7· operative in 2013?  
8· . . . A· I cannot recall exact year, you know.  
9· . . . Q· Have there been multiple different  
10· directives during your time at OFCCP that govern how  
11· you structure statistical analyses?  
12· . . . A· What do you mean "multiple directives"?  
13· . . . Q· Have there been different ones over time?  
14· . . . A· Yes. They have -- long time ago, when I  
15· came, they had Directive 289.  
16· . . . Q· Okay.  
17· . . . A· And this is 307. And then another one I  
18· cannot recall.  
19· . . . Q· Okay. You said that in running these  
20· analyses you have to verify the dependent variable.  
21· . . . A· Uh-hm.  
22· . . . Q· What did you mean by that?  
23· . . . A· Oh. Like it's a base pay, or a total pay,  
24· or bonus, something like that; and the other  
25· dependent variables have some status issues or not

**49**

1· status issues.  
2· . . . Q· So what is your practice with regard to  
3· determining which dependent variable to study?  
4· . . . A· Oh, for example, it's -- for example, it's  
5· across over many periods or not across many periods.  
6· . . . . If it's just one period or couple periods,  
7· the status method is different.

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**51:5-53:7**

5 · · · · Q · You can't do an analysis of distribution  
6 · pay if you don't have distribution pay? That's what  
7 · you're saying?  
8 · · · · A · For example -- for example, if the total  
9 · pay they have bonus component in there, and the --  
10 · and the factors, right, they don't have any factor  
11 · that can explain the role of bonus component then I  
12 · say "I cannot do."  
13 · · · · Q · What do you mean by factor that explains  
14 · the bonus component?  
15 · · · · A · For example, year's of experience, right --  
16 · · · · Q · Uh-hm.  
17 · · · · A · -- can explain the base compensation,  
18 · right? You work more years, your base compensation  
19 · will be more, right?  
20 · · · · · So if I --  
21 · · · · Q · Are you saying that's true in all -- in all  
22 · cases?  
23 · · · · A · Yeah. It's -- normally. Standard --  
24 · normally will do that, yeah, but of course they call  
25 · the reverse -- you know, if they have a reverse

**52**

1 · trend then we probably have to collect them -- you  
2 · know, more legitimate factors, so...  
3 · · · · Q · Okay. When you say -- you've used the  
4 · phrase "legitimate factor" a couple times and I want  
5 · to make sure I understand what you mean when you use  
6 · the phrase "legitimate factor."  
7 · · · · · MR. ELIASOPH: Objection to the extent it  
8 · calls for a legal conclusion.  
9 · · · · · She's just asking what you mean by the  
10 · term.  
11 · · · · · THE WITNESS: It's kind of a -- the factors  
12 · can connect -- interplete (sic), you know, or  
13 · evaluate the pay. They're reasonable -- reasonable.  
14 · · · · · MS. MANTOAN: Yeah, I --  
15 · · · · · THE REPORTER: The factors can connect...  
16 · · · · · THE WITNESS: Can explain the pay  
17 · reasonably -- logically, reasonably, you know.  
18 · · · · · For example, I cannot use a GDP to explain  
19 · our base salary, you know, it's nothing to do with  
20 · that.

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21 · BY MS. MANTOAN:

22 · · · Q · You're saying you wouldn't use the United

23 · States' GDP as a factor to explain base pay at a

24 · particular company?

25 · · · A · Yeah.

**53**

1 · · · Q · Is that what you're saying?

2 · · · A · That's right.

3 · · · Q · Okay · In any particular compliance

4 · evaluation how do you go about determining which

5 · factors can explain pay at that particular company?

6 · · · A · Okay · Let me -- okay · Usually, you know,

7 · we -- the directive, they give us --

**58:19-60:6**

19 · · · · · At any time since coming to work for the

20 · department of labor have you received any training

21 · on conducting statistical analyses?

22 · · · A · Yes.

23 · · · Q · What training is that?

24 · · · A · Like, you know, we have desk auditors.

25 · · · · · THE REPORTER · I'm sorry? · Ex-audit?

**59**

1 · · · · · MS. MANTOAN · Desk.

2 · · · · · THE WITNESS · Desk auditors.

3 · · · · · And we also have expert consultant come to

4 · us to train for a compensation pay, 2006, 2007 – I

5 · cannot recall exactly the date.

6 · BY MS. MANTOAN:

7 · · · Q · Do you recall the name of that person who

8 · provided training on compensation?

9 · · · A · No, I cannot recall.

10 · · · Q · Do you recall if it was a man or a woman?

11 · · · A · No, I cannot recall · I'm sorry.

12 · · · Q · And, as you sit here today, what -- if

13 · anything, do you recall from that expert training on

14 · compensation?

15 · · · A · They just tell you how to, you know,

16 · collect related datas and also teach us how to, you

17 · know, run a model and how to check the model, like a

18 · validation of the model.

19 · · · Q · You said "validation of the model"?

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20. . . . A. . . Validation of the model.  
21. . . . Q. . . So is it -- is it fair to say that you were  
22. . . taught a standard way to run compensation models at  
23. . . that training?  
24. . . . A. . . I cannot say. . . As I understand, it's just  
25. . . outside consulting company come to us. . . And usually,

**60**

1. . . at that time, we -- we have -- almost have every  
2. . . year of -- like a training of some type.  
3. . . . Q. . . Sorry. . . What was -- can you say that again?  
4. . . . A. . . They have the kind of training, but they  
5. . . don't tell us, "This is the standard methods or not  
6. . . standard methods," no.

**60:7-17**

7. . . . Q. . . Okay. . . Have you received any training at  
8. . . the department of labor on conducting compensation  
9. . . analyses since that 2006, 2007 training you just  
10. . . described?  
11. . . . A. . . Yes.  
12. . . . Q. . . Can you tell me about that additional  
13. . . training?  
14. . . . A. . . Usually that's called -- they released a  
15. . . Directive 307, and a 307 will -- you know, that will  
16. . . show us how to create the PAG for statistical  
17. . . analysis.

**60:19-20**

19. . . THE WITNESS: . . PAG, like, a pay analysis  
20. . . group -- P -- p-a-y, analysis group.

**61:10-63:2**

10. . . . Q. . . In a typical compliance review, where you  
11. . . are the statistician working on the review, are you  
12. . . the person who determines what pay analysis groups  
13. . . to do or are you told by someone else what pay  
14. . . analysis groups to use?  
15. . . . A. . . Basically I was told.  
16. . . . Q. . . Okay.  
17. . . . A. . . Yeah.  
18. . . . Q. . . Okay.  
19. . . . A. . . And this I -- like, I found this, you know,  
20. . . legitimate factor then I will tell them, "No, not  
21. . . this one."

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22 · . . . . They decide, you know, I -- for example,  
23 · like, if you have time in company, usually that is  
24 · legitimate, but only have -- 50 percent people have  
25 · that TIC, or time in -- time in company. So I tell

**62**

1 · them, "No, I cannot use the time in company factor."

2 · . . . Q · So I want to distinguish, in this line of  
3 · questioning -- and I guess throughout the session  
4 · today, between determining which employees are  
5 · comparable and then determining what factors could  
6 · differentiate pay among those employees.

7 · . . . . Do you understand that distinction?

8 · . . . A · PAG is -- we decide, you know, the  
9 · comparable pool, right, then we can perform the  
10 · regression on the pool.

11 · . . . Q · And when you perform the regression on the  
12 · pool you introduce certain factors to control for?

13 · . . . A · Yeah, the factor usually provided by the  
14 · contractor.

15 · . . . Q · Okay. So using that distinction that we  
16 · talked about -- on the one hand deciding which  
17 · employees to group together and then on the second  
18 · hand deciding what factors to control for within  
19 · that group, in a typical compliance review where you  
20 · are doing the statistical analysis who decides -- if  
21 · you know, who decides which employees to group  
22 · together in an analysis?

23 · . . . A · Usually district office or managers -- or  
24 · the managers. For example, we have, like, a DORO,  
25 · the district operations managers in San Francisco,

**63**

1 · or sometime we'll be -- I don't know, RD were  
2 · involved, too, you know, sometimes.

**63:3-7**

3 · . . . Q · But on the reviews where you've worked,  
4 · you, as the statistician, aren't actually the one  
5 · who decides which employees should be grouped  
6 · together in a typical case; is that accurate?

7 · . . . A · Usually I don't decide, no. They decide.

**63:8-15**

8 · . . . Q · Okay. And in a typical review where you

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9· are the statistical analyst, am I correct that you  
10· do not decide which factors to control for in the  
11· model?  
12· · · ·A· Yeah, basically that is, unless I found  
13· something not legitimate, like they have only  
14· 50 percent data, right, then I tell them "I cannot  
15· use this one."

**63:19-64:4**

19· · · ·Q· Am I correct that typically the person  
20· deciding which factors to control for in a  
21· statistical model you're going to run is someone  
22· other than you?  
23· · · ·A· Uh-hm.  
24· · · ·Q· Correct?  
25· · · ·A· Yeah, but sometime I also -- if, like -- to

**64**

1· my knowledge, if I understand it's not the -- the  
2· pool is not, like, a -- you know, comparable, I will  
3· also tell them, you know, like my opinion, but they  
4· will make the final decisions, yeah.

**65:7-13**

7· · · ·Q· Am I correct that you typically -- even if  
8· you're given a grouping of employees, do your own  
9· assessment of whether you agree that the employees  
10· in that grouping are comparable; is that correct?  
11· · · ·A· Comparable?  
12· · · ·Q· Comparable.  
13· · · ·A· Comparable, okay.

**65:15-18**

15· THE WITNESS:· Hmm, okay.· "Do your own  
16· assessment of whether you agree."  
17· No, usually I don't provide any assessment.  
18· I just sometime give opinion on that.

**65:20-66:2**

20· · · ·Q· Okay.· So you, at times, offer your opinion  
21· as to whether the grouping in fact contains  
22· comparable employees, --

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23. . . .A. Yeah, --  
24. . . .Q. -- correct?  
25. . . .A. -- because the 307 is very clear, you know,

**66**

1. everybody can use. They can use -- I think they --  
2. the district, they use very well, you know.

**67:23-69:8**

23. . . .Q. What does the word "comparable" mean for  
24. you -- mean to you in the context of --  
25. . . .A. Okay.

**68**

1. . . .Q. -- employee groupings for pay analysis  
2. purposes?  
3. . . .A. Okay, for example, right, if you work in  
4. management administrations and I work as engineer,  
5. then we don't work together because it's, like --  
6. you know, not comparable. You are an engineer and  
7. you are in management administration. They cannot  
8. group together.  
9. . . .Q. And why wouldn't you put those groups  
10. together in the example you just gave?  
11. . . .A. Why? Why we don't put altogether?  
12. . . .Q. Yes.  
13. . . .A. Because it's kind of very bad, you know.  
14. See, you (indicating) engineer and you are  
15. (indicating), like, management, so usually  
16. management -- the compensation pay usually they have  
17. the rules, pay for the manager and then pay for --  
18. they have -- for example, manager, they have --  
19. they're called, like, an MBO, manager by objective  
20. pay, right, but the engineer, they don't have that  
21. kind of pay. And mainly engineer is kind of an  
22. individual contributor, so we should not put them  
23. together. That's -- you know, that's comparable,  
24. yes.  
25. And the more details/definitions should be

**69**

1. in the 307, so I cannot --  
2. . . .Q. In your understanding, are comparable

**DEPOSITION OF SHIRONG ANDY LEU – JULY 1, 2019**

3· employees those who are doing similar work?  
4· . . . A· Same, like if they assume same opportunity  
5· with the same skills or knowledge, you know.  
6· . . . Q· Would whether employees have the same  
7· responsibilities or not be relevant in your view to  
8· whether they're comparable?

**69:9-12**

·9· . . . . MR. ELIASOPH:· Objection to the extent it  
10· calls for a legal conclusion.  
11· . . . . Objection to the extent it calls for  
12· speculation.

**69:13-22**

13· THE WITNESS:· So I cannot answer this  
14· questions because I don't make this policy or -- you  
15· know. I'm just doing regression analysis and this  
16· one for a group, you know, is not my job.  
17· BY MS. MANTOAN:  
18· . . . Q· But you did testify earlier that you also  
19· look at groupings and make your own -- develop your  
20· own opinion as to whether or not they're comparable,  
21· correct?  
22· . . . A· Yes.

**69:25-70:4**

25· THE WITNESS:· Yeah, I -- I did. I see

**70**

1· their PAG, but usually I don't change anything.  
2· It's just my opinion, that's it. I don't -- you  
3· know, I don't have the right, or whatever, change  
4· anything there.

**70:6-73:21**

6· . . . Q· Has anyone ever instructed you or informed  
7· you that you don't have the right to change pay  
8· analysis groups for statistical analyses you're  
9· asked to run?  
10· . . . A· No.  
11· . . . Q· Okay. So why do you say that you don't  
12· have the right to change anything with respect to  
13· the employee groupings in a statistical analyses

**DEPOSITION OF SHIRONG ANDY LEU – JULY 1, 2019**

14. ·you're asked to run?  
15. ···A. ·That's my personal feel. ·I'm not  
16. ·manager -- I'm not management so I don't -- and I  
17. ·just -- for statistical -- you know, my job, is just  
18. ·kind of my opinion, my thinking. ·This is my job, do  
19. ·like this.  
20. ·And, by the way, create a PAG need a  
21. ·company -- a contractor's compensation pay, and  
22. ·usually I don't have that. ·The CO, they collect the  
23. ·information. ·So they put CO -- they have a district  
24. ·director. ·They control information. ·They don't  
25. ·give to me, so I cannot decide anything.

**71**

1. ···Q. ·Okay.  
2. ···A. ·Yeah. ·But because I read the 307 -- so I  
3. ·have some knowledge, you know, if they're really way  
4. ·off I just provide some opinion, that's it.  
5. ···Q. ·So tell me if this is -- is correct, 'cause  
6. ·I want to make sure I'm understanding you.  
7. ·Is your role -- typical role in a  
8. ·compliance review just to take the pay analysis  
9. ·groups and the pay factors that you've been told to  
10. ·run and simply do the mathematical statistical work  
11. ·on that exact pay analysis group using those exact  
12. ·factors?  
13. ···A. ·Pretty much that, yeah -- pretty much that,  
14. ·yeah.  
15. ···Q. ·Okay. ·Okay. ·When I asked you about any  
16. ·training that you've received you mentioned desk  
17. ·audit tools, if I understood you correctly.  
18. ·What did you mean by "desk audit tools"?  
19. ···A. ·It's -- before a regression we don't have  
20. ·individual data so the district will, you know,  
21. ·check the initial, you know, neutral or not neutral,  
22. ·you know, for the pay.  
23. ···Q. ·Sorry. ·I don't understand what that means.  
24. ···A. ·Okay. ·So desk audit, you know,  
25. ·compensation analysis is just -- basically just

**72**

1. ·gender race and then the salary. ·They don't have  
2. ·individual data -- like individual -- individual

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3· ·data, --  
4· ·· ·Q· ·Okay.  
5· ·· ·A· ·-- so we cannot perform the regression  
6· ·analysis.  
7· ·· ·Q· ·So a desk audit --  
8· ·· ·A· ·It's before a -- before a regression  
9· ·analysis, so...  
10· ·· ·Q· ·Okay· ·So, in your experience, the desk  
11· ·audit analysis is typically just average pay  
12· ·differences by gender or race?  
13· ·· ·A· ·Yeah, the average difference· ·You know, I  
14· ·got trained, but basically I don't involve that  
15· ·part· ·I just involve the regression analysis.  
16· ·· ·Q· ·Okay· ·But you've had training on these  
17· ·desk audit tools; is that right?  
18· ·· ·A· ·Yeah, yeah, I did -- I did have.  
19· ·· ·Q· ·Does the acronym DAC mean anything to you?  
20· ·· ·A· ·Huh?  
21· ·· ·Q· ·DAC, is that the name of a program or...  
22· ·· ·A· ·DAC?· ·Oh, yeah· ·That's a desk audit· ·DAC,  
23· ·that's desk audit, I believe, yeah.  
24· ·· ·Q· ·Is that --  
25· ·· ·A· ·Maybe I'm wrong.

73

1· ·· ·Q· ·Is it a program, or is it a website, or a  
2· ·math- --  
3· ·· ·A· ·It's a tool· ·It's a tool.  
4· ·· ·Q· ·What does that mean, "It's a tool"?  
5· ·· ·A· ·It's a compensation regression --  
6· ·compensation tool before regression.  
7· ·· ·Q· ·So it's a preregression tool?  
8· ·· ·A· ·Preregress- -- not -- no, no, no, not  
9· ·preregression, they are just descriptive, you know.  
10· ·Just a simple testing, you know, hypothe- simple --  
11· ·like a t-testing.  
12· ·· ·Q· ·And by t-test you mean something that would  
13· ·just compare, say, average salaries between men and  
14· ·women?  
15· ·· ·A· ·That's right.  
16· ·· ·Q· ·Without any other controls, correct?  
17· ·· ·A· ·No.  
18· ·· ·Q· ·Okay.

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19. . . .A. No control.

20. . . .Q. No controls in the -- in the DAC program?

21. . . .A. Uh-hm.

**74:24-79:17**

24. . . .Q. Do you have an understanding of what a  
25. cohort analysis is?

**75**

1. . . .A. Cohort?

2. . . .Q. Cohort.

3. . . .A. Yes.

4. . . .Q. What is your understanding of what a cohort  
5. is?

6. . . .A. Cohort is small group usually and we cannot  
7. use a standard -- like you say, you know, "Analysis  
8. is to find the pattern.

9. . . .Q. To find what?

10. . . .A. To find a pattern.

11. . . .Q. A pattern?

12. . . .A. The pattern, yeah -- find the patterns.

13. And the number is very small and maybe they also  
14. involve very specific issues, you know. Then, you  
15. know, we probably conduct a cohort analysis.

16. . . .Q. Have you ever received any training from  
17. the department of labor that deals with when it is  
18. appropriate to do a cohort analysis as opposed to a  
19. regression analysis on the issue of pay?

20. . . . MR. ELIASOPH: Objection. Vague as to  
21. term -- vague as to the term "training."

22. . . . THE WITNESS: Look like we have one time 23. long time ago, but I cannot  
recall it all. It's

24. kind of -- it's kind of very vague for me.

25. ///

**76**

1. BY MS. MANTOAN:

2. . . .Q. Do you recall ever having a conversation  
3. with anyone at OFCCP about whether you should  
4. conduct a cohort analysis as opposed to a  
5. statistical analysis in a particular compliance  
6. review?

7. . . . MR. ELIASOPH: Objection. That's squarely  
8. within the deliberative process privilege.

9. . . . Do not answer with respect to specific

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10· ·conversations.  
11· · . . . . THE WITNESS:· Maybe they have, maybe they  
12· ·don't have.· I cannot recall for this question.· I'm  
13· ·sorry.  
14· ·BY MS. MANTOAN:  
15· · . . Q.· ·To be clear that was an instance where I  
16· ·think your counsel was intending to instruct you not  
17· ·to answer.  
18· · . . . . MR. ELIASOPH:· He can provide a general  
19· ·answer but not discuss a specific conversation.  
20· · . . . . MS. MANTOAN:· Okay.· And that's the – is  
21· ·that the position you're going to take on the  
22· ·deliberative process privilege notwithstanding  
23· ·today's order?  
24· · . . . . MR. ELIASOPH:· Nothing about this order  
25· ·applies to this witness or invades the deliberative

77

1· ·process privilege with respect to this witness.  
2· · . . . . MS. MANTOAN:· Okay.  
3· ·BY MS. MANTOAN:  
4· · . . Q.· ·Have you ever worked on an OFCCP compliance  
5· ·review for Oracle?  
6· · . . A.· ·Can you repeat again?  
7· · . . Q.· ·Have you ever worked on an OFCCP compliance  
8· ·review for Oracle?  
9· · . . A.· ·Yes, for regression part.  
10· · . . Q.· ·How many compliance reviews have you worked  
11· ·on for Oracle?  
12· · . . A.· ·How do you measure "how many"?· How do you  
13· ·measure?  
14· · . . Q.· ·How many different locations?  
15· · . . A.· ·Sorry, I cannot recall.  
16· · . . Q.· ·Can you give me your best estimate?  
17· · . . A.· ·'Cause I have several -- I don't know,  
18· ·several and another company, too, but I don't know.  
19· · . . Q.· ·Would it be more than 10?  
20· · . . A.· ·When you count -- when you count – when  
21· ·you count you measure each individual regressions or  
22· ·all locations?  
23· · . . . . You know, the question is not very clear.  
24· · . . Q.· ·So am I correct that at -- it's often the  
25· ·case that an OFCCP compliance review will be

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1 · conducted on an establishment basis by a location,  
2 · correct?  
3 · · · · A · · Yeah.  
4 · · · · Q · · Okay · So I'm wondering how many different  
5 · establishment compliance reviews for Oracle you have  
6 · worked on?  
7 · · · · · MR. ELIASOPH · · Objection · Asked and  
8 · answered.  
9 · · · · · THE WITNESS · · I cannot remember exact  
10 · number, you know.  
11 · BY MS. MANTOAN:  
12 · · · · Q · · Do you estimate that it's more than 10?  
13 · · · · A · · You mean more than 10 location?  
14 · · · · Q · · Correct?  
15 · · · · A · · No.  
16 · · · · · MR. ELIASOPH · · Objection · Vague.  
17 · BY MS. MANTOAN:  
18 · · · · Q · · Is it more than five locations.  
19 · · · · · MR. ELIASOPH · · Objection · Vague.  
20 · · · · · THE WITNESS · · I still cannot -- I still  
21 · cannot recall exact number, you know.  
22 · BY MS. MANTOAN:  
23 · · · · Q · · Okay · But fewer than then ten, correct, as  
24 · far -- as best you can recall?  
25 · · · · A · · Fewer than 10, okay, yeah.

79

1 · · · · Q · · And did you work on a compliance review for  
2 · Oracle's headquarters' location in Redwood Shores?  
3 · · · · A · · Where?  
4 · · · · Q · · In Redwood Shores, the headquarters'  
5 · location?  
6 · · · · A · · Redwood and –  
7 · · · · Q · · Redwood Shores is the name of the city.  
8 · · · · A · · Ah, yes, yes.  
9 · · · · Q · · It's also the headquarters.  
10 · · · · A · · Yes, yes.  
11 · · · · Q · · Okay · Do you recall if that headquarters'  
12 · review was the first compliance review of Oracle in  
13 · which you were involved?  
14 · · · · A · · I don't remember if it was the first one or  
15 · not first one, but I -- I think so · I -- I involved  
16 · that one, yeah, but I don't know if it's the first

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17 · one or second or third one. I don't know.

**79:18-80:2**

18 · · · · Q. Okay. What was your involvement with the  
19 · OFCCP compliance review of Oracle's headquarters'  
20 · location?  
21 · · · · A. Oh, this one, I just do the regressions  
22 · from -- I think it's a -- management, they sent me  
23 · the database and provide me factors to do the  
24 · regressions.  
25 · · · · Q. When you say "management" who are you

**80**

1 · referring to?  
2 · · · · A. It's Janette Wipper.

**82:12-17**

12 · · · · Q. What do you recall about the regression  
13 · model that you ran for Oracle's headquarters'  
14 · location, if anything?  
15 · · · · A. It's very good questions, but this is --  
16 · it's very long time ago. I really cannot just  
17 · memorize right away, you know.

**82:22-85:16**

22 · · · · · (Exhibit 2 was marked for identification.)  
23 · BY MS. MANTOAN:  
24 · · · · Q. And will you take a moment to look at this,  
25 · Dr. Leu.

**83**

1 · · · · · Just for the record, Exhibit 2 is a  
2 · document bearing Bates No. DOL 1395 to DOL 1406.  
3 · · · · · And my first question for you, Dr. Leu, is  
4 · just going to be: Have you ever seen this document  
5 · before?  
6 · · · · · MR. ELIASOPH: And you can take your time  
7 · to look at it --  
8 · · · · · THE WITNESS: Thank you.  
9 · · · · · MR. ELIASOPH: -- to make sure you know  
10 · what it is.  
11 · · · · · Do you know what the question is? Do you  
12 · remember?  
13 · · · · · THE WITNESS: Yeah. It's --  
14 · BY MS. MANTOAN:

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15 · · · Q · Have you seen this before?

16 · · · A · No.

17 · · · Q · Okay · Can you flip to Attachment A, which

18 · if you look at the numbers in the lower right-hand

19 · corner it starts at No. 1404.

20 · · · A · Uh-hm.

21 · · · Q · And my question is whether you've seen

22 · Attachment A before.

23 · · · A · No.

24 · · · Q · Okay · Do you have an understanding of what

25 · a Notice of Violation is?

**84**

1 · · · A · No.

2 · · · Q · Okay · So this -- if you turn back to the

3 · first page of this document, it's dated March 11th,

4 · 2016.

5 · · · A · Uh-hm.

6 · · · Q · And my question for you is whether the

7 · statistical analysis for Oracle's headquarters'

8 · location -- that you testified about before, whether

9 · you ran that before or after March 11th, 2016.

10 · · · · MR. ELIASOPH · Objection · Calls for

11 · speculation · Confusing.

12 · · · · THE WITNESS · I believe that I run it

13 · before.

14 · BY MS. MANTOAN:

15 · · · Q · Okay · Did you ever run any statistical

16 · analysis for Oracle's headquarters' location after

17 · this Notice of Violation?

18 · · · · MR. ELIASOPH · Objection · Calls for

19 · speculation.

20 · · · · THE WITNESS · I -- I really cannot recall,

21 · you know.

22 · BY MS. MANTOAN:

23 · · · Q · On how many different occasions did you run

24 · a statistical analysis for Oracle's headquarters'

25 · location?

**85**

1 · · · A · When you say "occasions," what -- the time?

2 · · · Q · Correct.

3 · · · A · It means, you know, how many times they

4 · come ask me, "Andy, you will do again regression,"

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5· ·how many times they come back -- come back?  
6· · · · Q· ·Correct.  
7· · · · A· ·I cannot -- I cannot recall exact number.  
8· · · · Q· ·Was it more than one?  
9· · · · A· ·Yeah· More than one, yeah.  
10· · · Q· ·And what do you recall about any times you  
11· ·were asked to run a different statistical model?  
12· · · · · What do you recall about those  
13· ·conversations?  
14· · · · · MR. ELIASOPH:· Again, objection with  
15· ·respect to the extent this calls for invading the  
16· ·deliberative process privilege.

**85:23-86:17**

23· · · · Q· ·Let's look at Attachment A --  
24· · · · A· ·Uh-hm.  
25· · · · Q· ·--- of Exhibit 2.

**86**

1· · · · · I'm going to ask you to read the first  
2· ·paragraph and then I'll have some questions for  
3· ·about you that first paragraph.  
4· · · · A· ·This is 1404.  
5· · · · Q· ·Correct· That starts "The United States  
6· ·Department of Labor."  
7· · · · A· ·Okay.  
8· · · · Q· ·Okay· Does the paragraph you just read on  
9· ·page 1404 describe a statistical model that you ran  
10· ·on data for Oracle's headquarters' location?  
11· · · · · MR. ELIASOPH:· Objection· Calls for  
12· ·speculation.  
13· · · · · THE WITNESS:· Yeah, I run many models with  
14· ·different factors.  
15· ·one of them, maybe· I don't know, maybe somebody  
16· ·run for this· I cannot be sure because this doesn't  
17· ·look like my report.

**86:20-88:5**

20· · · · · (Exhibit 3 was marked for identification.)  
21· ·BY MS. MANTOAN:  
22· · · · Q· ·So we've marked as Exhibit 3 an  
23· ·October 26th, 2017, e-mail from Marc Pilotin at the  
24· ·solicitor's office to Erin Connell of Orrick copying  
25· ·a few other folks.

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1 · · · · · And indicating in the e-mail that "the  
2 · second thing that was attached is the SAS code  
3 · related to the analysis underlying the complaint.  
4 · · · · · So my question is if you turn past the  
5 · e-mail to the pages Bates-numbered DOL 39877 to DOL  
6 · 39880; do you recognize this as –  
7 · · · · A · Which page?  
8 · · · · Q · The pages numbered DOL 39877 –  
9 · · · · A · Okay.  
10 · · · · Q · -- to DOL 39880.  
11 · · · · A · Uh-hm.  
12 · · · · Q · Is this SAS code related to an analysis  
13 · that you conducted of Oracle's headquarters'  
14 · location?  
15 · · · · · MR. ELIASOPH: · Objection to the extent it  
16 · calls for speculation.  
17 · · · · · THE WITNESS: · Usually -- oh, I run so many.  
18 · I don't know if this one -- I run this one or not,  
19 · you know. · But looks like it's from our SAS – from  
20 · our SAS program, yeah.  
21 · BY MS. MANTOAN:  
22 · · · · Q · From your -- from the SAS program?  
23 · · · · A · The SAS program, yeah. · And my name is not  
24 · there -- my name is not there either. · Usually I  
25 · will put my name. · If I run a regression, I put my

**88**

1 · name there.  
2 · · · · Q · So when you -- when you run a regression do  
3 · you usually include your name in the SAS code  
4 · itself?  
5 · · · · A · Yes. · I put "Andy Leu," L-e-u, there, so...

**88:7-96:20**

7 · · · · · THE REPORTER: · Exhibit 4.  
8 · · · · · THE WITNESS: · Thank you.  
9 · · · · · (Exhibit 4 was marked for identification.)  
10 · BY MS. MANTOAN:  
11 · · · · Q · So, for the record, Exhibit 4 is a document  
12 · with Bates-numbers DOL 5298 to DOL 5320.  
13 · · · · · And my first question is whether you – it  
14 · has -- the document has a number of boxes that are  
15 · redacting or obscuring information, but with that  
16 · aside, do you recognize the document that's

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17· Exhibit 4? Does it look familiar to you?  
18· ···A· Yes. This looks like it's from our – the  
19· CS report, yes.  
20· ···Q· Which report?  
21· ···A· The compensation analysis report.  
22· ···Q· Okay. Does this look to you, based on your  
23· experience, like a report that came after a  
24· regression was run in SAS?  
25· ···A· Uh-hm. But I cannot be sure I did this one

**89**

1· or not, or somebody did that, but it's a form of CS,  
2· yeah.  
3· ···Q· So I'm going to represent to you that we  
4· served what is called a discovery request in this  
5· case where we asked the other side for information.  
6· And we asked OFCCP to identify each person who  
7· participated in this compliance review of Oracle's  
8· headquarters' location and that in response they  
9· identified Shirong Andy Leu, statistician.  
10· ···· With that information, does that refresh  
11· your recollection at all as to whether or not you  
12· were the statistician who ran the analysis whose  
13· results are reported in Exhibit 4?  
14· ···A· Yeah, I can recognize that this is from CS  
15· reports, but I cannot really recognize this is a  
16· report from my analysis.  
17· ···· You know what I mean?  
18· ···Q· Do you typically write an actual analysis  
19· report after you run a regression model?  
20· ···A· No, just CS -- this table (indicating),  
21· this table (indicating). And then sometime they –  
22· you know, sometime they want me to write one page of  
23· the conclusion, but most the time they don't.  
24· ···Q· Okay.  
25· ···A· Yeah.

**90**

1· ···Q· But do the results reported in Exhibit 4  
2· take the form of the --  
3· ···· Do they look like how the results are  
4· reported out when you run regression analyses?  
5· ···A· Yeah, look like -- yes, uh-hm.  
6· ···Q· Okay. So a while back I asked if you  
7· participated in the compliance review of Oracle's

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8· ·headquarters' location --  
9· · · · ·A· ·Uh-hm.  
10· · · · ·Q· ·-- and you said yes.  
11· · · · ·A· ·Uh-hm.  
12· · · · ·Q· ·But now I've asked a couple questions about  
13· ·particular statistical analysis and you've told me  
14· ·that you're not sure if it was you.  
15· · · · ·A· ·Because sometime, you know, not only myself  
16· ·run this one. Maybe they are other people. Because  
17· ·many case sometime, for example, you a statistician,  
18· ·sometime you run, sometime I run, so I don't know.  
19· · · · · · You know, at that time, for example, we  
20· ·pull a case in Florida and we -- if any people have  
21· ·time, right, you can go there -- you can go there  
22· ·and, you know, pull down and then do the analysis.  
23· ·And sometimes, you know, we have some other people  
24· ·to do the second review, or whatever, and the  
25· ·result, whatever. So –

91

1· · · · ·Q· ·Do you recall any other statisticians  
2· ·working on the compliance review of Oracle's  
3· ·headquarters' location?  
4· · · · ·A· ·I cannot make sure. I don't know.  
5· · · · ·Q· ·Okay. When you say "sometimes other  
6· ·statisticians" –  
7· · · · ·A· ·I just –  
8· · · · ·Q· ·-- "would look at the reports," who -- who,  
9· ·in your experience, are some of those other  
10· ·statisticians who at times will -- will look at an  
11· ·analysis for an open compliance review that you are  
12· ·also working on?  
13· · · · · · MR. ELIASOPH: So –  
14· · · · · · THE WITNESS: I don't know.  
15· · · · · · MR. ELIASOPH: Yeah –  
16· · · · · · THE WITNESS: I cannot recall.  
17· · · · · · MR. ELIASOPH: She's -- okay. He answered.  
18· ·BY MS. MANTOAN:  
19· · · · ·Q· ·What other statisticians do you work with  
20· ·at OFCCP?  
21· · · · · · MR. ELIASOPH: Okay. Objection to the  
22· ·extent you're requesting that he identify outside  
23· ·consultants or other experts.  
24· · · · · · MS. MANTOAN: Right.  
25· · ///

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1 · BY MS. MANTOAN:

2 · · · · Q · I'm not asking for that · I'm asking what  
3 · other statisticians employed by the department of  
4 · labor do you work with?

5 · · · · A · I don't know · Only the management –  
6 · maybe, you know, Janette knows · Janette can tell  
7 · you, I don't know.

8 · · · · Q · You don't -- so you don't know the names of  
9 · any other statisticians who work at the department  
10 · of labor?

11 · · · · · MS. MANTOAN: · Objection · Misstates prior  
12 · testimony.

13 · · · · · THE WITNESS: · Uh-hm, uh-hm · I don't know.

14 · BY MS. MANTOAN:

15 · · · Q · Okay · Do you know who Bob LaJeunesse is?

16 · · · A · Yeah · He is my current supervisor.

17 · · · Q · Okay · Is he a statistician?

18 · · · A · It's just I call him Mr. and a  
19 · statistician, yes.

20 · · · Q · Okay · Does he work at the department of  
21 · labor?

22 · · · A · Yes.

23 · · · Q · Okay · So other than Dr. LaJeunesse, can  
24 · you think of any other statisticians who work at  
25 · the -- for the department of labor?

93

1 · · · · · MR. ELIASOPH: · Objection · Overly broad.

2 · Vague.

3 · · · · · THE WITNESS: · You mean you want the name of  
4 · a statistician?

5 · · · · · MS. MANTOAN: · Correct?

6 · · · · · THE WITNESS: · But because I don't know  
7 · who -- sometimes Janette one you do, but I don't  
8 · know.

9 · · · · · MR. ELIASOPH: · She's just asking if you can  
10 · name other statisticians.

11 · · · · · THE WITNESS: · Oh, oh · Okay.

12 · · · · · MR. ELIASOPH: · I believe you mean OFCCP,  
13 · but maybe you mean the whole department of labor.

14 · · · · · MS. MANTOAN: · My understanding is he's only  
15 · worked in that unit of OFCCP, but given the re-org  
16 · you described I didn't want to limit it in that way.

17 · BY MS. MANTOAN:

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18 · · · · Q · · So, I guess, can you name any other  
19 · · statisticians at the department of labor who to your  
20 · · knowledge work on OFCCP matters?  
21 · · · · A · · Work for OFCCP manners (sic), right?  
22 · · · · Q · · Work on OFCCP matters.  
23 · · · · A · · Okay · There's a Bret Phillips.  
24 · · · · Q · · What's that name?  
25 · · · · A · · Bret, B-r-e-t.

**94**

1 · · · · Q · · Uh-huh.  
2 · · · · A · · Phillips.  
3 · · · · Q · · How is that spelled?  
4 · · · · A · · P-h-i-l-l-i-p-s.  
5 · · · · Q · · Bret Phillips.  
6 · · · · A · · Yes.  
7 · · · · Q · · Okay · Any others?  
8 · · · · A · · Timothy Li, L-i -- L-i-l -- L, like Larry,  
9 · · I like icon, Li -- Timothy Li.  
10 · · · · Q · · Uh-hm · Timothy Li.  
11 · · · · A · · Uh-hm.  
12 · · · · Q · · Any others?  
13 · · · · A · · Kuan Chen Sheng.  
14 · · · · Q · · Could you spell that?  
15 · · · · A · · I don't know I can be exact to the Kuan  
16 · · Sheng · Like a Q-u-e-s (sic) -- I don't know, but  
17 · · last name is Sheng, S-h-e-n-g.  
18 · · · · Q · · S-h-e-n-g?  
19 · · · · A · · Sheng, yeah · Kuan Sheng, kind of Chinese  
20 · · name · I cannot remember · I'm sorry.  
21 · · · · Q · · Okay · Any others?  
22 · · · · A · · David -- David · Last name is -- Garber,  
23 · · G-a-r-b-e-r · David Garber.  
24 · · · · Q · · Any others?  
25 · · · · A · · I forget last name; first name is called

**95**

1 · · Eno, E-n-o, Eno, and I forget last name.  
2 · · · · Q · · Okay · Any others that you can recall as  
3 · · you sit here?  
4 · · · · A · · Another one -- I forget her name · At that  
5 · · time -- it's -- maybe the -- I forget her name, you  
6 · · know · He's kind of new, you know · He's new, so  
7 · · I -- last name I cannot --  
8 · · · · · · MR. ELIASOPH · If you don't remember, you

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9· ·don't remember.  
10· ····· THE WITNESS:· I cannot memorize.  
11· ····· MS. MANTOAN:· Okay.  
12· ····· THE WITNESS:· I cannot remember her.  
13· ·BY MS. MANTOAN:  
14· ···Q· ·To your knowledge, did Dr. LaJeunesse work  
15· ·on the Oracle headquarters' compliance review?  
16· ···A· ·No.  
17· ···Q· ·To your knowledge, did any of the other  
18· ·statisticians at OFCCP work on the Oracle  
19· ·headquarters' compliance review?  
20· ···A· ·I don't know.  
21· ···Q· ·How is it that you don't know whether other  
22· ·statisticians worked but you're sure that  
23· ·Dr. LaJeunesse did not work on this review?  
24· ···A· ·Because every time -- oh, every time  
25· ·Janette come to my desk and say, "Andy run this" –

**96**

1· ····· MR. ELIASOPH:· Just a reminder not to –  
2· ·not to reveal the deliberative communications.  
3· ····· THE WITNESS:· Okay.  
4· ·BY MS. MANTOAN:  
5· ···Q· ·Are you aware of any -- so you said you  
6· ·don't know if any other statistician worked –  
7· ···A· ·Uh-hm.  
8· ···Q· ·So that means, to the best of your –  
9· ···A· ·Uh-hm.  
10· ···Q· ·You can't name another statistician at  
11· ·OFCCP who worked on the Oracle headquarters'  
12· ·compliance review; is that correct?  
13· ···A· ·No, I cannot.· I cannot.  
14· ···Q· ·Okay.  
15· ···A· ·I cannot.· I don't know who or whatever,  
16· ·you know.  
17· ···Q· ·Okay.  
18· ···A· ·It's -- our floor is open.· I don't know  
19· ·who go there.· I don't know.· I don't know.· I  
20· ·really don't know this.

**97:6-20**

6· ···Q· ·So, I want to ask you some questions  
7· ·looking back at Exhibit 2.  
8· ···A· ·One, four, three -- two, okay.  
9· ···Q· ·Looking at Attachment A.· That's what

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10· starts at page 1404.

11· . . . A· 1404, okay.

12· . . . Q· Okay· Starting in the middle of that first

13· paragraph it says, “OFCCP analyzed Oracle employees’

14· compensation data by Oracle job function.”

15· Do you see where I read that?

16· . . . A· Yeah.

17· . . . Q· Did you conduct an analysis of Oracle’s

18· headquarters’ location by job function?

19· . . . A· I believe so, yeah.

20· . . . Q· Okay· What is a job function at Oracle?

**97:21-22**

21· . . . . MR. ELIASOPH:· Objection· Calls for

22· speculation.

**97:23-24**

23· THE WITNESS:· I just followed Janette, you

24· know, who used this PAG.

**98:2-8**

2· . . . Q· Okay· So separate question, though, is if

3· you have an understanding of what job function is at

4· Oracle.

5· . . . A· It's kind of the -- to my knowledge, it's

6· kind of -- I don't know if it's correct or not.

7· Really I don't want to answer· You know what, I'm

8· not hundred percent sure, you know, --

**98:11-13**

11· . . . Q· So, as you sit here today, you don't have

12· an understanding that you can share of what job

13· function is at Oracle?

**98:14-15**

14· . . . . MR. ELIASOPH:· Objection· Calls for

15· speculation· Asked and answered.

**98:18-19**

18· THE WITNESS:· I cannot remember· I know

19· it, but I just cannot remember.

**98:21-101:16**

21· . . . Q· Do you have a rough idea?· I appreciate

22· that it's been some time and so you may not have

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23· every precise detail memorized, but as you sit here  
24· today, do you have even any rough understanding of  
25· what a job function is at Oracle?

**99**

1· · · · A· It's a look like a company they have job  
2· structures and usually the job function is --  
3· because job structure, so they have hierarchy· So a  
4· job function may be in the top hierarchy· Below  
5· that job function they have subfunctions, below the  
6· subfunction usually they have a microfamily --  
7· microjob family and below that they have job family,  
8· then after that maybe have career track, so on and  
9· so forth, you know· And they have definition, but  
10· I'm sorry, I cannot remember all the definition at  
11· all.

12· · · · Q· And is what you just testified to your  
13· understanding, generally, of what job functions are  
14· at companies or is that your understanding of what a  
15· job function is at Oracle in particular?

16· · · · A· I don't know about Oracle in particular,  
17· that's true.

18· · · · Q· Okay.

19· · · · A· But this is -- I just tell you, is kind of  
20· general IT, you know.

21· · · · Q· Okay.

22· · · · A· Not -- I don't know, maybe Oracle have  
23· special structure -- job structure· I don't know.

24· · · · Q· Okay.

25· · · · A· I never see that.

**100**

1· · · · Q· Okay· So I have a few questions here and I  
2· am going to ask about your understanding of these  
3· terms with respect to Oracle in particular, and if  
4· you don't have an understanding with respect to  
5· Oracle in particular that's fine; you can say so.  
6· Before I do that, you mentioned earlier  
7· that in connection with the Oracle headquarters'  
8· compliance review you received a data file, correct?  
9· · · · A· Uh-hm.  
10· · · · Q· To your recollection, did you receive just  
11· a single data file or did you receive more than one?

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12. . . .A. Okay. When you see -- just clarify your  
13. questions.  
14. When you see multi-profile what do you  
15. mean? Like a different period -- different period  
16. of time?  
17. . . .Q. I mean did you get a --  
18. . . .A. Time period different, you know.  
19. . . .Q. Did the data that you recall receiving come  
20. in an Excel file?  
21. . . .A. It's Excel file, that's right.  
22. . . .Q. Okay. So did you get one or more than one  
23. Excel files in connection with your work on Oracle's  
24. headquarters' compliance review?  
25. . . .A. I cannot recall, but I know there is at

**101**

1. least one.  
2. . . .Q. Right. And you don't remember if you got  
3. any others; is that correct?  
4. . . .A. Yeah.  
5. . . .Q. Okay. What, if any --  
6. . . .A. Maybe I have. I don't know.  
7. . . .Q. What, if any, other documents or data did  
8. you receive to review in connection with Oracle's  
9. headquarters' compliance review?  
10. . . .A. I think the data already in Excels. I  
11. heard probably they pull from --  
12. THE REPORTER: I'm sorry. I heard...  
13. THE WITNESS: I heard the data -- I heard  
14. data may be from different legacy system put into  
15. the Excels, but I don't know that part. I don't  
16. know.

**102:10-18**

10. . . .Q. Did you receive any other information,  
11. other than that data file -- one or more data files,  
12. to review in connection with this compliance review  
13. of Oracle's headquarters' location?  
14. . . .A. I cannot recall how many. I don't know.  
15. . . .Q. But you -- do you recall receiving anything  
16. other than a data file?  
17. . . .A. No. Just data file and the model from

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18 · Janette, that's it.

**102:23-25**

23 · . . . . Did you receive any policy documents to

24 · review?

25 · . . . . MR. ELIASOPH: · Objection. · Vague.

**103:2-104:13**

2 · . . · Q · Did you receive any Oracle policies to

3 · review?

4 · . . · A · No.

5 · . . · Q · Did you receive any interview notes or

6 · memos to review?

7 · . . · A · No.

8 · . . · Q · Did you receive any e-mail communications

9 · from Oracle?

10 · . . · A · I cannot recall.

11 · . . · Q · Did you --

12 · . . · A · I mean probably -- I believe "probably"

13 · means no, but I cannot recall.

14 · . . · Q · Okay.

15 · . . · A · Because I -- my job, right, usually they

16 · don't send me the documents from the contractor, so

17 · I assume no.

18 · . . · Q · Did you receive any explanations --

19 · separate from whether they were policies, any

20 · explanations that you understood to have been

21 · written by Oracle about how pay works at Oracle?

22 · . . · A · No.

23 · . . · Q · Okay. · Did you receive any data

24 · dictionaries that would define or explain the data

25 · fields that were in the data files that you

**104**

1 · reviewed?

2 · . . · A · No.

3 · . . · Q · Turning back to Attachment A in Exhibit 2.

4 · That sentence that started "OFCCP analyzed" --

5 · Oh, I'm sorry, I'm on page 1404 again.

6 · That will be the page I'm on for the majority --

7 · . . · A · Okay.

8 · . . · Q · -- of this set of questions.

9 · There's the sentence that starts with:

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10· “OFCCP analyzed Oracle employees’  
11· compensation data by Oracle job function,”  
12· continues, “using a model that included the  
13· natural log of” --

**104:15-106:5**

15· MS. MANTOAN: It continues:  
16· --- “using a model that included the natural  
17· log of annual salary as a dependent  
18· variable.”  
19· BY MS. MANTOAN:  
20· · · Q· Why would you conduct a model using the  
21· natural log of annual salary as opposed to just  
22· the dollar value of annual salary?  
23· · · A· Oh, for the economy reason. Because this  
24· nature log, they will produce the percentage -- how  
25· many percent of female was paid along with the male,

**105**

1· they produced the percentage.  
2· It’s easy to -- it’s easy to understand,  
3· you know, that way. That’s why we used the log.  
4· And --  
5· · · Q· And why did you analyze -- does annual  
6· salary here mean base salary?  
7· · · A· Yes.  
8· · · Q· Why did you analyze base salary as opposed  
9· to total compensation or some other measure of  
10· compensation?  
11· · · A· Here it’s annual salary, right?  
12· · · Q· That says “annual salary” in the exhibit.  
13· · · A· Yeah. So what’s your question?  
14· · · Q· Why did you analyze annual salary as  
15· opposed to total compensation?  
16· · · A· As -- as opposed to total compensation?  
17· · · Q· Yeah.  
18· · · A· Okay. Let me regress your questions.  
19· It means what’s the difference between the  
20· base pay or a total compensation when you do the  
21· regression for both of them?  
22· · · Q· I’m asking why did you do a regression for  
23· annual salary instead of for total compensation?  
24· · · A· Oh. Usually we -- every time we start with

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25. the base salary.

**106**

1. . . .Q. Why?

2. . . .A. I don't know. You can start -- you can

3. start total, too, but like I say, we don't know --

4. we cannot find factor to evaluate the total comp,

5. basically.

**106:17-107:25**

17. . . .Q. I'm going to continue reading this

18. sentence, and I have a few questions about --

19. . . .A. Yes, please.

20. . . .Q. -- this.

21. The sentence after "dependent variable"

22. continues.

23. --- "and accounted for differences in

24. employees' gender, work experience at

25. Oracle, work experience prior to Oracle,

**107**

1. full-time/part-time status, exempt status,

2. global career level, job specialty, and job

3. title."

4. Did I read that correctly?

5. . . .A. Yes.

6. . . .Q. Okay. So how did your model control for

7. work experience at Oracle?

8. What was used to represent or capture work

9. experience at Oracle?

10. . . .A. You mean the work experience prior to

11. Oracle?

12. . . .Q. No, work experience at Oracle.

13. . . .A. Okay. From the date they hire -- they were

14. hired to the snapshot you -- I mean contractor sent

15. to us, the snapshot. So this one will be time in

16. the company.

17. . . .Q. Did you account for leaves of absence in

18. your measure of work experience at Oracle?

19. . . .A. No.

20. . . .Q. Okay. When you say "date of hire," do you

21. mean date of hire at Oracle America, Inc., or do you

22. mean date of hire at, let's say, a predecessor

23. company that Oracle might have acquired with the

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24. employee then continuously working at Oracle?

25. . . .A. I cannot recall.

**108:1-2**

1. . . . . MR. ELIASOPH: Objection to the extent it

2. calls for speculation.

**108:4-13**

4. . . .Q. You don't recall how you selected that hire

5. date to measure from hire to snapshot, correct?

6. . . .A. Yeah, I just -- they provide us a hire date

7. there, right, but they don't explain a little bit

8. more explanation, so they say, "Andy, can you do the

9. regression for us" like that.

10. . . .Q. Do you have a view, as a statistician, as

11. to whether you would ideally use the hire date only

12. at Oracle America or whether you would use the hire

13. date at a predecessor company or a sister company?

**108:14-15**

14. . . . . MR. ELIASOPH: Objection. Calls for

15. speculation. Calls for legal conclusion.

**108:16-17**

16. THE WITNESS: I cannot recall that specific

17. situation, no.

**108:19-109:5**

19. . . .Q. So I'm just asking if you have a view as to

20. which is statistically more proper.

21. . . .A. Yeah, yeah, well, I will review, yes, so

22. sometimes I review, so...

23. . . .Q. But did you -- it's not "did you review";

24. it's "do you have a view."

25. Do you have an opinion as to whether the

**109**

1. hire date that's used in a work experience

2. calculation should be hire date only at the legal

3. entity you're looking at or a continuous service

4. date which might bring in time at a prior company?

5. . . .A. Yeah.

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**109:6-7**

6 · · · · · MR. ELIASOPH: · Objection. · Calls for legal  
7 · conclusion. · Calls for speculation.

**109:8-16**

8 · THE WITNESS: I think that at the time I just,  
9 · you know, follow Janette's, you know, instruction.  
10 · Do the -- they already come -- they already come,  
11 · the time in company, for us -- for me already. · They  
12 · come for me. · They send me that data, you know.  
13 · MS. MANTOAN: · Okay.  
14 · THE WITNESS: · They don't give a -- for  
15 · example -- they give me the --  
16 · I'm sorry, go ahead.

**112:18-113:23**

18 · · · · Q: · Okay. · After work experience at Oracle, the  
19 · next -- the next factor listed here in Attachment A  
20 · is "Work Experience Prior to Oracle."  
21 · · · · · How was that work experience prior to  
22 · Oracle variable constructed or reflected in the  
23 · model that you did?  
24 · · · · A: · Okay. · Usually we use the -- their birthday  
25 · as a proxy.

**113**

1 · So, in the first step I use the hire date  
2 · and the snapshot, I already find time in company,  
3 · right? · Time in company are here. · So then after  
4 · that I find birthday, right? · So this prior proxy is  
5 · a -- from a -- from a -- from the birthday and from  
6 · the 18 years old, okay? · And before he started his  
7 · job, you know, is they have a very after -- but  
8 · basically we operate like this. · We calculate the  
9 · prior experience by after 18 years old and before  
10 · the first job. · before that -- no, I'm sorry, before  
11 · they start to count in Oracle. · If we don't -- you  
12 · know, if we don't find any actual prior experience,  
13 · we can this way.  
14 · · · · Q: · What was the last thing you said?  
15 · · · · A: · If we don't find any, like, actual,  
16 · actual -- actual experience, prior experience, so we  
17 · use the time -- time in company, right?  
18 · · · · Q: · Uh-hm.

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19. . . .A. Time in company, thinking about here,  
20. right?  
21. . . .Q. Uh-hm.  
22. . . .A. And 18 years old here, right, when you're  
23. 18 years old.

**114:10-115:2**

10. . . .Q. So is it -- the way you constructed this  
11. variable, am I correct, is hire date at Oracle  
12. America minus their birth date, --  
13. . . .A. Let me -- let me speak this way --  
14. . . .Q. -- so how old they were when they worked at  
15. Oracle America minus 18 years?  
16. . . .A. Uh-hm.  
17. . . .Q. Is that correct?  
18. . . .A. Yeah.  
19. . . .Q. That's how --  
20. . . .A. That's the period, yeah.  
21. Also you can say, like, you know, you use  
22. the snapshot, subtract the birthday, because we  
23. already have a time in company snapshot, subtract  
24. the hiring date.  
25. . . .Q. Uh-hm.

**115**

1. . . .A. Okay. Then after that you subtract the  
2. 18 years old. That would be prior experience.

**115:2-12**

1. . . .A. Okay. Then after that you subtract the  
2. 18 years old. That would be prior experience.  
3. . . .Q. So, I'm sorry, I feel like we just  
4. described two different ways. I had described a  
5. way, you said "Yes, that's how it's done," and then  
6. you described a different way.  
7. . . .A. Okay.  
8. . . .Q. So can you explain again?  
9. . . .A. Okay.  
10. . . . .MR. ELIASOPH: So just so we have a clear  
11. record, maybe if you can ask him what -- what  
12. specifically do you want him to explain.

**115:14-116:22**

14. . . .Q. I would like you to explain how you

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15· ·calculated work experience prior to Oracle in the  
16· ·model reflected in Attachment A.  
17· ·· ·A· ·Can I have a pen?  
18· ·MR. ELIASOPH:· ·Okay.  
19· ·MS. MANTOAN:· ·Well, the record won't be  
20· ·able to tell what you're writing down.  
21· ·MR. ELIASOPH:· ·Yeah.  
22· ·MS. MANTOAN:· ·-- but --  
23· ·MR. ELIASOPH:· ·Do you --  
24· ·THE WITNESS:· ·But I try -- this way --  
25· ·MS. MANTOAN:· ·To give an example?

**116**

1· ·THE WITNESS:· ·No, no· ·I can -- sometime I  
2· ·put in here· ·I can speak well --  
3· ·MS. MANTOAN:· ·Okay.  
4· ·THE WITNESS:· ·Speak it -- speak it well.  
5· ·Okay.  
6· ·MR. ELIASOPH:· ·Okay· ·I object to the  
7· ·extent this calls for speculation.  
8· ·You've previously stated that you don't  
9· ·remember a lot of specific details, but if you do  
10· ·remember please go ahead and answer the question.  
11· ·THE WITNESS:· ·Yeah, this is a statistical  
12· ·part I remember --  
13· ·MR. ELIASOPH:· ·Okay.  
14· ·THE WITNESS:· ·-- very well· ·This is my  
15· ·personal -- you know, so I do this part.  
16· ·MS. MANTOAN:· ·Great.  
17· ·THE WITNESS:· ·Okay· ·We calculate this way,  
18· ·we use a -- the snapshot, the years between snapshot  
19· ·and the birthday, okay, and then subtract the time  
20· ·in company, means the time in Oracle company, and  
21· ·then subtract the 18· ·That will be my years of  
22· ·experience prior -- for prior.

**117:2-118:20**

·2· ·· ·Q· ·So I believe this is the same thing, but  
·3· ·tell me -- tell me if I'm right.  
·4· ·· ·A· ·Yeah.  
·5· ·· ·Q· ·The age of a given employee as of the date  
·6· ·of the snapshot?  
·7· ·· ·A· ·Uh-hm.  
·8· ·· ·Q· ·You then subtract the years that they've

**DEPOSITION OF SHIRONG ANDY LEU – JULY 1, 2019**

9· ·been at Oracle, so the time between the snapshot  
10· ·date and the hire date?  
11· · · · A· · Yeah.  
12· · · · Q· · And then you know how old they were when  
13· · they were hired at Oracle --  
14· · · · A· · Uh-huh.  
15· · · · Q· · --- according to that hire date?  
16· · · · A· · Uh-huh.  
17· · · · Q· · And then you subtract 18 --  
18· · · · A· · Uh-huh.  
19· · · · Q· · --- from that? And then what remains is --  
20· · · · A· · Yeah.  
21· · · · Q· · --- the work experience prior to Oracle?  
22· · · · A· · Yeah. Because before 18 we can assume it  
23· · was in college time. They don't have work yet,  
24· · so...  
25· · · · Q· · Okay. Is that a standard way that you

**118**

1· ·compute work experience or was that something  
2· ·different that you did in this Oracle headquarters'  
3· ·compliance review?  
4· · · · A· · No. This is basically a lot of article --  
5· ·economic article, right? They did a lot of  
6· ·compensation and they used it prior. They used this  
7· ·way, you know.  
8· · · · Q· · Okay. And this work experience prior to  
9· ·Oracle is a proxy variable, correct?  
10· · · · A· · It's a proxy, yes.  
11· · · · Q· · That's because you didn't know the actual  
12· ·work experience that any given employee that was  
13· ·included in this model had prior to Oracle, correct?  
14· · · · A· · Uh-hm. Uh-hm. Before -- before the  
15· ·Oracle, right, we don't have the actual years of  
16· ·experience.  
17· · · · Q· · Okay. So you don't, in fact, know for any  
18· ·employee who was is included in this model how many  
19· ·years of actual work experience they had prior to  
20· ·Oracle, correct?

**118:21-22**

21· · · · · · MR. ELIASOPH: Objection. Asked and  
22· · answered.

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**118:23-24**

23. THE WITNESS: I don't know this part, you  
24. know.

**119:2-6**

2. . . . Q. Sorry, I'm not clear if --  
3. Do you know for any employee who was  
4. included in this model in Attachment A how many  
5. actual years of work experience they had prior to  
6. Oracle?

**119:7-8**

7. . . . . MR. ELIASOPH: Objection. Asked and  
8. answered.

**119:9**

9. THE WITNESS: No, I don't know.

**119:11-25**

11. . . . Q. Okay. Do you know the type of work  
12. experience, prior to Oracle, that any of the  
13. employees, who you included in the model in  
14. Attachment A, had prior to Oracle?  
15. . . . A. You mean they have prior experience?  
16. . . . Q. So your work experience prior to Oracle  
17. variable is just a count of years, correct?  
18. . . . A. Yeah.  
19. . . . Q. Is there anything in the model, whose  
20. results are reflected in Attachment A, that accounts  
21. for the type of prior experience as opposed to just  
22. a numeric count of -- of years?  
23. . . . A. No.  
24. . . . Q. Okay.  
25. . . . A. Yeah, not here, no.

**120:1-11**

1. . . . Q. So if you had two employees at Oracle who  
2. as of the date of the snapshot were 40 years old,  
3. had each been at Oracle for five years, you're going  
4. to assign the same value for work experience prior  
5. to Oracle to both of them, correct?  
6. . . . A. Usually I don't -- I -- it's not my job to  
7. do that, no.

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8. . . . Q. That's what the -- the calculation would  
9. give them the same value for work experience prior  
10. to Oracle, correct?  
11. . . . A. Prior to the Oracle?

**120:12-21**

12. . . . Q. If two employees -- let me start again.  
13. If two employees, as of the snapshot date  
14. that you're looking at, were the same age --  
15. . . . A. Uh-hm.  
16. . . . Q. -- and had been at Oracle for the same  
17. amount of time --  
18. . . . A. Uh-hm.  
19. . . . Q. -- the model would give them an identical  
20. value for work experience prior to Oracle?  
21. . . . A. Yes.

**120:22-121:5**

22. . . . Q. Okay. And that would be true even if one  
23. of them had never worked prior to Oracle and one of  
24. them had worked consistently in tech prior to  
25. Oracle, correct?

**121**

1. . . . . MR. ELIASOPH: Objection. Asked and  
2. answered.  
3. . . . . THE WITNESS: Can you repeat the -- the --  
4. . . . . What do you mean "work consistently in tech  
5. prior"? What does that mean?

**121:7-19**

7. . . . Q. So if one of these two employees that we're  
8. discussing in this example --  
9. . . . A. Uh-hm.  
10. . . . Q. -- had never worked before they came to  
11. Oracle --  
12. . . . A. Uh-hm.  
13. . . . Q. -- and the other one had worked in a series  
14. of jobs in the technology industry --  
15. . . . A. Uh-hm.  
16. . . . Q. -- the work experience prior to Oracle  
17. variable in this model is not going to distinguish  
18. between those people; isn't that correct?  
19. . . . A. That's correct.

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**121:20-126:6**

20 · · · · Q · · Okay · And if one of these two people in  
21 · this example we've been discussing had worked as a  
22 · barista and if the other one had worked programming  
23 · software in the artificial intelligence space prior  
24 · to coming to Oracle this work experience prior to  
25 · Oracle variable is not going to capture that

**122**

1 · different, correct?  
2 · · · · · MR. ELIASOPH: · Objection · Asked and  
3 · answered.  
4 · · · · · THE WITNESS: · No, I don't know how to  
5 · answer this question.  
6 · · · · · MS. MANTOAN: · Okay.  
7 · · · · · THE WITNESS: · Too wide.  
8 · BY MS. MANTOAN:  
9 · · · · Q · · Okay · Turning back to Attachment A · The  
10 · next factor listed here is "full-time/part-time  
11 · status." · My question here is: · Did you just use an  
12 · indicator for -- sort of a dichotomous indicator for  
13 · full time and a dichotomous indicator for part time,  
14 · or did you account for, say, 40 hours versus  
15 · 32 hours versus 24 hours versus 16 hours?  
16 · · · · A · · We used a categorical, yes.  
17 · · · · Q · · Categorical, okay.  
18 · · · · · Categorically each employee is either coded  
19 · as full time or part time?  
20 · · · · A · · That's correct.  
21 · · · · Q · · Okay · And then these next variables,  
22 · "exempt status, global career level, job specialty,  
23 · and job title," do you have any understanding of how  
24 · those four different variables relate to one  
25 · another, whether they're overlapping or not?

**123**

1 · · · · · MR. ELIASOPH: · Objection · Vague · Calls  
2 · for legal conclusion · Calls for speculation.  
3 · · · · · THE WITNESS: · I don't know if they are or  
4 · not · I don't know.  
5 · BY MS. MANTOAN:  
6 · · · · Q · · Okay · So do you know if it's accurate that  
7 · according to the data you were analyzing here if you  
8 · know an employee's job title you also know their job

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9· specialty, their global career level, and their  
10· exempt status?  
11· . . . . . Do you know if that's a true statement?  
12· . . . . . MR. ELIASOPH:· Objection.· Confusing.  
13· . . . . . THE WITNESS:· I don't understand, you know.  
14· BY MS. MANTOAN:  
15· . . . Q.· Okay.· When you ran the analysis, whose  
16· results are reported in Attachment A, did that  
17· analysis generate -- in addition to the standard  
18· deviation numbers listed in Attachment A, a  
19· percentage difference number?· Like a percent pay  
20· difference?  
21· . . . A.· I don't understand the question.  
22· . . . Q.· You said when you run your statistical  
23· models you generate a report.  
24· . . . A.· Yeah.  
25· . . . Q.· Okay.· Does the report only include the

**124**

1· information that's in this chart on Attachment A or  
2· does it include additional information that's not in  
3· Attachment A here?  
4· . . . A.· Oh, yeah.· They have additional  
5· information.  
6· . . . Q.· What additional information?  
7· . . . . . MR. ELIASOPH:· So you can talk about the  
8· type of the information –  
9· . . . . . THE WITNESS:· Yeah, okay.  
10· . . . . . MR. ELIASOPH:· -- but the specifics is  
11· covered by the deliberative process privilege.  
12· . . . . . THE WITNESS:· For example, a total size of  
13· establishments.  
14· BY MS. MANTOAN:  
15· . . . Q.· The size of the establishment?  
16· . . . A.· Uh-hm.  
17· . . . Q.· Okay.· What else?  
18· . . . A.· And the descriptive statistics of the race  
19· and the gender.  
20· . . . Q.· Just how many employees are of which race?  
21· . . . A.· Yeah, something like that.  
22· . . . Q.· Okay.· Do those reports typically include  
23· the percent pay difference that you found?  
24· . . . A.· Percentage what?  
25· . . . Q.· Percent pay difference.

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**125**

- 1 · · · · A · · Yes, percentage -- percentage difference,  
2 · · yes, for the pay.  
3 · · · · Q · · Do those reports typically include  
4 · · information about whether each of the separate  
5 · · factors that you've included in the model is itself  
6 · · statistically significant?  
7 · · · · A · · Say again, please.  
8 · · · · Q · · Do those reports typically include  
9 · · information about whether each of the separate  
10 · · factors that you've included in the model is itself  
11 · · statistically significant?  
12 · · · · · MR. ELIASOPH · · Objection to the extent that  
13 · · this is a confusing question.  
14 · · BY MS. MANTOAN:  
15 · · · · Q · · So if you have a tenure variable in a model  
16 · · does the report you generate typically indicate  
17 · · whether that tenure variable is a statistically  
18 · · significant predictor of pay?  
19 · · · · · THE REPORTER · · I need you –  
20 · · · · · Does the report you generate typically...  
21 · · BY MS. MANTOAN:  
22 · · · · Q · · -- typically indicate whether tenure is a  
23 · · statistically significant predictor of pay?  
24 · · · · A · · Yes, they provide a significance, yes.  
25 · · · · Q · · Okay.

**126**

- 1 · · · · A · · They do.  
2 · · · · Q · · And for each of the factors that you  
3 · · include in the model the report you generate  
4 · · typically indicates whether that factor is a  
5 · · statistically significant predictor of pay, correct?  
6 · · · · A · · Yes.

**126:7-11**

- 7 · · · · Q · · Okay · Did you personally review any  
8 · · information to determine whether or not these -- the  
9 · · factors listed in Attachment A were valid factors to  
10 · · include in a statistical model of Oracle?  
11 · · · · A · · Not for Oracle, no.

**126:7-18**

- 7 · · · · Q · · Okay · Did you personally review any  
8 · · information to determine whether or not these – the

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9· factors listed in Attachment A were valid factors to  
10· include in a statistical model of Oracle?  
11· ····A· Not for Oracle, no.  
12· ····Q· Have you done that in other compliance  
13· reviews?  
14· ·····MR. ELIASOPH: Don't –  
15· ·····THE WITNESS: Not that I can recall.  
16· ·····MR. ELIASOPH: Okay.  
17· ·····And just -- we want to keep confidential  
18· the names of other entities.

**126:21-24**

21· ····Q· What did you do, if anything, to confirm  
22· that the employees being compared through the model,  
23· whose results are reflected in Attachment A, were  
24· performing similar work?

**126:25-127:1**

25· ·····MR. ELIASOPH: Objection. Asked and

**127**

1· answered. Compound. Calls for speculation.

**127:2-3**

2· THE WITNESS: I cannot recall for this  
3· part.

**127:5-12**

5· ····Q· Did you -- do you recall doing anything to  
6· confirm whether the employees that the model  
7· compares are performing substantially similar work?  
8· ·····MR. ELIASOPH: Objection. Asked and  
9· answered.  
10· ·····THE WITNESS: What do you mean? You mean  
11· compare the similar work? I don't know. I  
12· cannot -- I cannot answer this question, so --

**127:14-128:3**

14· ····Q· We talked earlier --  
15· ····A· Yeah.  
16· ····Q· -- about needing to group together  
17· comparable employees.  
18· ····A· Uh-hm. Uh-hm.  
19· ····Q· What did you do, if anything, to determine

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20· ·whether the model, whose results are presented in  
21· ·Attachment A, groups together comparable employees?  
22· ··A· No, I don't do that part, no.  
23· ··Q· So you don't have any opinion, one way or  
24· another, as to whether the model, whose results are  
25· presented in Attachment A, groups together employees

**128**

1· ·who are comparable; is that correct?  
2· ··A· Yeah· Janette, she decide, I believe,  
3· ·yeah.

**131:8-133:1**

·8· ··Q· ·So let's go back to Exhibit 2, if we can.  
·9· ··A· Okay.  
10· ··Q· ·And turn to Attachment A in that, which  
11· starts at 1404.  
12· ··A· ·Two and 14-4 (sic).  
13· ··Q· ·Yes, please.  
14· ··A· Okay.  
15· ··Q· ·So we spent a lot of time before the  
16· break --  
17· ··A· Uh-hm.  
18· ··Q· --- talking about the model whose results  
19· are reflected here.  
20· ··A· Uh-hm.  
21· ··Q· ·And we talked about the factors --  
22· ··A· Uh-hm.  
23· ··Q· --- that were included in that model,  
24· correct?  
25· ··A· Uh-hm.

**132**

1· ··Q· So if you flip over to the next page, 1405.  
2· ··A· Uh-hm· Okay.  
3· ··Q· Well, let's back up a second.  
4· The results on 1404 are the results of a  
5· regression analysis looking at differences between  
6· men and women, correct?  
7· ··A· That's correct.  
8· ··Q· Okay· And then if you flip to 1405 it  
9· presents the results of a regression analysis first  
10· looking at differences between African-Americans and  
11· White employees, correct?

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12. . . . A. Correct.  
13. . . . Q. And second looking at differences between  
14. Asian and White employees, correct?  
15. . . . A. Asian, yeah.  
16. . . . Q. Okay.  
17. . . . A. Uh-hm.  
18. . . . Q. So I believe that the model that was used  
19. to generate the results that appear on page 1405 is  
20. the same model that was used to generate the results  
21. on 1404 based on the description of what was  
22. included and I just wanted to confirm whether that's  
23. correct.  
24. Was the same model used to generate the  
25. results on 1405 as was used to generate the results

**133**

1. on 1404?

**133:2-5**

2. . . . . MR. ELIASOPH: And objection to the extent  
3. it calls for speculation.  
4. . . . . The witness has testified he has never seen  
5. these documents before.

**133:6-18**

6. THE WITNESS: I cannot make sure, but looks  
7. like -- based on the factors right here, looks like  
8. from the same model.  
9. Like I say, you know, because maybe they  
10. copy something to here (indicating), not original  
11. show my report right here (indicating).  
12. MS. MANTOAN: Uh-hm.  
13. THE WITNESS: So maybe they cut -- I did  
14. not -- you say, how many regression I did; I did  
15. maybe less than five -- 100, right -- like, you  
16. know, we talk about, maybe 10, less 100, and I think  
17. probably the -- I assume they're the same -- same  
18. models.

**133:20-24**

20. THE WITNESS: You know, because my -- I  
21. have my own CS report, right, and usually they just  
22. take the CS report, the standardation (sic), right?  
23. And put it right here (indicating), and then the

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24. female or the male counts on there. That's it.

**134:3-5**

3. . . . Q. Do you believe that Attachment A presents  
4. the results of a statistical analysis that you did  
5. of Oracle's headquarters' location?

**134:6-7**

6. . . . . MR. ELIASOPH: Objection. Asked and'  
7. answered.

**134:8-15**

8. THE WITNESS: I -- I cannot be sure because  
9. my run also have -- for example, right on here  
10. (indicating) I have standard deviation negative 2.1  
11. and negative 3.55, and this is for maybe another  
12. company. They pull -- pull out from another report.  
13. I don't know. So you have show my original report,  
14. you know, and I can -- "Oh, okay, this is from me."  
15. You know what I mean?

**134:17-136:17**

17. . . . Q. Well, do you believe Exhibit 4 are your  
18. original results?

19. . . . A. Which one? Let me see.

20. This one (indicating)?

21. . . . Q. Correct.

22. . . . A. Well, every -- every report come out look

23. like this, not just in Oracle.

24. You know what I mean?

25. . . . Q. Okay.

**135**

1. . . . A. Yeah.

2. . . . Q. But when we were talking this morning about

3. how different variables were constructed --

4. . . . A. Uh-hm.

5. . . . Q. -- you were testifying as to how you

6. constructed variables in the analysis you did of

7. Oracle's headquarters' location, correct?

8. . . . A. Yeah, I think so, Oracle location, yes,

9. right.

10. . . . Q. Okay. And when you were conducting your

11. statistical analysis of Oracle headquarters'

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12. location did you use the same model structure to  
13. evaluate compensation differences between men and  
14. women as you used to evaluate compensation  
15. differences between White employees and other races?  
16. . . .A. Yeah, usually should be that way, yeah.  
17. . . .Q. Okay.  
18. . . .A. Same models for gender and the race, yeah.  
19. . . .Q. Okay.  
20. . . .A. And, of course, like we -- I'm just kind of  
21. worried that if I did many, many models -- you know,  
22. Model A, Model B, and they put Model A for the  
23. gender, the extract from Model A, right?  
24. . . .Q. Uh-hm.  
25. . . .A. And it erase from whatever.

**136**

1. Basically, I just in the beginning I told  
2. you I don't read this kind of report. You know,  
3. first time I read this report.  
4. . . .Q. You've never seen this Exhibit 2 --  
5. . . .A. Yeah.  
6. . . .Q. -- this Notice of Violation?  
7. . . .A. No, no, yeah.  
8. . . .Q. Okay. Did the statistical model that you  
9. used to evaluate Oracle's headquarters' location  
10. include any control for differences in education?  
11. . . .A. I have to -- I don't know. I can't recall.  
12. I cannot recall. I'm sorry.  
13. MS. MANTOAN: Okay. Counsel, to make these  
14. questions easier, are you willing to stipulate that  
15. the results in Attachment A are the results of a  
16. model that Dr. Leu ran?  
17. MR. ELIASOPH: Yes.

**136:18-21**

18. . . . MS. MANTOAN: Okay. And are you willing  
19. to --  
20. . . . MR. ELIASOPH: That's my -- that's my  
21. understanding.

**136:22-137:1**

22. MS. MANTOAN: And are you willing to  
23. stipulate that Exhibit 4 presents the results of the

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24. model that Dr. Leu ran?

25. MR. ELIASOPH: I'll just say that's my

**137**

1. understanding.

**137:9-139:23**

9. . . .Q. So, Dr. Leu, operating on the assumption

10. and the stipulation that the results presented in

11. Attachment A to Exhibit 2 are results of a model

12. that you ran, did that -- did the model that you ran

13. contain any control for differences in education?

14. . . .A. I cannot recall. I'm serious, I cannot

15. recall.

16. . . .Q. Do you see anything in the description of

17. the model set forth in Attachment A that indicates a

18. control for education?

19. . . .A. Right here we don't have -- in this paper I

20. don't see any education right here. Okay.

21. Like I say, you know, usually I recognize,

22. you know -- the analysis I was doing, it should have

23. my name in there, but I don't know, this -- it don't

24. have my name in here.

25. . . .Q. Let's look at Exhibit 3 --

**138**

1. . . .A. Yeah.

2. . . .Q. -- please.

3. . . .A. Exhibit 3, all right. Okay.

4. . . .Q. And if you could flip to the second page of

5. Exhibit 3, the one that starts with 39877.

6. . . .A. Okay. Yeah.

7. . . .Q. We talked about this earlier as a SAS code,

8. correct?

9. . . .A. Yes.

10. . . .Q. Okay. Do you see anything in this SAS code

11. that indicates that the statistical model it was

12. generating included any control for education?

13. . . .A. Okay. No, they don't have educations.

14. . . .Q. Okay. When you completed the statistical

15. analysis --

16. . . .A. Uh-hm.

17. . . .Q. -- that you did of Oracle headquarters'

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18· location --  
19· . . . A· Uh-hm.  
20· . . . Q· -- who, if anyone, did you send it to?  
21· . . . A· I just directly send to Janette.  
22· . . . Q· You said you just sent it to Janette?  
23· . . . A· Yeah.  
24· . . . Q· Did you copy anyone on that e-mail?  
25· . . . A· But I cannot recall, but sometime there's

**139**

1· some analysts, but I don't know specifically for  
2· Oracle, if I sent to Jane as well -- Jane Suhr,  
3· S-u-h-r is the last name.  
4· . . . Q· Jane Suhr?  
5· . . . A· Yeah· Jane Suhr, yes.  
6· . . . Q· Okay.  
7· . . . A· Other than that, I never -- I don't send to  
8· any other people at all.  
9· . . . Q· Okay· And is that typical in a compliance  
10· review that you send your statistical analysis to --  
11· that you would send it to Ms. Wipper when she was at  
12· OFCCP?  
13· . . . A· Yeah.  
14· . . . Q· Okay.  
15· . . . A· Because she give me the order, so I just  
16· send to her· That's it.  
17· . . . Q· And the order she gave you included which  
18· factors to include in the model, correct?  
19· . . . A· Yeah.  
20· . . . Q· And the order she gave you included which  
21· employee groupings to use?  
22· . . . A· Yes· They included -- yeah, the -- yeah,  
23· that's right.

**140:1-10**

1· . . . . MR. ELIASOPH:· I just want to state for the  
2· record that I allowed those questions in light of  
3· the judge's order, --  
4· . . . . MS. MANTOAN:· Okay.  
5· . . . . MR. ELIASOPH:· - not that I believe that  
6· it's directly on point, but I do think that should  
7· take care -- because he asked of any concern you  
8· think would linger that that was the specific line

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9 · of questioning the judge authorized, and I don't  
10 · believe it goes anything further.

**140:13-24**

13 · · · · Q · Do you have any understanding, one way or  
14 · the other, of whether Oracle ever said that  
15 · employees should be grouped in the way that your  
16 · statistical model groups them?

17 · · · · A · You mean the -- hear from Oracle?

18 · · · · Q · Right · Did you ever -- did you ever see or  
19 · hear any information that indicated that Oracle had  
20 · said that those were the groupings that should be  
21 · used to evaluate pay --

22 · · · · A · No.

23 · · · · Q · -- amongst its employees?

24 · · · · A · No.

**141:4-8**

4 · · · · Q · And did you ever see or hear any  
5 · information that indicated that Oracle had said that  
6 · the factors that you included in your model were the  
7 · factors that should be used to evaluate pay amongst  
8 · its employees?

**141:9-10**

9 · · · · · MR. ELIASOPH: · Objection · Compound · Calls  
10 · for speculation.

**141:11**

11 · THE WITNESS: · No.

**141:25-142:5**

25 · · · · Q · No, the question is whether you did

**142**

1 · anything to determine whether the factors that you  
2 · controlled for in your statistical model --

3 · · · · A · Uh-hm.

4 · · · · Q · -- are factors that Oracle managers in fact  
5 · consider when determining pay.

**142:6-7**

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6 · · · · · MR. ELIASOPH:· Objection.· This has been  
7 · asked and answered.

**142:11-16**

11 · · · · Q.· -- and the question is whether you,  
12 · yourself, did anything to determine whether the  
13 · factors in this model in Attachment A of  
14 · Exhibit 2 --  
15 · · · · A.· No, just -- I just followed, you know,  
16 · Janette's e-mail colonies, yeah.

**142:20-143:4**

20 · · · · Q.· Oh.· Okay.  
21 · Earlier today you used the phrase  
22 · "legitimate factors," --  
23 · · · · A.· Yeah.  
24 · · · · Q.· -- what, if anything, did you do to  
25 · determine whether the factors controlled for in your

**143**

1 · statistical model, set forth in Attachment A,  
2 · Exhibit 2 --  
3 · · · · A.· Uh-hm.  
4 · · · · Q.· -- were legitimate factors at Oracle?

**143:5-6**

5 · · · · · MR. ELIASOPH:· Objection.· Calls for legal  
6 · conclusion.· Vague.

**143:7-11**

7 · THE WITNESS:· No, I just followed Janette  
8 · orders at the time.· I don't think a little bit  
9 · further about, you know -- 'cause I was -- I heard  
10 · the data is pretty clean at that time.· I don't  
11 · know...

**143:13-146:1**

13 · · · · Q.· So the model set forth --  
14 · · · · A.· Uh-hm.  
15 · · · · Q.· -- in Attachment A to Exhibit 2 includes a  
16 · control for job title, correct?  
17 · · · · A.· Which page?

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18. . . .Q. Well, you said the model on 1404 and 1405

19. are the same.

20. . . .A. Oh, 1404, yeah.

21. . . .Q. The question is whether the model set forth

22. in Attachment A to Exhibit 2, specifically pages

23. 1404 and 1405 --

24. . . .A. Uh-hm.

25. . . .Q. -- includes a control for job title.

**144**

1. . . .A. I assume so, yeah. Because job title's

2. right here.

3. . . .Q. Okay. How -- I'm going to ask you a series

4. of questions and if the answer to the questions is

5. "I don't know," that's fine.

6. . . .A. Okay.

7. . . .Q. I just want to get your best knowledge.

8. . . .A. Uh-hm.

9. . . .Q. How is "job title" used at Oracle?

10. . . .A. I don't know.

11. . . .Q. Okay. Did you ever review any job

12. descriptions from Oracle?

13. . . .A. No.

14. . . .Q. Did you ever review any job postings from

15. Oracle?

16. . . .A. No.

17. . . .Q. Do you have any understanding of how the

18. work that a software developer at Oracle does might

19. differ from the work that an application developer

20. at Oracle does?

21. . . .A. I do in some extent, but not from the

22. Oracle. From -- like O\*NET OnLine they talk about

23. occupational job and how much they're expected to

24. pay. I got -- I find out their different pay, so

25. supposed to be different, but I never heard from

**145**

1. Oracle at all.

2. . . .Q. So the understanding you just testified to

3. is from O\*NET, which is general labor market info?

4. . . .A. Yeah, yeah.

5. . . .Q. Okay. How many different products do

6. employees at Oracle's headquarters' location work

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7. on?

8. . . .A. Headquarter?

9. . . .Q. Their -- the location that was the subject

10. of this compliance review we've referred to today as

11. Oracle's headquarters.

12. . . .A. Uh-hm.

13. . . .Q. My question is: How many different

14. products do employees, work (sic) at that

15. headquarters' location, work on?

16. . . .A. I don't know this one, no.

17. . . .Q. Okay. Your answer is "I don't know"?

18. . . .A. I don't know.

19. . . .Q. Okay. Do you know how the products that

20. Oracle employees work on differ from one another, or

21. are similar to one another?

22. . . .A. I assume so.

23. . . .Q. You assume which?

24. . . .A. Because, to my knowledge, in Oracle many --

25. many kind of the products, right, so there's

**146**

1. supposed to people, you know -- no --

**146:3-5**

3. THE WITNESS: Because Oracle, they make a

4. lot of product, so some people may do this and some

5. people do another product. Right?

**146:9-17**

9. . . .Q. Some people make one product and some

10. people make another product?

11. . . .A. Yeah.

12. . . .Q. Is that the testimony?

13. . . .A. Uh-hm. Uh-hm.

14. . . .Q. Okay. And how does the work needed to

15. develop those different Oracle products differ; do

16. you know?

17. . . .A. I don't know. I --

**146:18-19**

18. . . . . MR. ELIASOPH: Objection. Calls for

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19· ·speculation.

**146:21-22**

21· · · · ·Q· Does work on the different products that  
22· ·Oracle makes require the same skill?

**146:23-24**

23· · · · · · ·MR. ELIASOPH:· Objection.· Calls for  
24· ·speculation.· Calls for legal conclusion.

**147:3**

3· ·THE WITNESS:· I don't know.

**147:5-6**

5· · · · ·Q· Does work on the different products that  
6· ·Oracle makes require the same effort?

**147:7-8**

7· · · · · · ·MR. ELIASOPH:· Objection.· Calls for  
8· ·speculation.· Calls for legal conclusion.

**147:9-10**

9· ·THE WITNESS:· It's -- it's vague.· I don't  
10· ·know.

**147:12-14**

12· · · · ·Q· Okay.· Do the different products that  
13· ·Oracle makes differ in their importance to the  
14· ·company; --

**147:15-16**

15· · · · · · ·MR. ELIASOPH:· Objection.· Calls for  
16· ·speculation.

**147:18-19**

18· · · · ·Q· -- if you know.  
19· · · · ·A· I don't know.

**147:20-148:2**

20· · · · ·Q· Okay.· Another question about the

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21 · · · statistical analysis whose results are presented in  
22 · · Attachment A in Exhibit 2...  
23 · · · · · Does Attachment A contain any analysis of  
24 · · whether any particular practice at Oracle caused the  
25 · · salary differences that were observed?

**148**

1 · · · · · MR. ELIASOPH: · Objection. · Vague. · Calls  
2 · · for legal conclusion.

**148:10-13**

10 · · · Q. · Does Attachment A at page 1404 contain any  
11 · · analysis of whether any particular practice at  
12 · · Oracle caused the salary differences that were  
13 · · observed?

**148:14-15**

14 · · · · · MR. ELIASOPH: · I'm going to object on the  
15 · · basis that the document speaks for itself.

**148:16**

16 · · · THE WITNESS: · No.

**148:18-149:7**

18 · · · Q. · Did you conduct any statistical analysis of  
19 · · whether any particular practice at Oracle caused any  
20 · · of the salary differences that your models  
21 · · generated?  
22 · · · · · MR. ELIASOPH: · To the extent this asks for  
23 · · analyses that have not been disclosed, I'm  
24 · · instructing the witness not to answer.  
25 · · · · · I do not know if this is part of the

**149**

1 · · analysis that was disclosed, if so then he can go  
2 · · ahead and answer, but he can only talk about the  
3 · · analysis that's been disclosed.  
4 · · · · · THE WITNESS: · I don't -- I don't know --  
5 · · · · · MS. MANTOAN: · So let's --  
6 · · · · · THE WITNESS: · Unless I see, you know, my  
7 · · original report, you know, I --

**149:12-18**

12 · · · Q. · So your counsel earlier conveyed his

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13· understanding that Exhibit 4 presents the results of  
14· the statistical model that you ran.  
15· . . . A. · Uh-hm.  
16· . . . Q. · Does Exhibit 4 contain any analysis of  
17· whether any particular practice at Oracle caused the  
18· salary differences that were observed?

**149:19-20**

19· . . . . MR. ELIASOPH:· Objection.· The document  
20· speaks for itself.

**149:21**

21· . . . THE WITNESS:· I don't know.

**149:23-150:5**

23· . . . Q. · In conducting the analysis of Oracle's  
24· headquarters' location --  
25· . . . A. · Uh-hm.

**150**

1· . . . Q. · -- set forth in Exhibit 4 --  
2· . . . A. · Uh-hm.  
3· . . . Q. · -- were you attempting to evaluate whether  
4· any particular practice at Oracle caused the salary  
5· differences that were observed?

**150:7**

7· . . . THE WITNESS:· No.

**154:5-20**

5· . . . Q. · Can you give me a sense of roughly the  
6· amount of time you spent, in total, doing work on  
7· evaluation of Oracle's headquarters' location?  
8· . . . Is it less than 20 hours?· Less than  
9· 50 hours?· More than 50 hours?· More than a hundred  
10· hours?  
11· . . . I'm trying to get the ballpark.  
12· . . . A. · I think it's more than probably -- I know  
13· at least -- at least five hours.  
14· . . . Q. · At least five?  
15· . . . A. · Five hours at least.  
16· . . . Q. · Okay.· Do you think it was probably less

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17· ·than 10 hours?

18· · · ·A· · Okay, yeah.

19· · · ·Q· · Less than 10?

20· · · ·A· · Less than 10 hours.

**154:24-158:4**

24· · · ·Q· · Is it your best estimate, as you sit here

25· · today, that in total you spent less than 10 hours in

**155**

1· · total working on analyses related to Oracle's

2· · headquarters' location?

3· · · ·A· · That was estimate or –

4· · · ·Q· · Your best estimate.

5· · · · · ·MR. ELIASOPH:· If you have a clear enough

6· · recollection.

7· · · · · ·THE WITNESS:· Uh-hm.

8· · · · · ·To be honest with you, I don't have very

9· · clear -- very clear, you know, the numbers in my

10· · brain, you know.

11· ·BY MS. MANTOAN:

12· · · ·Q· · But you did say you thought it was at least

13· · five hours, right?

14· · · ·A· · Yeah. I think it's five hours, yeah, but

15· · ten, 20, I don't know, I really don't. Five – five

16· · should be reasonable -- you know, at least to five.

17· · · ·Q· · Okay. Are you pretty confident that it was

18· · fewer than 20 hours?

19· · · · · ·MR. ELIASOPH:· Objection. Asked and

20· · answered.

21· · · · · ·THE WITNESS:· I -- I don't know, you know.

22· · · · · ·MR. ELIASOPH:· The witness doesn't

23· · remember.

24· · · · · ·THE WITNESS:· Usually as a statistician,

25· · right, if I don't have any impression or kind of

**156**

1· · concrete data I don't want to say anything, you

2· · know. You know, so I don't want to estimate like

3· · that, you know.

4· · · · · ·You have information, you estimate. Right

5· · now I don't have any –

6· · · · · ·MR. ELIASOPH:· She's entitled to your best

7· · estimate –

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8 · · · · · THE WITNESS: · Yeah.  
9 · · · · · MR. ELIASOPH: · -- if you can give it, but  
10 · if you don't -- if you're just kind of guessing –  
11 · · · · · THE WITNESS: · Yeah –  
12 · · · · · MR. ELIASOPH: · Then –  
13 · · · · · THE WITNESS: · Yeah, I don't want to guess,  
14 · you know.  
15 · BY MS. MANTOAN:  
16 · · · Q · What's your best estimate of how long you  
17 · generally spend in connection with any given  
18 · compliance review doing statistical work?  
19 · · · A · Any -- any kind of –  
20 · · · · · It depends. · Some are like -- one time some  
21 · time they give me up to one month, then they come  
22 · back again do the -- you know, come back or  
23 · communications. · So I cannot -- I cannot accurately,  
24 · you know, sum up, you know, that time.  
25 · · · Q · And I appreciate you can't be precise here,

**157**

1 · but I think I am entitled to some sense of the  
2 · range -- "The average compliance review I spend 500  
3 · to 600 hours on," or "The average compliance review  
4 · I might spend 20 hours on."  
5 · · · · · I want to get a sense of the range, the  
6 · ballpark.  
7 · · · A · And in addition each case is unique, so I  
8 · don't know, you know. · This -- if I get – the  
9 · numbers become kind of guessing, you know, right?  
10 · · · Q · Uh-hm.  
11 · · · A · Each case is unique. · So for any case it  
12 · might be five hours, some may be seven hours and up.  
13 · · · · · Right now I cannot total how many case  
14 · total I work.  
15 · · · Q · Right.  
16 · · · A · So I'm trying to do average.  
17 · · · Q · No, I'm saying for each case -- I'm saying  
18 · for each case, on average, sort of how much you  
19 · spend per case.  
20 · · · A · Yeah, once I know the number I have to sum  
21 · up the total cases and divide it by total numbers,  
22 · then the average.  
23 · · · · · And right now I cannot help you. · I don't  
24 · have that kind of number at all.  
25 · · · · · MR. ELIASOPH: · He's a statistician through

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**158**

1 · and through.  
2 · . . . . MS. MANTOAN: · Right. · Okay.  
3 · . . . . MR. ELIASOPH: · Okay. · I think that's asked  
4 · and answered.

**159:7-14**

7 · . . . . (Exhibit 6 was marked for identification.)  
8 · BY MS. MANTOAN:  
9 · . . . Q. · So Exhibit 6, for the record, is a document  
10 · Bates-numbered DOL 1362 to DOL 1364.  
11 · . . . . My first question is whether you ever  
12 · recall seeing this document before.  
13 · . . . A. · No. · I never -- I never saw this document  
14 · before.

**160:6-25**

6 · . . . Q. · So my question is whether you have any  
7 · understanding of what's meant by "our analysis"  
8 · here?  
9 · . . . A. · You know how many hours?  
10 · . . . Q. · No, what's meant -- what analysis is this  
11 · referring to? · Do you have any idea?  
12 · . . . A. · Yeah.  
13 · . . . Q. · Okay. · What analysis is that referring to?  
14 · . . . A. · This is just, like, in the morning I told  
15 · you before evaluations the district, they will  
16 · conduct this analysis. · It's called desk audit  
17 · review.  
18 · . . . Q. · Desk audit review?  
19 · . . . A. · Uh-hm.  
20 · . . . Q. · Okay.  
21 · . . . A. · That's what they call before evaluations.  
22 · . . . Q. · Okay.  
23 · . . . A. · And they maybe used this report to continue  
24 · another -- whatever work -- whatever, you know, in  
25 · their side, but I don't know what they do.

**161:1-20**

1 · . . . Q. · Okay. · And then later -- down on this same  
2 · page continuing over to the next page, there's a  
3 · list of 34 items.  
4 · . . . A. · Wow. · That's a lot of factors here, yeah.  
5 · . . . Q. · Do you -- my question is: · Do you sort  
6 · of -- I know you haven't seen this document

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7· before –  
8· ···A· No.  
9· ···Q· --- but does a list like this look familiar  
10· to you requesting this much information?  
11· ····MR. ELIASOPH· Objection· Calls for  
12· speculation.  
13· ····THE WITNESS· Some term, I -- you know,  
14· sometime I know, yeah· Some -- I saw somewhere some  
15· term, you know, but all of them -- 34 put all  
16· together like this -- 34 time, right here, right --  
17· 34 list?  
18· ····MS. MANTOAN· Yes.  
19· ····THE WITNESS· No, I never see this, 34 in  
20· one list like this.

**166:12-21**

12· ···Q· Okay· So I'd like you to read that  
13· paragraph and tell me if you recall receiving any of  
14· the information from this paragraph prior to  
15· conducting your statistical analysis of Oracle's  
16· headquarters' location.  
17· ····MR. ELIASOPH· Vague -- objection· Vague.  
18· ····THE WITNESS· I don't know.  
19· ····You should not ask me six and seven and  
20· eight· I never received this kind of documents at  
21· all.

**168:10-14**

10· ···Q· Prior to conducting your statistical  
11· analysis in this case were you ever told words to  
12· the effect that because of the diversity in products  
13· sold at Oracle, job group or job title have little  
14· bearing on an employee's pay?

**168:15-16**

15· ····MR. ELIASOPH· Objection· Calls for  
16· speculation.

**168:17**

17· ···THE WITNESS· Nobody told me that.

**168:19-25**

19· ···Q· Okay· Prior to conducting your statistical  
20· analysis in this case were you ever told words to

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21. the effect that even for employees appearing in the  
22. same job group, job title, and/or the same  
23. department, their work responsibilities and duties,  
24. and employee's respective skill and experience  
25. typically can vary widely?

**169:1-2**

1. . . . . MR. ELIASOPH: Objection. Calls for  
2. speculation.

**169:3**

3. . . . THE WITNESS: No.

**169:5-9**

5. . . . Q. Prior to conducting your statistical  
6. analysis in this case were you ever told words to  
7. the effect that working for a different supervisor  
8. will typically denote the different line of business  
9. or product the employee is working on?

**169:10-11**

10. . . . . MR. ELIASOPH: Objection. Calls for  
11. speculation.

**169:12**

12. . . . THE WITNESS: No.

**169:14-17**

14. . . . Q. Prior to conducting your statistical  
15. analysis in this case were you ever told words to  
16. the effect that different products or lines of  
17. business typically require different skill sets?

**169:18-19**

18. . . . . MR. ELIASOPH: Objection. Calls for  
19. speculation.

**169:20**

20. . . . THE WITNESS: No.

**169:22-25**

22. . . . Q. Prior to conducting your statistical

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23· analysis in this case were you ever informed that  
24· Oracle does not maintain education or actual work  
25· experience in its database?

**170:1-2**

1· . . . . MR. ELIASOPH:· Objection.· Calls for  
2· speculation.

**170:3**

3· . . . THE WITNESS:· No.

**170:5-10**

5· . . . Q.· When conducting statistical analyses of pay  
6· in your work at OFCCP --  
7· . . . A.· Uh-hm.  
8· . . . Q.· -- are there times when a factor that you  
9· believe is relevant to pay is not in the data for  
10· you to analyze?

**170:11-12**

11· . . . . MR. ELIASOPH:· Objection.· Calls for  
12· speculation.· Calls for legal conclusion.

**170:13-15**

13· . . . THE WITNESS:· No.· The management -- you  
14· know, I told you in the morning, they send the  
15· e-mail for these factors.· So I would say no.

**170:17-20**

17· . . . Q.· Okay.· Because you're defining factors that  
18· are relevant to pay in that answer as the factors  
19· that management tells you to evaluate, correct?

**171:2-11**

2· . . . Q.· Do you know what a show cause notice is in  
3· the context of OFCCP?  
4· . . . A.· No.  
5· . . . Q.· Okay.· Do you know if any of your  
6· statistical analyses have ever been included in a  
7· show cause notice?  
8· . . . . MR. ELIASOPH:· Objection.· Confusing.

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9· ·Calls for speculation.  
10· · . . . . . THE WITNESS:· I don't know any connection,  
11· · the show cause with an evaluation analysis.

**171:13-25**

13· · . . . Q· · Okay· We talked earlier today about the  
14· · fact that one way to analyze a compensation is by  
15· · using cohort comparisons, correct?  
16· · . . . A· · Yeah.  
17· · . . . Q· · Okay· And one way to analyze pay is by  
18· · conducting a statistical analysis, right?  
19· · . . . A· · (Witness nods head.)  
20· · . . . Q· · So I have a question -- I just want your  
21· · opinion on this question based on your knowledge of  
22· · statistics and your training in statistics.  
23· · . . . Do you think it's true that cohort --  
24· · cohort comparisons are insufficient to rebut  
25· · statistical evidence of discrimination?

**172:1-2**

1· · . . . . . MR. ELIASOPH:· Objection· Vague· Calls  
2· · for speculation calls for legal conclusion.

**172:3-173:12**

3· · . . . THE WITNESS:· To me, right, to my  
4· · knowledge, it depends on the case.  
5· · BY MS. MANTOAN:  
6· · . . . Q· · Okay· What particularly -- when you say  
7· · "it depends on the case," what particularly do you  
8· · mean?· On what would it depend?  
9· · . . . A· · When I say it depends on cases that means  
10· · because each case is unique· They have their  
11· · different background, or whatever, the data, nature  
12· · of the data· So, you know, each company, they're --  
13· · the data -- the nature of data is unique, so we  
14· · cannot treat them just as one formula, one type of a  
15· · cohort analysis· You know.  
16· · . . . Q· · And did you, yourself, reach any opinions  
17· · about whether a cohort analysis as opposed to a  
18· · statistical analysis was the appropriate way to  
19· · analyze pay at Oracle's headquarter location?  
20· · . . . A· · You know, to my knowledge -- or to my  
21· · experience, I usually, by myself -- you know, I

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22· don't encourage to do the cohort analysis. I  
23· usually just do the evaluations, you know. That's  
24· my opinion. But some people they do another review,  
25· similar articles, you know, they -- some, they have

**173**

1· the cons and they have the pro. Depending on the  
2· case, I don't know. I cannot make one conclusion  
3· for everything, no.  
4· . . . Q. Okay. And specifically in connection with  
5· the review of Oracle's headquarters' location am I  
6· correct that you never formed an opinion as to  
7· whether a statistical analysis as opposed to cohort  
8· analysis would be the best way to analyze pay?  
9· . . . A. No, I didn't say that, yeah. No, no, I'm  
10· sorry, you're right, yeah. I agree with you, yes.  
11· . . . Q. Okay. What I said was correct?  
12· . . . A. Yeah, yeah, yeah; you said correct, yes.

**173:13-174:8**

13· . . . . MS. MANTOAN: Okay. Thank you.  
14· . . . . So, Exhibit 9, I believe –  
15· . . . . Is that the next in order?  
16· . . . . THE WITNESS: Yes.  
17· . . . . MS. MANTOAN: -- is a document Bates-number  
18· DOL 940 to 954.  
19· . . . . (Exhibit 9 was marked for identification.)  
20· BY MS. MANTOAN:  
21· . . . Q. And I'll represent to you -- since you said  
22· you're not familiar with show cause notices, that  
23· this is the show cause notice that was issued in  
24· connection with the compliance review of Oracle's  
25· headquarters' locations.

**174**

1· . . . . And my question for you is just: Do you,  
2· as a statistician, see any differences between  
3· Attachment A to Exhibit 9, that's pages 952 to 954,  
4· and Attachment A to Exhibit 2, we've talked quite a  
5· bit about, which is page 1404 to 1406?  
6· . . . . MR. ELIASOPH: Objection. The documents  
7· speak for themselves.  
8· . . . . THE WITNESS: I don't know.

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**174:15-23**

15. . . . Q. . . Do you know what a conciliation meeting is

16. . . in the context of OFCCP?

17. . . . A. . . So-so.

18. . . . Q. . . Okay. . . What's your understanding of what a

19. . . conciliation meeting is?

20. . . . A. . . Conciliation means, you know, between –

21. . . the conversation between contractor and the OFCCP,

22. . . and probably they want to find a better solution for

23. . . both the party.

**174:24-175:3**

24. . . . Q. . . Have you -- did you participate in any

25. . . conciliation discussions in connection with the

**175**

1. . . compliance review of Oracle's headquarters'

2. . . location?

3. . . . A. . . No.

**175:10-18**

10. . . . Q. . . Did you attend any conciliation meeting

11. . . with Oracle?

12. . . . A. . . No.

13. . . . Q. . . Were you on any telephone conversations

14. . . with anyone from Oracle related to conciliation at

15. . . the headquarters' location?

16. . . . A. . . For conciliation?

17. . . . Q. . . For conciliation?

18. . . . A. . . No.

**185:16-24**

16. . . . Q. . . Okay. . . And I'm trying to understand what

17. . . facts you're aware of that relate to whether or not

18. . . there was discrimination at Oracle's headquarters'

19. . . location.

20. . . . A. . . I don't know. . . I just simply performed the

21. . . evaluation and sent back to him -- to her.

22. . . . Q. . . In your opinion does the regression that

23. . . you performed suggest discrimination at Oracle's

24. . . headquarters' location?

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**185:25-186:1**

25 · · · · · MR. ELIASOPH: · Objection. · Calls for legal

**186**

1 · · conclusion. · Calls for speculation.

**186:2-16**

2 · · · THE WITNESS: · I sent my result, right?

3 · · · MS. MANTOAN: · Yes.

4 · · · THE WITNESS: · And they -- they make

5 · · decision. · I don't know.

6 · · BY MS. MANTOAN:

7 · · · Q. · So you're a trained statistician, though,

8 · · correct?

9 · · · A. · Yeah, I'm statistician, but sometimes

10 · · they -- some people, they feel comfortable to make

11 · · decisions, they don't have to come to me.

12 · · · Q. · Right. · So -- yeah, and I'm simply asking

13 · · your opinion: · Do you believe that the statistical

14 · · models that you did in the statistical analysis of

15 · · Oracle's headquarters' location suggest

16 · · discrimination?

**186:17-19**

17 · · · · · MR. ELIASOPH: · This is asked and answered.

18 · · It calls for a legal conclusion. · It also requires

19 · · speculation.

**186:20-187:9**

20 · · · THE WITNESS: · I don't think I'm an

21 · · appropriate person to answer this question, you

22 · · know.

23 · · BY MS. MANTOAN:

24 · · · Q. · Why is that?

25 · · · A. · Because, you know, regression is a kind of

**187**

1 · · systemic check sections but they have another kind

2 · · of -- you know, so I cannot just make one

3 · · conclusion, "I think you have" -- "you have

4 · · discriminations inside of Oracle." · Maybe some

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5. . . . people -- some -- another -- like management, they  
6. . . . have to combine many, many pieces of -- to form  
7. . . . pictures. I'm just doing systemic. I don't believe  
8. . . . that the call only based on systemic regression.  
9. . . . It's based on something else. Okay?

**192:5-14**

5. . . . Q. . . . What understanding, if any, do you have of  
6. . . . the factors that managers at Oracle consider when  
7. . . . they set pay?  
8. . . . A. . . . Hold on, one second.  
9. . . . MR. ELIASOPH: . . . Objection. . . . Vague as to  
10. . . . "time period."  
11. . . . THE WITNESS: . . . You say at the Oracle, right?  
12. . . . MS. MANTOAN: . . . Correct.  
13. . . . THE WITNESS: . . . No, I don't know -- I don't  
14. . . . know any manager at Oracle.

**192:16-19**

16. . . . Q. . . . Okay. . . . And specifically responding to the  
17. . . . question: . . . Do you have any understanding of the  
18. . . . factors that any manager at Oracle considers when  
19. . . . they make pay decisions?

**192:20**

20. . . . MR. ELIASOPH: . . . Objection. . . . Vague.

**192:21**

21. . . . THE WITNESS: . . . No.

**192:23-193:6**

23. . . . Q. . . . Do you have any understanding of how  
24. . . . managers at Oracle make starting pay decisions?  
25. . . . A. . . . No.

**193**

1. . . . Q. . . . Do you have any understanding of the  
2. . . . different components of compensation that are given  
3. . . . to employees at Oracle, what those different  
4. . . . components are?  
5. . . . A. . . . I got this information from maybe another

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6. . . company, but not Oracle.

**194:6-22**

6. . . Q. . Exhibit 13, for the record, is a printout

7. . . from a website:

8. . . www.dol.gov/ofccp/regs/compliance/

9. . . directives/dir307.htm.

10. . . A. . Uh-hm.

11. . . Q. . Now, Dr. Leu, we referred quite a bit in

12. . . today's deposition to Directive 307.

13. . . A. . Uh-hm.

14. . . Q. . Does Exhibit 13 appear to you to be

15. . . Directive 307?

16. . . A. . You mean 13?

17. . . Q. . Correct.

18. . . A. . 2013, right?

19. . . Q. . Oh, I'm asking if Exhibit 13 is

20. . . Directive 307.

21. . . A. . Yeah. . They have a 307 here (indicating).

22. . . That's right.

**205:8-10**

8. . . Q. . Before conducting your analysis of Oracle's

9. . . headquarters' location what facts were you aware of

10. . . that described Oracle's pay system?

**205:11-12**

11. . . . . MR. ELIASOPH: . Objection. . Vague, and asked

12. . . and answered, and ambiguous.

**205:13-14**

13. . . THE WITNESS: . I don't -- I'm not aware of

14. . . any of Oracle's pay system.

**205:16-206:18**

16. . . Q. . So I'm -- I'd like us to look back at

17. . . Directive 307, Exhibit 13, and I'm going to go

18. . . through some portions of Directive 307 and my

19. . . questions are just going to be "What, if anything,

20. . . did you do to perform certain functions or make

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21. . . certain determinations,” and if the answer is  
22. . . “nothing,” then the answer is “nothing”; or if the  
23. . . answer is “Someone else did it,” the answer is  
24. . . “Someone else did it,” okay?  
25. . . . So let’s go to page 2 of Exhibit 13. And

**206**

1. . . I’m looking under the “Policy” paragraph, starts  
2. . . with No. 5. The second paragraph under there starts  
3. . . with the words “OFCCP enforces Executive  
4. . . Order 11246,” okay? And then I guess it’s the third  
5. . . sentence in that paragraph starts with “COs.”  
6. . . . Do you see where I am there?  
7. . . . A. . (Witness nods head.)  
8. . . . Q. . So this sentence says:  
9. . . . “COs tailor the compensation investigation  
10. . . . and analytical procedures to the facts of  
11. . . . the case as appropriate under Title VII.”  
12. . . . And I appreciate that you are not a CO,  
13. . . meaning compliance officer, but leaving that to the  
14. . . side, what, if anything, did you do to tailor the  
15. . . compensation investigation analytical procedures you  
16. . . used in your analysis of Oracle’s headquarters’  
17. . . location to tailor that work to the facts of the  
18. . . case?

**206:19-21**

19. . . . . MR. ELIASOPH: . Objection. . Assumes –  
20. . assumes facts. . Requires speculation and is  
21. . confusing.

**206:22-23**

22. . . . THE WITNESS: . No, I don’t do the tailor --  
23. . the tailor stuff, you know.

**206:25-207:3**

25. . . . Q. . Did you do anything to tailor your

**207**

1. . . analytical procedures to any facts specific to  
2. . . Oracle’s headquarters’ location?

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3 . . . A . . No.

**207:4**

4 . . . . . MR. ELIASOPH: . . Objection . . Vague.

**209:3-5**

3 . . . Q . . As you sit here today, do you know anything

4 . . about Oracle’s compensation practices?

5 . . . A . . No.

**209:6**

6 . . . . . MR. ELIASOPH: . . Objection . . Vague.

**209:8-10**

8 . . . Q . . Did you know anything about Oracle’s

9 . . compensation practices at the time you conducted the

10 . . analysis of Oracle’s headquarters’ location?

**209:11-12**

11 . . . . . MR. ELIASOPH: . . Objection . . Vague and

12 . . ambiguous.

**209:13**

13 . . . THE WITNESS: . . No.

**209:15-210:5**

15 . . . Q . . So turning back to Directive 307, same

16 . . page, page 4 . . There’s the definition of “Similarly

17 . . Situated Employees.” And the first sentence after

18 . . that says, “The determination of which employees are

19 . . similarly situated” --

20 . . . A . . Which page?

21 . . . Q . . Oh, I’m on page 4.

22 . . . A . . Oh, page 4, okay.

23 . . . Q . . So the term is “Similarly Situated

24 . . Employees,” and the first sentence is, “The

25 . . determination of which employees are similarly

**210**

1 . . situated is case specific.”

2 . . . My first question is: . . Do you have an

3 . . understanding of what “similarly situated” means in

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4. . . this Directive 307?

5. . . . A. . . Sort of, yeah.

**210:6**

6. . . . Q. . . Okay. . . What is your understanding?

**210:7-8**

7. . . . . MR. ELIASOPH: . . Objection. . . Calls for legal  
8. . conclusion.

**210:9-13**

9. . . . THE WITNESS: . . Like, the -- you know, work  
10. . . in similar situations and assume similar  
11. . . responsibility, with same or similar skills,  
12. . . knowledge, or ability.  
13. . . . Something like that, yeah.

**210:15-19**

15. . . . Q. . . And using that understanding of similarly  
16. . . situated, what, if anything, did you do prior to  
17. . . running your regression analysis of Oracle's  
18. . . headquarters' location to determine which employees  
19. . . at Oracle are similarly situated?

**210:20-21**

20. . . . . MR. ELIASOPH: . . Objection. . . Asked and  
21. . answered. . . Calls for speculation.

**210:22-24**

22. . . . THE WITNESS: . . I don't want to answer this  
23. . . question because, like I say, I just follow the --  
24. . . you know, model sent from Janette to me.

**211:1-5**

1. . . . THE WITNESS: . . So because you --  
2. . . specifically for Oracle, but for Oracle  
3. . . specifically. . . Usually I just -- you know, receive  
4. . . the orders from the management, and I have to  
5. . . complete, and that's it.

**211:7-212:10**

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7. . . .Q. . . .Okay. . . . So since you use those orders from  
8. . . .management --  
9. . . .A. . . .Uh-hm.  
10. . . .Q. . . .--- to structure the statistical  
11. . . .analysis, --  
12. . . .A. . . .Uh-hm.  
13. . . .Q. . . .--- am I correct that you didn't do  
14. . . .anything, independent of that, to determine which  
15. . . .employees at Oracle were similarly situated; --  
16. . . .A. . . .Uh-hm.  
17. . . .Q. . . .--- is that correct?  
18. . . .A. . . .Pretty much, yes, uh-hm, at that time.  
19. . . .Q. . . .So you just said "at that time." Have you  
20. . . .done anything since that time to determine which  
21. . . .employees at Oracle are similarly situated?  
22. . . .A. . . .No -- not -- not for Oracle. For another  
23. . . .cases probably. You know, from a -- some of the  
24. . . .district CO, right, they probably knew. They don't  
25. . . .know about this kind of directive. They probably

**212**

1. . . .call me to discuss, you know, something like that.  
2. . . .Q. . . .Okay. But none of that happened in  
3. . . .connection with Oracle?  
4. . . .A. . . .Oracle, no.  
5. . . .Q. . . .Okay. Sorry, I asked a question with a  
6. . . ."none" in it, so then the "no" is confusing.  
7. . . .Did any of that discussion with a CO about  
8. . . .who is similarly situated occur in connection with  
9. . . .Oracle?  
10. . . .A. . . .No.

**213:4-16**

4. . . .Q. . . .So I'm trying to see what you understand  
5. . . .the phrase "pattern or practice" to mean as used  
6. . . .here in Directive 307?  
7. . . .A. . . .Oh, okay. Pattern means do they have the  
8. . . .kind of neutral -- they have a neutral and unneutral  
9. . . .for this case in terms of pay. Do they have in  
10. . . .between, or this is nonneutrals, you know.  
11. . . .Q. . . .And what do you mean by neutral or  
12. . . .nonneutral? Is that -- do you have a specific

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13. . . quantitative outcome in mind?  
14. . . .A. . . Neutral means because -- neutral means they  
15. . . don't against -- it's just -- not statistical  
16. . . significant basically is a neutral.

**213:18-215:3**

18. . . .A. . . Against a female, they don't acts against a  
19. . . male or statistical significance standard deviation  
20. . . is a two, right?  
21. . . . . THE REPORTER: . . Statistical significant...  
22. . . . . THE WITNESS: . . Significance -- significance,  
23. . . yeah.  
24. . BY MS. MANTOAN:  
25. . . .Q. . . And then standard, did you say?

**214**

1. . . .A. . . Yeah.  
2. . . .Q. . . What was that?  
3. . . .A. . . Standard deviation is a two, right -- if  
4. . . less than two -- if standard deviation less than  
5. . . two, then it's neutral, it's neutral.  
6. . . . . If absolute value greater than two, then  
7. . . they are not --  
8. . . . . THE REPORTER: . . I -- I'm --  
9. . . . . THE WITNESS: . . Okay. . . This is statistician  
10. . . term. . . I'm sorry.  
11. . . . . MS. MANTOAN: . . Yeah, if the --  
12. . BY MS. MANTOAN:  
13. . . .Q. . . Could you just say it again, please?  
14. . . . . MR. ELIASOPH: . . Just say it slowly.  
15. . . . . THE WITNESS: . . Okay. . . If abso- abso- --  
16. . . absolute standard deviations --  
17. . BY MS. MANTOAN:  
18. . . .Q. . . Absolute standard deviations.  
19. . . .A. . . A-b-s-o-l-o-u-t-e (sic).  
20. . . .Q. . . Yeah.  
21. . . .A. . . Absolute -- absolute.  
22. . . .Q. . . Uh-hm.  
23. . . .A. . . Standard deviation's greater than two.  
24. . . .Q. . . Within two?  
25. . . .A. . . Greater -- greater --

**215**

1. . . .Q. . . Greater than two?

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2 · · · · A · · · -- greater than two, --

3 · · · · Q · · · Okay.

**215:8-12**

8 · · · · Q · · · And as you apply Directive 307 in your work

9 · · · at OFCCP would you consider there to be a pattern or

10 · · practice in the data if one analysis flagged as

11 · · nonneutral but other analyses of the same company at

12 · · the same location flagged as neutral?

**215:13-14**

13 · · · · · MR. ELIASOPH · · Objection · · Calls for

14 · · speculation · · Calls for legal conclusions.

**215:15-21**

15 · · · THE WITNESS · · Yeah, it occurs, you know.

16 · · It occurs sometimes, yes.

17 · · BY MS. MANTOAN:

18 · · · Q · · · And in -- as you apply Directive 307 in

19 · · your work at OFCCP would you consider that to be

20 · · evidence of a pattern or practice of discrimination?

21 · · · A · · · Oh --

**215:22-23**

22 · · · · · MR. ELIASOPH · · Objection · · Calls for legal

23 · · conclusion · · Calls for speculation.

**215:24-216:22**

24 · · · THE WITNESS · · That's just only one

25 · · indicator · · We have to pursue another kind of

**216**

1 · · evidence. The regression is only tool, yeah · · It's

2 · · kind of reference, you know. And standard deviation

3 · · non-neutral doesn't say, "Oh there is a disparity in

4 · · there or not," no.

5 · · BY MS. MANTOAN:

6 · · · Q · · · Why -- why is that?

7 · · · A · · · It's systemic.

8 · · · Q · · · What did you say? · · I'm sorry.

9 · · · A · · · This is just a systemic, but then like I

10 · · say, earlier we talk about "cohort," right?

11 · · Sometime cohort -- you can use the cohort statistic

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12. analysis to find out, you know.  
13. So you have to check both, on systemic --  
14. which is a regression, right?  
15. Q. Systemic, which is regression.  
16. A. Which is regressions --  
17. Q. Uh-hm.  
18. A. And then another statistics to find  
19. something -- because systemic is talk about average,  
20. is talk about average. So average, that doesn't  
21. mean say is no distribution in whole organizations.  
22. Okay?

**229:22-232:20**

22. Q. I'm trying to establish whether or not you  
23. believe that the results reported in Exhibit 2,  
24. page 1404, are the same results that are reported in  
25. Exhibit 4, page 5299, the same analysis, the same

**230**

1. number of women, the same standard deviations, the  
2. same job function.  
3. A. "Information Technology, Information  
4. Technology, Product Development, Product  
5. Development."  
6. Okay, yeah, I think that's probably the  
7. same thing because --  
8. Q. Okay.  
9. A. --- 133 is the same, 1,207, and then they  
10. don't have 47 right here (indicating).  
11. Q. So if you turn to the next page in  
12. Exhibit 4, 5300 --  
13. A. Ah -- oh, this 47 is right here.  
14. Minus three -- okay, yeah.  
15. Q. Okay.  
16. A. They match with this Attachment A, that's  
17. correct.  
18. Q. Okay.  
19. A. Yeah.  
20. Q. Thank you. So now a few questions about  
21. some information in Exhibit 4.  
22. A. Uh-hm.  
23. Q. So, on the -- on page 5299 -- we're back in  
24. Exhibit 4, we're looking at the line for pay

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25. . . analysis group Info Tech, which has the 133 women in

**231**

1. . . it.

2. . . . A. . . 133, okay.

3. . . . Q. . . Okay. And then there's a column where the  
4. . . header at the top is "Female Model R Square" --

5. . . . A. . . Uh-hm.

6. . . . Q. . . -- and the number is 0.8450?

7. . . . A. . . That's correct.

8. . . . Q. . . What does that mean to you?

9. . . . A. . . It means the model can explain how they  
10. . . evaluate the pay with about 84.5 percent.

11. . . . Q. . . The model explains 84.5 percent of vari- --

12. . . . A. . . Yeah, of --

13. . . . Q. . . Let me finish the question.

14. . . . A. . . Okay. Sorry.

15. . . . Q. . . You interpret that number to mean that the

16. . . model explains 84.5 percent of the variation in pay,

17. . . correct?

18. . . . A. . . Yeah, yeah. Or I can say another way is

19. . . about 6 -- 13.5 percent not explained, or

20. . . unexplained, by the model.

21. . . . Q. . . Wouldn't it be 15.5 percent?

22. . . . A. . . No, it's -- 15.5, yes -- 15.5, yes. 100 --

23. . . . Q. . . Okay.

24. . . . A. . . -- minus 84, yes.

25. . . . Q. . . And what does that mean for some percent of

**232**

1. . . the pay to not be explained by the model?

2. . . . A. . . Well, just we -- we just don't have -- you

3. . . know, usually 84.5 is very high already, you know --

4. . . it's very high percentage here already, you know,

5. . . but the unexplained means some of the variation, you

6. . . know, the data cannot explain --

7. . . . Q. . . Okay.

8. . . . A. . . -- the factor cannot explain.

9. . . . Q. . . The factors included in the model cannot

10. . . explain that part?

11. . . . A. . . Cannot -- cannot -- yeah, cannot -- some

12. . . part --

13. . . . So this is the whole, whole reason here is

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14. . . 100 percent, right?  
15. . . .Q. . . Uh-huh?  
16. . . .A. . . And only 84 percent the factor can explain,  
17. . . the maximum the factor can explain is 84 with that  
18. . . model --  
19. . . .Q. . . Okay.  
20. . . .A. . . -- with that specific model.

**240:2-241:23**

2. . . .Q. . . Let's go back to page 5299 and look again  
3. . . at that same row for Information Technology with the  
4. . . 133 women.  
5. . . .A. . . Uh-hm.  
6. . . .Q. . . There's a number here in the column with  
7. . . the header "Female Impact," which is negative  
8. . . 2470.90.  
9. . . Did I read that correctly?  
10. . . .A. . . Yes.  
11. . . .Q. . . Okay. What does that number mean?  
12. . . .A. . . That means, you know, they have disparity  
13. . . against the female. Okay. And average -- you know,  
14. . . the average disparity against the female is  
15. . . \$2,470.90 compared to the men.  
16. . . .Q. . . You said that's an average number, correct?  
17. . . .A. . . Average, yes -- average, yeah.  
18. . . .Q. . . Does that number tell me anything about any  
19. . . pay disparity impacting any particular woman in the  
20. . . data?  
21. . . .A. . . No.  
22. . . .Q. . . On the same page, 5299, I want to look down  
23. . . at the row where the pay analysis group is indicated  
24. . . as "PRODEV."  
25. . . Do you understand that to mean product

**241**

1. . . development?  
2. . . .A. . . Uh-hm.  
3. . . .Q. . . Okay. And here there were 1,207 females in  
4. . . the analysis, correct?  
5. . . .A. . . Correct, yeah.  
6. . . .Q. . . And that's the same as indicated in the  
7. . . NOV, Exhibit 2, correct?  
8. . . .A. . . Yes.

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9. . . .Q. . . Okay. . . And the standard deviations that the  
10. . . model generated were negative 8.40 -- -41, if you  
11. . . round up, correct?  
12. . . .A. . . Uh-hm, uh-hm.  
13. . . .Q. . . And that's the same number reported in the  
14. . . NOV, Exhibit 2.  
15. . . .A. . . Uh-hm, uh-hm.  
16. . . .Q. . . Correct?  
17. . . .A. . . Yeah.  
18. . . .Q. . . Sorry, I just need you to answer audibly --  
19. . . . .Uh-hm.  
20. . . .Q. . . -- instead of "uh-hm." I just need a "yes"  
21. . . or "no."  
22. . . .I see the Female Model R Squared in this  
23. . . row is 0.7759.

**242:2**

2. . . .Q. . . Is that "yes"?

**242:4**

4. . . .THE WITNESS: . . Yes.

**242:16-243:13**

16. . . .Q. . . So the Female Model R Square in this row  
17. . . for product development --  
18. . . .A. . . Uh-hm.  
19. . . .Q. . . -- is less than the Female Model R Square  
20. . . in the row for Information Technology, correct?  
21. . . .A. . . Yeah.  
22. . . .Q. . . What does that mean to you?  
23. . . .A. . . Means the same model, right, they only can  
24. . . explain the product development 77 percent and --  
25. . . but they can explain -- they can explain more for

**243**

1. . . the Information Tech with 84.5 50 percent.  
2. . . .Q. . . Does that mean that the model doesn't fit  
3. . . the product development data as well as it --  
4. . . .A. . . Well, --  
5. . . .Q. . . Oop, can I finish the question?  
6. . . .A. . . Oh, I'm sorry.  
7. . . .Q. . . Does that mean that the model does not fit

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8. the data in product development as well as it fits  
9. the data in IT?  
10. A. This is difficult to answer. Let's see.  
11. You can say that, too, you know, because same model,  
12. so it can explain more in the Info Tech than the  
13. product development. That's true, yes. Yes.

**244:16-246:25**

16. Q. Okay. Okay. Can we turn a bit further  
17. past a number of blanked out pages to the page that  
18. ends with 5308?  
19. A. Okay.  
20. Q. And can you confirm that the analysis on  
21. page 5309 -- continuing over to 5309 is an analysis  
22. of race and compensation in the products development  
23. job function?  
24. A. Uh-hm, yeah.  
25. Q. Correct?

**245**

1. A. Correct.  
2. Q. Okay.  
3. A. Uh-hm.  
4. Q. What is the -- I'm going to ask you what  
5. these column headings mean. What is the  
6. b-Coefficient?  
7. A. B-Coefficient will be the column right to  
8. the label, this one (indicating), so this is the  
9. coefficient.  
10. Q. But what is a b-Coefficient? Like what  
11. does that statistical term mean?  
12. A. It's an estimate.  
13. Q. Estimate of what?  
14. A. For the female factor -- estimate for the  
15. factor, coefficient for the factor.  
16. Q. Okay.  
17. A. Yeah.  
18. Q. So is it best understood as the -- the --  
19. it's what the model estimates that an additional  
20. unit of that factor means for pay, right?  
21. So full-time status increases -- full-time  
22. status is one versus zero since the b-Coefficient is  
23. .48, the model is estimating an increase in pay?  
24. A. Yes.

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25 · · · Q · · Correct?

**246**

1 · · · A · · Yes.

2 · · · Q · · Is that a 48 increase in pay?

3 · · · A · · No · This one -- this one they used · It's

4 · 40 percent in -- yes, yes, okay, 48 percent.

5 · · · · · If they are full-time status, average they

6 · will get 48 percent more than the people who are not

7 · in a full-time status.

8 · · · Q · · Okay · And the "SD," that column heading,

9 · means standard deviations, correct?

10 · · · A · · That's right · In the last –

11 · second-to-the-right column.

12 · · · Q · · Second from the right is the standard

13 · deviations?

14 · · · A · · Yeah, is a standard deviation.

15 · · · Q · · Okay · And what does the column all the way

16 · to the right mean? I see the heading at the top of

17 · the page, but I do not know what that means.

18 · · · A · · That one usually the same as standard

19 · deviation, but they just write in the probability

20 · term.

21 · · · Q · · "Probability"?

22 · · · A · · Uh-hm.

23 · · · Q · · Okay · So I've heard sometimes roughly

24 · people describe two standard deviation as –

25 · · · A · · .05.

**257:23-263:4**

23 · · BY MS. MANTOAN:

24 · · · Q · · Moving down to the lines under prior proxy

25 · · adjust it says --

**258**

1 · · · A · · Which exhibit? No. 4.

2 · · · Q · · I am in Exhibit 4, back at page 5309.

3 · · · A · · 5309, okay.

4 · · · Q · · The line -- two under "Prior Proxy Adjust"?

5 · · · A · · Okay.

6 · · · Q · · Says "Ethnicity-A."

7 · · · A · · Uh-hm.

8 · · · Q · · Do you understand that to mean Asian?

9 · · · A · · It's Asian, yes.

10 · · · Q · · Okay · And this shows standard deviations

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11. . . of negative 6.55?  
12. . . .A. . . Uh-hm.  
13. . . .Q. . . And then the b-Coefficient is negative .04,  
14. . . correct?  
15. . . .A. . . Uh-hm, uh-hm.  
16. . . .Q. . . That means that the model was finding, on  
17. . . average, a four percent pay difference between  
18. . . Asians and Whites, adverse to Asians, correct?  
19. . . .A. . . Yeah, that's correct.  
20. . . .Q. . . Okay. . . And when we were looking at the  
21. . . R-squared before, for the product development job  
22. . . function, we found that it was something around  
23. . . 77 percent, correct?  
24. . . .A. . . Uh-hm. . . Uh-hm.  
25. . . .Q. . . Okay. . . So am I right, then, in

**259**

1. . . understanding that the model that you ran for  
2. . . product development left 23 percent of pay  
3. . . unexplained by factors in the model?  
4. . . .A. . . Uh-hm.  
5. . . .Q. . . And found a four percent pay difference  
6. . . between Asians and Whites?  
7. . . .A. . . Uh-hm.  
8. . . .Q. . . Is that correct?  
9. . . .A. . . Looks like -- this explanation look very  
10. . . strange, you know? . . Usually we don't explain that  
11. . . way.  
12. . . .You connect the percentage at the Model R  
13. . . Square and they have a 20 -- about 22 percent,  
14. . . 23 percent not explained, okay, because -- all  
15. . . right, yeah. . . 22, 23 percent unexplained variations  
16. . . and they have a 4 percent -- okay, yeah, sounds  
17. . . fair.  
18. . . .Q. . . Okay. . . And looking down three more lines on  
19. . . the same page 5309 I see "Ethnicity-B"?  
20. . . .A. . . Uh-hm.  
21. . . .Q. . . Do you understand that to mean Black or  
22. . . African-American?  
23. . . .A. . . Yes.  
24. . . .Q. . . Okay. . . And this finds standard deviations

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25. . .of negative 2.10?

**260**

1. . . .A. . .Uh-hm, uh-hm. . Yes.

2. . . .Q. . .And b-Coefficient of negative 0.06,

3. . .correct?

4. . . .A. . .Uh-hm.

5. . . .Q. . .So am I right in understanding that the

6. . .model you ran for product development left

7. . .23 percent of pay unexplained by factors in the

8. . .model and found a 6 percent pay difference between

9. . .African-American employees and White employees?

10. . . .A. . .Yes.

11. . . .Q. . .Could you flip through Exhibit 4 to

12. . .page 5314?

13. . . .A. . .5314?

14. . . .Q. . .Correct.

15. . . .A. . .Okay.

16. . . .Q. . .Do pages 5314 and 5315 present the results

17. . .of your model for the Information Technology job

18. . .function to assess pay differences between men and

19. . .women?

20. . . .A. . .That's correct.

21. . . .Q. . .Okay. . And would I -- I don't want to go

22. . .through "What does a b-Coefficient mean," "What does

23. . .SD mean" here if it means the same thing in the

24. . .pages that we just looked at.

25. . . .A. . .Uh-hm.

**261**

1. . . .Q. . .Do those terms have the same meaning on

2. . .page 5314 and 5315 that they have in the earlier

3. . .pages we were looking at?

4. . . .A. . .Yeah -- yes.

5. . . .Q. . .Okay. . And the b-Coefficient on female, on

6. . .page 5314, is negative 0.04, correct?

7. . . .A. . .Yeah.

8. . . .Q. . .And that means a four percent pay

9. . .difference adverse to women?

10. . . .A. . .That's right.

11. . . .Q. . .And the R-squared for this model, for the

12. . .Information Technology job function, was around

13. . .84 percent, correct?

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14. . . . A. . . That's correct.  
15. . . . Q. . . Okay. . And that means 16 percent of the  
16. . . variation in pay is unexplained by factors in the  
17. . . model, correct?  
18. . . . A. . . That's correct.  
19. . . . Q. . . Okay. . Turning to pages 5317 through 5319,  
20. . . do pages 5317 through 5319 present the results of  
21. . . your model for the product development job function  
22. . . to assess pay differences between men and women?  
23. . . . A. . . Uh-hm.  
24. . . . Q. . . And the b-Coefficient on female here is  
25. . . negative 0.04, correct?

**262**

1. . . . A. . . Uh-hm. . Uh-hm.  
2. . . . Q. . . And that means a four percent pay  
3. . . difference adverse to women?  
4. . . . A. . . Yes.  
5. . . . Q. . . And the R squared of this model, again, is  
6. . . something like 77 percent, correct?  
7. . . . A. . . Yes.  
8. . . . Q. . . Okay. . And that means 23 percent of the  
9. . . variation in pay is unexplained by factors in the  
10. . . model?  
11. . . . A. . . That's right.  
12. . . . Q. . . Last but not least, in this exhibit,  
13. . . turning to page 5320. . Does page 5320 present the  
14. . . results of your model for the support job function  
15. . . to assess pay differences between men and women?  
16. . . . A. . . Uh-hm. . Between men and women, that's  
17. . . right.  
18. . . . Q. . . And the b-Coefficient on female here is  
19. . . negative 0.08 percent, correct?  
20. . . . A. . . Yes.  
21. . . . Q. . . And that means on average an 8 percent pay  
22. . . difference adverse to women?  
23. . . . A. . . That's right.  
24. . . . Q. . . And the R-squared of this model is around  
25. . . 85 percent, correct?

**263**

1. . . . A. . . That's right.  
2. . . . Q. . . And that means 58 percent of the variation

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3. . . is unexplained by factors in the model, correct?

4. . . A. . . That's right.

**276:5-277:4**

5. . . Q. . . So, Dr. Leu, we're still on page 102,

6. . . Exhibit --

7. . . A. . . Okay.

8. . . Q. . . -- 14. . . And we were looking at the

9. . . paragraph that starts "For purposes of evaluating

10. . . compensation differences"...

11. . . . And the second sentence there says,

12. . . "Relevant factors in determining similarity may

13. . . include," and my question for you is just going to

14. . . be whether or not you evaluated each of these -- the

15. . . extent to which each of these factors were the same

16. . . or differed among employees at Oracle, okay?

17. . . . So, did you evaluate whether the tasks

18. . . performed by different employees at Oracle were --

19. . . strike.

20. . . . Did you evaluate the extent of similarity

21. . . of the tasks performed by different employees at

22. . . Oracle?

23. . . A. . . No.

24. . . Q. . . Did you evaluate the extent of similarity

25. . . of the skills of different employees at Oracle?

**277**

1. . . A. . . No.

2. . . Q. . . Did you evaluate the extent of similarity

3. . . of the effort exerted by different employees at

4. . . Oracle?

**277:5-9**

5. . . . . MR. ELIASOPH: . . I'm just going to object for

6. . . the record that -- that Mr. Leu has already given

7. . . detailed testimony that this was not part of his

8. . . function; that these questions have been asked and

9. . . answered.

**277:15-17**

15. . . Q. . . So did you evaluate the extent of

16. . . similarity of the effort exerted by different

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17. . . employees at Oracle?

**277:18-20**

18. . . . . MR. ELIASOPH: I'll just have a standing  
19. . objection.  
20. . . . . MS. MANTOAN: That's fine.

**277:21**

21. . . . THE WITNESS: No.

**277:23-278:11**

23. . . . Q. Did you evaluate the extent of similarity  
24. . of the level of responsibility held by different  
25. . employees at Oracle?

**278**

1. . . . A. No.  
2. . . . Q. Did you evaluate the extent of similarity  
3. . of the working conditions of different employees at  
4. . Oracle?  
5. . . . A. No.  
6. . . . Q. Did you evaluate the extent of similarity  
7. . of job difficulty for different employees at Oracle?  
8. . . . A. No.  
9. . . . Q. Did you evaluate the minimum qualifications  
10. . required for any specific position at Oracle?  
11. . . . A. No.

**278:12-19**

12. . . . Q. Okay. Did your statistical models of  
13. . Oracle's headquarters' location include any controls  
14. . for performance?  
15. . . . . MR. ELIASOPH: Objection to the extent  
16. . you're discussing models that have not been  
17. . produced. Those would be deliberative.  
18. . . . . So don't answer -- I don't believe it's on  
19. . this report.

**278:21-279:7**

21. . . . Q. So did the statistical analysis reflected  
22. . in Exhibit 2 contain any controls to differentiate  
23. . employees based on performance?  
24. . . . A. Exhibit 2?

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25. . . . Q. . . Exhibit 2, Attachment A, correct, which I

**279**

1. . . think we've established is the same analysis as is

2. . . in Exhibit 4.

3. . . . A. . . And what's your questions?

4. . . . Q. . . Did the statistical analysis reflected in

5. . . Exhibit 2, Attachment A, contain any controls to

6. . . differentiate employees based on performance?

7. . . . A. . . None that I know.