

**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
SHAUNA HOLMAN-HARRIES
RULE 30(b)(6) AUGUST 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. To the extent that the testimony designated herein calls for privileged and/or confidential information, Oracle objects.

December 20, 2019

Respectfully submitted,

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Office of Administrative Law Judges
San Francisco, Ca

DEPOSITION DESIGNATIONS RE THE DEPOSITION OF SHAUNA HOLMAN-HARRIES - RULE 30(B)(6)
AUGUST 1, 2019

DEPOSITION OF SHAUNA HOLMAN-HARRIES – RULE 30(b)(6) AUGUST 1, 2019

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<p>11:15-13:22</p> <p>15 · . . . Q. · So on May 8th, 2019, I took your 16 · deposition asking about your personal knowledge. So 17 · you were testifying about what you knew, saw, 18 · experienced, read or did. 19 · Today, I'm taking the deposition of 20 · Oracle, the entity. So when I ask questions today, 21 · I'm not just asking about what you personally know. 22 · Today, I'm asking about what Oracle knows. 23 · Do you understand that? 24 · . . . A. · Yes. 25 · . . . Q. · Okay. And so when I -- when I use the</p>	
<p>12</p> <p>1 · term "you," I'm referring to Oracle, not you 2 · personally. 3 · . . . A. · Okay. 4 · MS. BREMER: I'd like to mark OC's 5 · Amended Notice of Deposition of Oracle Pursuant to 6 · 41 C.F.R. Section 60-30.11 and Federal Rule of Civil 7 · Procedure 30(b)(6) as Exhibit No. 121. 8 · . . . (Exhibit 121 marked for identification.) 9 · THE REPORTER: Exhibit 121. 10 · BY MS. BREMER: 11 · . . . Q. · Okay. If you could turn to Page 3, look 12 · at Pages 3 and 4, there are four topics of 13 · deposition. 14 · Do you see that? 15 · . . . A. · Yes. 16 · . . . Q. · Are you the person that Oracle has 17 · designated as person most knowledgeable to answer 18 · questions regarding Topics 6, 18, 19 and 33 19 · described in Exhibit 121? 20 · MR. PARKER: She is not. She is the 21 · person most knowledgeable to talk on these topics as 22 · modified by the court order of June 19th and as well 23 · as reflected in our objections both to the original 24 · objections and the objections to this amended 25 · notice.</p>	
<p>13</p> <p>1 · THE WITNESS: I'm knowledgeable in these 2 · areas. 3 · BY MS. BREMER:</p>	

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<p>4 · · · · Q. Okay. Looking at Topic 6, the documents 5 · and data you, that means Oracle, maintained or 6 · failed to maintain and supplied or failed to supply 7 · to OFCCP during the compliance review HQCA, what did 8 · you do to prepare for that topic? 9 · · · · · MR. PARKER: I'm sorry, that misstates 10 · the scope of the topic. Again, the topic has been 11 · modified by our objections, specifically the 12 · objections to the original deposition notice as well 13 · as in the amended notice. And it was not moved on 14 · by OFCCP; therefore, it is subject to the following 15 · limitation: 16 · · · · · "We will produce a witness on August 17 · · · · · 1st, 2019 to testify as to the requests 18 · · · · · that were made by OFCCP and the 19 · · · · · materials produced during the 20 · · · · · compliance review of HQCA." 21 · · · · · And on that topic, she is the 30(b)(6) 22 · for Oracle. And if you want a copy of the amended</p>	
<p>13:23-25 23 · notice, I have one. I'm sorry, the amended -- the 24 · objections to the amended notice. 25 · · · · · MS. BREMER: No, I -- I have them.</p>	
<p>15:4-7 4 · · · · Q. And who did you meet with in outside 5 · counsel to prepare for your deposition today? 6 · · · · A. Warrington Parker and Erin Connell and 7 · Kayla Grundy.</p>	
<p>15:8-15:19 8 · · · · Q. And how many times did you meet with them 9 · to prepare for today's deposition? 10 · · · · A. Five. 11 · · · · Q. For approximately how many hours in 12 · total? 13 · · · · A. I'm going to have to -- if you give me a 14 · moment, I'm going to have to count it in my head and 15 · try and give you my best, and it's going to be a 16 · guesstimation. 17 · · · · · Somewhere, I would say, between -- total,</p>	

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18 · it would probably be somewhere between 20 to 25 19 · hours.	
16:9-20 9 · . . . Q · Okay. And regarding Topic 18 which is 10 · policies, procedures and practices related to how 11 · you, meaning Oracle, fulfills your legal obligations 12 · pursuant to 41 C.F.R. 6C-1.12B, 60-1.40A and 13 · 60-2.10C, what did you do to prepare for that topic? 14 · . . . A · I met with outside counsel. 15 · . . . MR. PARKER: And again, the only 16 · objection is the -- I don't believe that that's an 17 · accurate description of the court's order; 18 · nonetheless, the accurate description in our opinion 19 · appears in our amended objection -- or objections to 20 · the amended deposition notice.	
19:20-20:3 20 · . . . Q · Okay. What did you do to prepare for 21 · your testimony regarding Topic 19, which is 22 · policies, procedures and practices related to how 23 · Oracle makes, keeps and maintains all personnel or 24 · employment records to comply with OFCCP regulations? 25 · . . . MR. PARKER: Again, Ms. Holman-Harries is 20 1 · not prepared to talk on the topic as you just read 2 · it but is prepared to talk on the topic as is -- was 3 · delimited in the June 19th order.	
20:4-10 4 · . . . THE WITNESS: I spoke with outside 5 · counsel as described earlier, the same three people, 6 · as described earlier. And I also spoke with 7 · Kush -- and here I go with the last name again -- 8 · Budachev and -- and also to get the clarification of 9 · the name of the database and what -- and the -- the 10 · change of names of my supervisor, Victoria Thrasher.	
20:12-16 12 · . . . Q · Okay. Regarding Topic 33, which relates	

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<p>13· to conciliation, what did you do to prepare for that 14· topic? 15· . . . A. I met with outside counsel and reviewed 16· the same documents that I've already described.</p>	
<p>20:21-21:7</p> <p>21· . . . Q. Has your title changed since your 22· deposition on May 8th, 2019? 23· . . . A. No. 24· . . . Q. Have your responsibilities changed since 25· that deposition?</p> <p>21</p> <p>1· . . . A. No. 2· . . . Q. Have the employees that report to you 3· changed since your deposition? 4· . . . A. No. 5· . . . Q. Have the managers that you report to 6· changed since your deposition? 7· . . . A. No.</p>	
<p>35:24-38:23</p> <p>24· . . . Q. In your e-mail on December 11th, 2014, 25· in the second paragraph you indicate:</p> <p>36</p> <p>1· "We have very few employees or jobs at 2· any Oracle location where there are 3· multiple employees doing the same or 4· similar work with the same 5· skills/experience." 6· What was -- what was your basis for 7· saying that? 8· MR. PARKER: Outside the scope. 9· THE WITNESS: My basis for saying that 10· is, actually, in some of our earlier audits when I 11· started working at Oracle, there were some questions 12· asked by the OFCCP on -- on type of work. And at 13· that time I found out that while jobs could be -- 14· have the same title and the same department at 15· Oracle, in many instances the people could be doing 16· completely different things. 17· BY MS. BREMER:</p>	

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18· Q. And how did you find that out? 19· MR. PARKER: Outside the scope. Asked 20· and answered. 21· THE WITNESS: Through my research as just 22· described to you for the other audit. 23· BY MS. BREMER: 24· . . . Q. Okay. What -- what research, though, led 25· you to find out or determine that there were a few	
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1· employees or jobs at any local location where there 2· were multiple employees doing the same or similar 3· work with the same skill and experience?	
4· MR. PARKER: Outside the scope. Asked 5· and answered.	
6· THE WITNESS: The research -- the 7· research discussing -- I -- I talked to human 8· resources reps and also some supervisors, and -- so 9· it was actually a -- a self-discovery process to 10· where I found out how different jobs really are at 11· Oracle.	
12· BY MS. BREMER:	
13· . . . Q. And which human resources reps did you 14· talk to?	
15· MR. PARKER: Outside the scope.	
16· THE WITNESS: I can't recall the names 17· because it was over six years ago. But I -- I 18· remember talking to them about -- about this, trying 19· to -- to find out what the jobs were about and 20· writing documentation on the differences of the jobs 21· and finding out just how varied the jobs are.	
22· I was also told that by the person that 23· reported to me that had -- at that time had been at 24· Oracle for a while that I didn't, you know, take 25· that as the final answer. I did the research myself	
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1· and found out, just, they really are varied.	
2· BY MS. BREMER:	
3· . . . Q. And what was your understanding of what 4· "same or similar work with the same 5· skill/experience" means?	
6· MR. PARKER: Outside the scope.	
7· THE WITNESS: Well, at that point, and 8· some of the jobs from this first research, people	

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<p>9· ·actually had different levels of certifications 10· ·within the same job title to where some of them 11· ·could service and take care of more products or 12· ·customers, yet they still -- and some of the 13· ·certifications were quite different from each other, 14· ·but yet they still had the same job title and in 15· ·quite a few instances were at the same career level. 16· ·BY MS. BREMER: 17· ··· Q· And what certifications are you talking 18· ·about? 19· ··· A· I can't remember -- 20· ··· ·MR. PARKER: Outside the scope. 21· ··· ·THE WITNESS: I can't remember off the 22· ·top of my head, but I would say they -- they were 23· ·like IT-related certifications.</p>	
<p>38:25-39:20</p> <p>25· ··· Q· And you say -- the e-mail to OFCCP says:</p> <p>39 1· ······ "Please note that we do not maintain 2· ······ education or work experience in our 3· ······ database." 4· ·Is that true? 5· ··· A· There are a few ins- -- I think it's in 6· ·any single database, there are a few instances where 7· ·there is education in the database from the 8· ·personnel files. It couldn't be -- it's not in any 9· ·one database. 10· ··· Q· But Oracle does have education data in 11· ·its database? 12· ··· ·MR. PARKER: Misstates the testimony. 13· ··· ·THE WITNESS: Yeah, it's not in any one 14· ·database. 15· ·BY MS. BREMER: 16· ··· Q· But it's in some of the databases? 17· ··· ·MR. PARKER: Misstates the testimony. 18· ··· ·THE WITNESS: Some of the education is in 19· ·some of the databases but not all. 20· ·BY MS. BREMER:</p>	
<p>45:22-46:9</p> <p>22· ··· ·Did OFCCP request educational data during</p>	

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<p>23· the compliance review? 24· . . . A· Yes. 25· . . . Q· Did Oracle provide educational data to</p> <p>46 1· OFCCP? 2· . . . A· We told the OFCCP that it would be 3· burdensome, it would take some time to provide it, 4· and we did not get a response back with regard to 5· that. 6· . . . Q· And so Oracle did not provide educational 7· data to OFCCP during the compliance review? 8· . . . A· Under those conditions that I just 9· described, no.</p>	
<p>46:10-49:17</p> <p>10· . . . Q· On Exhibit 10, it says: 11· "Please note that we do not maintain 12· education or work experience in our 13· database." 14· What database were you referring to? 15· MR. PARKER: Outside the scope. 16· THE WITNESS: At this time I was talking 17· about providing it consistently within the 18· personnel -- electronic personnel file. 19· BY MS. BREMER: 20· . . . Q· What do you mean "consistently within the 21· personnel electronic file"? 22· MR. PARKER: Outside the scope. 23· THE WITNESS: Yeah, just what I had just 24· described to you previously, in that, education may 25· or may not be in that file. There may be some of it</p> <p>47 1· recorded, but it was not recorded in any one 2· particular location at the time of the audit. Where 3· I would typically look would be in the personnel 4· file. But that's what I was describing. 5· BY MS. BREMER: 6· . . . Q· And when you talk about "the personnel 7· file," are you talking about a specific system or 8· database? 9· . . . A· Yes. 10· . . . Q· And what -- which one?</p>	

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<p>11 · · · · A. Well, at the time of the audit the 12 · database was the -- it's the HRMS system, human 13 · resources management system, but it was in a EBS -- 14 · like E as in eight, B as in boy, S as in Sam -- 15 · database at that time. 16 · · · · Q. And Oracle had other databases with 17 · information other than the HRM database, correct? 18 · · · · ·MR. PARKER: Beyond the scope. Vague and 19 · ambiguous. 20 · · · · ·THE WITNESS: It would have been, again, 21 · not for everyone, but there may have been some 22 · additional information, as I just described earlier, 23 · depending on when the person came on board and how 24 · they came on board and the recruiting software. 25 ·</p>	
<p>48 1 · BY MS. BREMER: 2 · · · · Q. And during the compliance review, did you 3 · indicate to OFCCP that there could be additional -- 4 · or that there could be educational data in the 5 · recruiting database? 6 · · · · A. I told the OFCCP that we would have to do 7 · a lookup and that it would be burdensome. 8 · · · · Q. Okay. But my question was, during the 9 · compliance review, did Oracle indicate to OFCCP that 10 · there could be educational data in the recruiting 11 · database? 12 · · · · ·MR. PARKER: Beyond the scope. 13 · · · · ·THE WITNESS: We didn't name any 14 · particular database. 15 · BY MS. BREMER: 16 · · · · Q. Did Oracle let OFCCP know that there was 17 · some educational data available in some of its 18 · databases? 19 · · · · ·MR. PARKER: Beyond the scope. 20 · · · · ·THE WITNESS: I would have to look at the 21 · exact verbiage of everything submitted. I do recall 22 · telling the OFCCP that it would be burdensome to 23 · look it up, but we didn't say that we couldn't 24 · provide it. 25 · BY MS. BREMER:</p>	
<p>49 1 · · · · Q. And what did you tell OFCCP would be the</p>	

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<p>2· ·burden of providing educational data? 3· · · · ·MR. PARKER: Beyond the scope. 4· · · · ·THE WITNESS: I'd have to look at the 5· ·exact verbiage, but it would just be the amount of 6· ·time it would take to go in and manually try and 7· ·find the information, if it existed. And -- and -- 8· ·and I want to qualify that with if it existed. 9· ·BY MS. BREMER: 10· · · · Q· What about providing electronic data 11· ·regarding education? 12· · · · ·MR. PARKER: Vague and ambiguous. Beyond 13· ·the scope. 14· · · · ·THE WITNESS: It -- from my understanding 15· ·at that time, I was told that we could provide some 16· ·information in a few cases where it might be 17· ·captured electronically but not in all cases.</p>	
<p>49:19-50:3</p> <p>19· · · · Q· Did Oracle ever provide the information 20· ·that could be captured electronically regarding 21· ·employees' education during the compliance review? 22· · · · A· Are you talking about before we started 23· ·the year-long process of trying to get all the -- 24· ·the data to you -- to you all when we started? 25· · · · ·MR. PARKER: No, she's not. She's</p> <p>50</p> <p>1· ·talking just about during the audit period. 2· · · · ·THE WITNESS: Oh, during the audit 3· ·period? No.</p>	
<p>50:13-51:12</p> <p>13· · · · Q· And Oracle's statement that it would be 14· ·burdensome referred to the manual pulling of that 15· ·information, correct? 16· · · · ·MR. PARKER: Beyond the scope. Misstates 17· ·the testimony. 18· · · · ·THE WITNESS: It would be -- it would be 19· ·in response to some of the manual lookup for -- for 20· ·that information. 21· ·BY MS. BREMER: 22· · · · Q· When you say "the manual lookup for that 23· ·information," what do you mean?</p>	

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<p>24. MR. PARKER: Same objections. 25. THE WITNESS: When -- if a person has a</p> <p>51 1. IRC number, we would go -- and in order to try and 2. find it, we could go into the personnel file and see 3. if there's a resume there. 4. Or if the person was hired or brought on 5. board with an IRC number and not part of an 6. acquisition or not a long-term employee before they 7. were used, we would have to find the IRC number that 8. they were hired on then go into the system and try 9. and pull it from there. 10. BY MS. BREMER: 11. . . . Q. What's an IRC number? 12. . . . A. Requisition number.</p>	
<p>52:13-53:7</p> <p>13. THE REPORTER: Exhibit 124. 14. . . . (Exhibit 124 marked for identification.) 15. THE WITNESS: Thank you. 16. BY MS. BREMER: 17. . . . Q. Okay. So just to explain what I did 18. here, I selected the first rows of data in the XL 19. spreadsheet and printed them. Because there's a 20. large number of columns in the spreadsheet, the 21. first rows of data that I selected printed on 22. approximately 18 pages. 23. So the approximately 18 pages in 24. Exhibit 124 show the data for the first 21 people 25. listed in the database.</p> <p>53 1. Does that make sense? 2. . . . A. Yes. 3. . . . Q. Okay. Does this appear to be a true and 4. correct copy of the excerpt of the compensation 5. report that Oracle provided to OFCCP on June 16th, 6. 2015 with the e-mail that's Exhibit 36? 7. . . . A. It looks like it.</p>	
<p>55:12-56:9</p> <p>12. . . . Q. Then -- I was looking at the name of</p>	

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<p>13· the -- name of the document, the "HQCA Compensation 14· Report 6-10-15.xls." 15· Was that the -- the title of Exhibit 124? 16· . . . A· It looks like it could be. We submitted 17· lots of compensation information to the OFCCP, so I 18· can't say for certain if this was what was attached. 19· But it looks like one of the -- one of the bits of 20· compensation information that we provided to the 21· OFCCP. 22· . . . A· Okay. And I just note that Exhibit 36 23· has a Bates number of ORACLE_HQCA_088, and this 24· native file has a Bates number of 189. 25· . . . Q· Okay.</p> <p>56</p> <p>1· . . . Q· So it was produced in order -- 2· . . . A· Okay. 3· . . . Q· -- if that helps. 4· . . . A· Yeah. And so I don't -- I don't know how 5· you organized this. I can just say that it looks 6· like one of the submissions that we made. I can't 7· say for certain without, you know, seeing the 8· documents itself if it was the exact one, but it 9· looks like it -- it could be.</p>	
<p>59:25-61:4</p> <p>25· MR. PARKER: Just for the record, I</p> <p>60</p> <p>1· understand -- and this is why we took the break -- 2· that Exhibit 124 was a document inadvertently 3· produced, and it did -- it's not in Exhibit 124, did 4· contain a document that was protected by 5· attorney-client privilege. 6· The document that was actually produced 7· by Ms. Shauna Holman-Harries, not that she will know 8· the Bates stamp number, is Bates-stamped 9· ORACLE_HQCA_409. And so that we have -- so that the 10· record is, one, accurate; but two, we avoid any 11· issues with attorney-client privilege, we would 12· object to the use of ORACLE_HQCA_189 which is 13· Exhibit 124 and ask that it be replaced by Bates 14· stamp 409. 15· Beyond that, I'm not going to prevent you</p>	

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<p>16· from asking questions on Exhibit 189 as I understand 17· that this is a non- -- the nonprivileged portion. 18· But in any case, it is a document that is better 19· reflected in Exhibit -- in Bates stamp 409. 20· MS. BREMER: Okay. We -- 21· MR. GARCIA: Can I just make a comment, 22· then, for the record. It's my understanding that 23· Exhibit 124, the portion that was shown for the 2014 24· snapshot, is the same document at Exhibit 409. It's 25· my understanding that the document that was claimed</p> <p>61 1· to be privileged and produced in error had 2· additional sheet, Sheet No. 4, that was in addition 3· to what was produced at Exhibit -- at Bates stamp 4· No. 409.</p>	
<p>66:4-67:5</p> <p>4· . . . Q· And OFCCP all request -- also requested 5· three years of performance information from Oracle, 6· right? 7· . . . A· Yes. 8· . . . Q· Did Oracle provide three years of 9· performance information for its employees during the 10· compliance review? 11· . . . A· I would have to look and see if that 12· information had been obtained during the compliance 13· review before the NOV to be certain. I know we were 14· working on it, if -- if it hadn't been provided. 15· But I'd have to see the last spreadsheet submitted 16· to be able to answer that question for you. 17· I do know that we were working on it. 18· . . . Q· And the last spreadsheet that Oracle 19· provided to OFCCP during the compliance review would 20· reflect all of the data fields that Oracle provided 21· as part of the 2014 compensation snapshot? 22· . . . A· As of that date. It wouldn't reflect the 23· ones that we were still working on, but it would 24· show you the final submission prior to the NOV. 25· . . . Q· And that would reflect every -- all of</p> <p>67 1· the data that Oracle had produced to OFCCP as part 2· of the 2014 compensation snapshot during the</p>	

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<p>3· compliance review? 4· MR. PARKER: Asked and answered. 5· THE WITNESS: Yeah, the -- yes.</p>	
<p>71:10-13</p> <p>10· BY MS. BREMER: 11· . . . Q. And did -- did Oracle produce a 2013 12· compensation snapshot to OFCCP during the compliance 13· review?</p>	
<p>71:14-73:13</p> <p>14· . . . A. We were waiting for -- for information 15· from the OFCCP as to the basis for the 2013 16· snapshot, and we did not get that. 17· . . . Q. Okay. When you say Oracle was waiting 18· for information from OFCCP regarding the basis, what 19· was Oracle waiting for? 20· . . . A. The justification as to why it was 21· relevant. 22· . . . Q. Did Oracle do anything to -- or take any 23· steps to prepare a 2013 compensation snapshot for 24· OFCCP -- 25· MR. PARKER: Beyond --</p> <p>72</p> <p>1· BY MS. BREMER: 2· . . . Q. -- during the compliance review? 3· MR. PARKER: Beyond the scope. Vague and 4· ambiguous. 5· THE WITNESS: What do you mean by 6· "prepare"? 7· BY MS. BREMER: 8· . . . Q. Did -- did Oracle take any steps during 9· the compliance review to -- to provide a 10· compensation snapshot for 2013? 11· MR. PARKER: Same objections. 12· THE WITNESS: We collected information 13· that was similar to the '14 data in preparation for 14· OFCCP to respond to our question. 15· BY MS. BREMER: 16· . . . Q. Did Oracle complete -- did Oracle compile 17· all of the data fields for the 2013 compensation 18· snapshot that it had provided to OFCCP for the 2014</p>	<p>Errata: We were working to compile the information OFCCP requested</p> <p>Errata: We were in the process of collecting information similar to the '14 data.</p>

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<p>19· ·compensation snapshot? 20· ···· MR. PARKER: Beyond the scope. Vague and 21· ·ambiguous. 22· ···· THE WITNESS: We compiled -- we compiled 23· ·it. We pulled the data, but we were waiting for 24· ·OFCCP to provide the justification that we asked for 25· ·in our correspondence with them.</p> <p>73 1· ·BY MS. BREMER: 2· ··· Q· Okay. So when you say you compiled it, 3· ·was it -- was all of the data compiled for the 2013 4· ·compensation snapshot during the compliance review? 5· ···· MR. PARKER: Beyond the scope. 6· ···· THE WITNESS: It was -- it was compiled 7· ·in the background. I'm not sure if there were one 8· ·or two fields that we had to pull in, but we were 9· ·working on it. And we were waiting for OFCCP to 10· ·answer our question to provide the basis for 11· ·requesting the data. 12· ···· And -- but we were working on it behind 13· ·the scenes, waiting for that request.</p>	<p>Errata: We were in the process of compiling the data at the time OFCCP issued its NOV.</p> <p>Errata: It was – it was compiled in the background. I'm not sure if there were one or two fields that we had to pull in, but we were working on it.</p>
<p>73:15-21</p> <p>15· ··· Q· So if it wasn't complete, it was almost, 16· ·almost complete? Almost all of the da- -- data had 17· ·been compiled into the 2013 compensation snapshot 18· ·during the compliance review? 19· ···· MR. PARKER: Vague and ambiguous. Beyond 20· ·the scope. 21· ···· THE WITNESS: Yes.</p>	
<p>73:23-76:11</p> <p>23· ··· Q· Okay. I'm going show you what was marked 24· ·as Exhibit 38 in your previous deposition. 25· ·(Exhibit 38 previously marked for identification.)</p> <p>74 1· ···· MS. BREMER: Then I'm going to mark as 2· ·Exhibit 126 a document that was -- or an excerpt of 3· ·a document produced in native format at 4· ·ORACLE_HQCA_699. 5· ···· THE WITNESS: Yes.</p>	

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6. THE REPORTER: Exhibit 126. 7. (Exhibit 126 marked for identification.) 8. . MS. BREMER: I'm also going to mark as 9. . Exhibit 127 A. document -- an excerpt of a document 10. . produced in native format at ORACLE_HQCA_700. 11. THE REPORTER: Exhibit 127. 12. (Exhibit 127 marked for identification.) 13. Q. If you look at Exhibit 38 -- 14. A. Yeah. 15. Q. -- the e-mail that you sent to Hoan 16. . Luong -- 17. A. Uh-huh. 18. Q. -- lists two attachments: "HQCA 19. . Compensation Report no Vlookup with extra visa data 20. . 10-22-15.xlsx and HQCA Ranking Report 2013 no 21. . Vlookup.xlsx." 22. Do you see that? 23. A. Yes. 24. Q. Were Exhibits 126 and 127, are those 25. . excerpts of the attachments to this e-mail?	
75	
1. A. They appear to be. It'd be the same -- 2. . the same as before, without seeing the exact e-mail 3. . and looking at the documents attached, I couldn't 4. . say for certain, but I can say they -- it looks like 5. . they are. 6. Q. Okay. Well, I am showing you the e-mail 7. . which is Exhibit 38. 8. A. I mean, by -- in this system, seeing the 9. . exact attachments in the system, that's what -- what 10. . I'm referring to. 11. Q. And -- 12. A. I know what you're saying, yes, this is 13. . the e-mail. But without seeing the e-mail in the 14. . electronic form with the attachments, but it appears 15. . that -- that it is. 16. Q. Okay. Which of the these documents would 17. . be the HQCA Compensation Report no Vlookup with 18. . extra visa data 10-22-15? 19. A. That would be 126. 20. Q. What does Vlookup mean? 21. A. That would be a code that Neil Bourque 22. . developed to show where he was at for himself. It	

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<p>23· would be a note to himself as to if he had pulled 24· different data in. Other than -- than that high 25· level, I can't really tell you what his intent was</p> <p>76 1· and how -- how he utilized it, but I just know that 2· it had to do with him pulling data in. 3· . . . Q· Okay. And the extra visa data indicates 4· that this compensation report, Exhibit 126, included 5· additional visa information that was not on prior 6· compensation snapshots? 7· . . . A· I believe so. Again, because there were 8· so many submissions, I'd have to look at each and 9· every submission to see what visa data was included, 10· but it could be. I didn't create the file. I can 11· only assume, so I can't be exact on it, but...</p>	
<p>76:20-77:9 20· . . . Q· Okay. And looking at Exhibit 126 which 21· was produced in native format, Oracle provided 22· compensation data to OFCCP in Excel spreadsheets, 23· correct? 24· . . . A· Yes. 25· . . . Q· And why did Oracle provide the</p> <p>77 1· compensation data to OFCCP in Excel format? 2· . . . MR. PARKER: Beyond the scope. Calls for 3· speculation. 4· . . . THE WITNESS: OFCCP requested that we 5· started in some of our earlier audits that we 6· provide it in Excel format. We used to provide it 7· in a PDF format, and that was at the request of-- as 8· all the audits that we've gone through preceded, 9· that was at the request of OFCCP.</p>	<p>Errata: I don't recall</p>
<p>80:17-97:11 17· . . . Q· Okay. Looking at Exhibit 126. 18· . . . A· Okay. 19· . . . Q· Again, this was a voluminous Excel 20· spreadsheet, and what I did was what I described 21· with the other compensation snapshot. I selected 22· the first rows of data in the Excel spreadsheet and 23· printed them. And because of the large number of</p>	

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24· columns in this spreadsheet, this first rows of data 25· that I selected printed on approximately 20 pages.	
<p>81</p> 1· So the approximately 20 pages in 2· Exhibit 126 show the data for the first 23 people 3· listed in the database. 4· Does that make sense? 5· . . . A· Yes. 6· . . . Q· Okay. Why don't -- just look at the -- 7· the data fields that Oracle provided to OFCCP as 8· part of the 2014 compensation snapshot which is -- 9· . . . A· Yeah, if you give me a minute just to 10· look through this, I appreciate it. 11· . . . Q· Sure. 12· . . . A· Okay, thank you. 13· . . . Q· Sure. 14· So the first -- the first data field is 15· the -- is the last name. 16· Is that the last name of the employee? 17· . . . A· Yes. 18· . . . Q· And then the third column of information 19· is ID number. 20· Is that a unique employee identifier? 21· . . . A· Yes. 22· . . . Q· And then the next column in the 23· compensation snapshot shows the employee's gender, 24· correct? 25· . . . A· Yes.	
<p>82</p> 1· . . . Q· And then Oracle has also provided the 2· race for the employee? 3· . . . A· Yes. 4· . . . Q· And then the next column is for national 5· origin. 6· Did Oracle provide data regarding the 7· national origin of its employees? 8· . . . A· No, we don't track that data. 9· . . . Q· Oracle provided data in the compensation 10· snapshot for each employee's job title, correct? 11· . . . A· Yes. 12· . . . Q· And then tuning to the next page, Or- -- 13· the compensation snapshot provided by Oracle	

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14· provided each employee's job function, right? 15· . . . A· Yes. 16· . . . Q· It also provided each employee's job 17· specialty? 18· . . . A· Yes. 19· . . . Q· Looking at -- at the job function column 20· for data, there's data that says "PRODEV." 21· Does that stand for the product 22· development job function? 23· . . . A· Yes. 24· . . . Q· And then "INFTECH" stands for information 25· technology job function?	
83	
1· . . . A· Yes. 2· . . . Q· And does "SUPP" stand for the support job 3· function? 4· . . . A· Where is -- where is that one? 5· . . . Q· It's -- the first few people on this 6· snapshot were not in the support job function. 7· . . . A· Oh, oh. Yes, I believe there is. 8· Without looking at the sheet, I couldn't tell you 9· for certain, but that sounds like a type of coding 10· that would have been used. 11· . . . Q· And the 2014 compensation snapshot that 12· Oracle provided to OFCCP during the compliance 13· review did have -- include the job function of every 14· employee at Oracle's headquarters, correct? 15· . . . A· Yes, I believe so. 16· . . . Q· Okay. And then it provided -- the 17· snapshot provided job specialty information for 18· Oracle's employees too? 19· . . . A· Yes. 20· . . . Q· The next column of data is H1B status. 21· And at least all the data fields on this page 22· indicate number sign N/A. 23· What does that mean. 24· . . . A· That means that that particular person 25· didn't have a Visa according to the categories	
84	
1· listed in the next three columns. So I know that 2· that was -- Visa information was provided, but -- 3· and the particular cut that you would have here,	

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4 · it's not applicable to the people that were 5 · listed -- 6 · . . . Q. Okay. Let's -- 7 · . . . A. -- in those -- in the categories. You've 8 · got like the three -- three categories. 9 · . . . Q. The three categories you're referring to 10 · are: Visa types held from 1-1-13 to 6-30-14, All 11 · Visas Held, and Status Change History or -- and H1B 12 · Status, not a Status Change History? 13 · . . . A. Yes. Yes, all these -- yes, the three 14 · columns that you just mentioned. 15 · . . . Q. And what about Status Change History? 16 · . . . A. Status Change History, I would have to -- 17 · that would have been, I believe, related to that 18 · also because of the -- and -- and simply because -- 19 · and I -- and I'm reminded as far as, you know, what 20 · that is but I'm assuming because of the color coding 21 · at the top. 22 · Whenever we added a new -- frequently, 23 · not whenever -- but often when we added a new 24 · section, we would color code it for OFCCP to find it 25 · more easily.	
85	
1 · . . . Q. And when you say I believe it related to 2 · that, you mean to Visa data as well? 3 · . . . A. It could have, yeah. I want to -- to 4 · double-check everything and see the entire 5 · spreadsheet to be able to say for certain. 6 · . . . Q. Okay. Turning to the next page, the 7 · second column is entitled "Job Group." 8 · . . . A. Yes. 9 · . . . Q. So in the 2014 compensation spreadsheet 10 · Oracle provided job group information to OFCCP for 11 · all -- all employees at HQCA, right? 12 · . . . A. Yes. 13 · . . . Q. And it also provided their grade, right? 14 · . . . A. Yes. 15 · . . . Q. And what does -- what does "grade" refer 16 · to? 17 · . . . A. Pay grade would refer to -- if you look 18 · at it, you'll see an "either" on some, and you'll 19 · see "and" on others. That refers to whether the 20 · person was exempt or non-exempt. And then you'll	

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21 · see a number, and that that categorizes people 22 · according to whatever pay range their job has been 23 · classified in. 24 · . . . Q. When you say “their job,” are you 25 · referring to job code?	
86	
1 · . . . A. Well, job code is representational of job 2 · title. It’s not exact. But I’m referring to -- 3 · yes, I think that that would be -- that would be 4 · fair, whatever their -- their job had been 5 · classified in as represented by the job code.	
6 · . . . Q. Okay. And Oracle provided data in the 7 · next four columns for each employee’s supervisor in 8 · the compensation snapshot as well, correct?	
9 · . . . A. Yes.	
10 · . . . Q. So turning to the next page, Oracle 11 · provided data for employee’s data of birth in the 12 · 2014 compensation snapshot as well, correct?	
13 · . . . A. Yes.	
14 · . . . Q. And there’s a column that’s Global Career 15 · Level.	
16 · What is that?	
17 · . . . A. That is the way that Oracle uses -- it’s	
18 · . . . A. coding system, and it -- it organizes people	
19 · according to, generally, the job that their doing,	
20 · you know, how -- some of the different	
21 · responsibilities they have.	
22 · So, for instance, a person that would	
23 · come in with absolutely no experience, work	
24 · experience at all, might come in as A. IC0, a con- --	
25 · an individual contributor zero. And as they -- the	
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1 · job requires more experience, the person would --	
2 · the numbering would increase.	
3 · So an IC1 would be, again, a person of	
4 · low experience, at least for the job that they are	
5 · performing. And then IC2 would be a little bit more	
6 · and IC3 a little bit more and so on and so forth.	
7 · And then you’ve also got the manager	
8 · levels, and they follow the same type of rationale	
9 · with -- starting with M for your management levels,	
10 · and like a -- a manager -- like an M6 is, I	

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11· ·believe -- I would have to look, but I think -- I 12· ·think that one is like a senior director, but I'd 13· ·have to -- to look at -- back at the job title. 14· · But -- but you -- you kind of get what I 15· ·mean. Or maybe an M5 is a senior director, or a -- 16· ·an M6 might be a VP. But like -- but that type of 17· ·thing going up. But I could be off one without 18· ·looking at the titles next to it. 19· · . . . Q· So the managers also -- and someone with 20· ·an M1 global career level would have less experience 21· ·than somebody with an M5 global career level? 22· · . . . A· Yeah, for the job that they're performing 23· ·would be less responsibilities. 24· · . . . Q· Okay. And so Oracle provided -- 25· · . . . A· I want to qualify --	
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1· · . . . Q· -- data -- 2· · . . . A· I want to qualify something. 3· · It doesn't necessarily mean less 4· ·experience. It would be less experience as required 5· ·by the job. So I might have a person that has 20 6· ·years experience, but, you know, they're an 7· ·individual contributor at a specific level. And, 8· ·you know, that's -- that's kind of like the job that 9· ·they are performing. So it's related to both of 10· ·them. 11· · . . . Q· It's related to both the job that they're 12· ·performing and -- and their experience in that job? 13· · . . . A· Correct. 14· · . . . Q· And Oracle provided -- provided data in 15· ·the 2014 compensation snapshot for each employee's 16· ·global career level? 17· · . . . A· Yes. 18· · . . . Q· And the next column of data that Oracle 19· ·provided in the snapshot is entitled "Department," 20· ·correct? 21· · . . . A· Yes. 22· · . . . Q· The next column on the next page is Work 23· ·Unit Flow. 24· · Is this the same information that was 25· ·provided in the original Item 11 response?	
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<p>1 · · · · A. I believe so. 2 · · · · Q. And then Exhibit 126 has a column 3 · · · · “Original Hire Date.” 4 · · · · A. Uh-huh. 5 · · · · Q. Was -- was that the date that the 6 · · · · employee was originally hired by Oracle? 7 · · · · A. Not necessarily. It could be. 8 · · · · Q. Okay. What -- what is “Original Hire 9 · · · · Date”? 10 · · · · A. It could be the original date that the 11 · · · · employee was hired by Oracle, but it could also be a 12 · · · · hire date that we were given by a company, or Oracle 13 · · · · was given by a company, it acquired for the hire 14 · · · · date with that particular company. 15 · · · · Q. Okay. And -- and so Oracle included that 16 · · · · data as well in the compensation snapshot -- 17 · · · · A. Yes. 18 · · · · Q. -- to OFCCP? 19 · · · · A. Yeah. 20 · · · · Q. Okay. What does the column “Date and 21 · · · · Time” refer to? 22 · · · · A. We were trying to do some calculations 23 · · · · for some of the requests that OFCCP had, and so we 24 · · · · used -- or Neil, when he put this together, he put 25 · · · · the -- he put everything effective as of that date,</p>	
90	
<p>1 · · · · as of 1/1/14, for the compensation snapshot. And 2 · · · · then he took hire date and ran some kind of a 3 · · · · mathematical formula to get the -- the timing at 4 · · · · Oracle in years. 5 · · · · Q. Okay. And so date -- “Date and Time” 6 · · · · also reflects that this is a compensation snapshot 7 · · · · as of January 1st, 2014? 8 · · · · A. Yes. 9 · · · · Q. Okay. So the data also included -- the 10 · · · · data that Oracle provided to OFCCP as part of the 11 · · · · 2014 compensation snapshot also included a time with 12 · · · · company years and also time with company months? 13 · · · · A. Yes. 14 · · · · Q. And -- and what does that information 15 · · · · reflect? 16 · · · · A. As far as the months, that -- that’s all 17 · · · · based off of this 1/1/14 date, so it would be the</p>	

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18· years and months. It's just broken up. So they -- 19· they're supposed to go together. 20· . . . Q· Okay. So it's the total amount of time 21· that -- that each employee had been with Oracle, 22· employed by Oracle? 23· . . . A· Yes. 24· . . . MR. PARKER: Misstates the testimony. 25· . . . THE WITNESS: It -- yes, it -- yes, it	
91 1· could be, or it could also include -- and I'd have 2· to look to be absolutely certain. It also could 3· include maybe the time with the company that Oracle 4· acquired. 5· BY MS. BREMER: 6· . . . Q· So either the -- the time that the 7· employee had been employed by Oracle or one of its 8· predec- -- 9· . . . A· Right. 10· . . . Q· -- acquisitions? 11· . . . A· Yeah. 12· . . . Q· Okay. Let's turn to the next page on 13· Exhibit 126. There's a column of "Data PT/FT." 14· . . . What is that? 15· . . . A· Okay, wait a minute. I think I'm -- 16· maybe I flipped too much. Let's see, we've got 17· that. 18· . . . MR. GARCIA: I think she skipped a page. 19· BY MS. BREMER: 20· . . . Q· Yeah, this is the page after -- 21· . . . A· Oh. 22· . . . Q· -- the page with time with company months 23· and -- 24· . . . A· This was either part time or full time. 25· . . . Q· Okay. And -- and does "P" indicate part	
92 1· time? 2· . . . A· Yes. 3· . . . Q· And -- and "F" in that column indicates 4· full time? 5· . . . A· Yes. 6· . . . Q· Okay. So as part of the 2014 7· compensation snapshot that Oracle provided to OFCCP,	

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8· it included data showing whether each employee was 9· full time or part time? 10· . . . A· Yes. 11· . . . Q· Okay. And it also implied -- provided 12· data showing exempt status, correct? 13· . . . A· Yes. 14· . . . Q· And -- and what is that? 15· . . . A· What is exempt status? 16· . . . Q· What -- what is that column indicating? 17· . . . A· The one that says "Exempt Status"? 18· . . . Q· Yes. 19· . . . A· Whether -- whether they are exempt or 20· nonexempt under the Fair Labor Standards Act, or -- 21· or if they're exempt from the Fair Labor Standards 22· Act or not. 23· . . . Q· And -- and what does an "E" in that 24· column mean? 25· . . . A· That they're exempt.	
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1· . . . Q· And what about an "N"? 2· . . . A· Nonexempt. 3· . . . Q· Okay. The next column of data in the 4· 2014 compensation snapshot is "Salary," correct? 5· . . . A· Yes. 6· . . . Q· Is that annual salary? 7· . . . A· That particular column was the annual 8· salary that was reported on the initial Item 11 9· submission for their base salary in the system. 10· . . . Q· Okay. And then turning to the next page, 11· there is also a data field for "Regular Wages" and 12· then "Total Compensation." 13· What are those? 14· MR. PARKER: Compound. 15· THE WITNESS: Well, you've got regular 16· salary, and then you've got regular wages, and that 17· has to do with whether a person is exempt or 18· nonexempt as far as their -- their wages. 19· And then the total compensation, that 20· was -- that was pulled -- some of that data that I 21· told you about that was pulled from OAL, that would 22· be the total compensation that the employee earned. 23· BY MS. BREMER: 24· . . . Q· And that -- would that include bonuses?	

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<p>25 · · · · A. It should. I'd have to -- to look to</p> <p>94</p> <p>1 · verify that. It -- let me -- let me look across a 2 · second real quick. Because we've organized it a 3 · little differently on the most recent audits. I 4 · would have to double-check and make absolutely 5 · certain. But I'm thinking so because I'm looking at 6 · the one where it has the -- the regular wages, yeah. 7 · So I'm not sure. 8 · · · · · MR. PARKER: Shauna, you don't have to 9 · talk out loud. 10 · · · · · THE WITNESS: Okay. Or think out loud, 11 · you mean? 12 · · · · · MR. PARKER: Yeah. 13 · · · · · THE WITNESS: Okay. 14 · · · · · MR. PARKER: You can just -- you told her 15 · you would -- 16 · · · · · THE WITNESS: Yeah, I'd have to check. 17 · · · · · MR. PARKER: You don't know. You 18 · think -- you thought it -- it should include 19 · bonuses. 20 · · · · · THE WITNESS: Okay. 21 · · · · · MR. PARKER: You said you would have to 22 · check. 23 · · · · · THE WITNESS: I -- yeah, to be absolutely 24 · certain. 25 · BY MS. BREMER:</p>	
<p>95</p> <p>1 · · · · Q. But in any event, there were different 2 · types of compensation information that Oracle 3 · provided to OFCCP during the compliance audit, 4 · different types of compensation that each employee 5 · received? 6 · · · · · MR. PARKER: Vague and ambiguous. 7 · · · · · THE WITNESS: There were different 8 · categories of compensation. 9 · BY MS. BREMER: 10 · · · · Q. Okay. Now we're going to flip a few 11 · pages. This is the problem with them not being 12 · numbered. 13 · · · · A. I know. I know, right? 14 · · · · Q. So flip to the page where at the top in</p>	

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<p>15· the left-hand column it says “Perf Rating 2013”? 16· . . . A· Okay. I’ve to find that page. Just a 17· minute. 18· . . . MR. PARKER: Why don’t you show her what 19· it looks like. 20· . . . THE WITNESS: Oh, I know what it looks 21· like. I’m just -- I just have to flip through and 22· find which one. But thank you, though. Okay. 23· BY MS. BREMER: 24· . . . Q· Okay. So the column on the far right 25· says “Education.”</p>	
<p>96</p>	
<p>1· . . . Was education data provided for anyone in 2· the 2014 compensation snapshot? 3· . . . A· No. 4· . . . Q· Looking at the next page of Exhibit 126, 5· the column is “School Attended.” 6· . . . Was any information regarding school 7· attended provided in the 2014 compensation snapshot 8· to OFCCP? 9· . . . A· No. 10· . . . Q· And what about the next column, “Prior 11· Salary/Acquired”? 12· . . . A· I would have to look and see if -- if 13· there was an amount, it -- if it -- they came -- I 14· would have to -- I would have to double-check and 15· see a full spreadsheet to be able to answer that. 16· . . . Q· And what is “Prior Salary/Acquired”? 17· What -- what does that reference? 18· . . . A· That would have been the salary at the 19· company, what they were making at the company that 20· we acquired -- that Oracle acquired. 21· . . . Q· Was -- was Exhibit 126 the last Excel 22· spreadsheet containing compensation data for 2014 23· that Oracle provided to OFCCP during the compliance 24· review period? 25· . . . A· If it’s the spreadsheet -- if it is in</p>	
<p>97</p>	
<p>1· fact the spreadsheet that was attached to the 10/29 2· e-mail, the answer is yes. 3· . . . Q· And so that would be the most complete 4· compensation snapshot for 2014 that was provided to 5· OFCCP?</p>	

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<p>6 · · · · · MR. PARKER: Vague and ambiguous. 7 · · · · · THE WITNESS: You mean the spreadsheet on 8 · 10/29? 9 · BY MS. BREMER: 10 · · · · Q · Yes. 11 · · · · A · Yes.</p>	
<p>97:12-24 12 · · · · Q · Okay. Let's look back at Exhibit 38. 13 · · · · A · Let me find it. And you said 38? 14 · · · · Q · Yes. It was previously marked as 38. 15 · That's the -- that's the -- 16 · · · · A · This one. 17 · · · · Q · -- 10/29 e-mail. 18 · · · · A · Got it. Thank you. 19 · · · · Q · Okay. So on Exhibit 38, the darker print 20 · is OFCCP's request to Oracle, right? 21 · · · · A · Yes. 22 · · · · Q · And then the lighter print is Oracle's 23 · response? 24 · · · · A · Yes.</p>	
<p>104:1-11 1 · · · · Q · If you look at "Ranking," the column 2 · "Ranking" on Exhibit 127, what does that refer to? 3 · · · · A · The ranking refers to whether they were 4 · ranked or not. Because at Oracle, it's -- it's not 5 · consistent practice to rank your employees. It's an 6 · option that a supervisor has, but it's not required 7 · by any stretch of anybody's imagination. 8 · · · · · And, in fact, probably more supervisors 9 · at this time were not ranking their employees. And 10 · if they were ranked, it would be ranked on the date 11 · that they were ranked.</p>	
<p>105:17-127:11 17 · · · · Q · Okay. Did Oracle conduct any analysis of 18 · the data in the 2014 compensation snapshot that's 19 · reflected in Exhibit 126 before sending the data to 20 · OFCCP? 21 · · · · · MR. PARKER: Outside the scope. And I'm 22 · not saying that this did happen, but where any 23 · analysis conducted by attorneys, then you cannot</p>	

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24· answer that question, including that information. 25· And it's vague and ambiguous.	
<p>106</p> 1· THE WITNESS: It -- any analysis would 2· have been done under attorney-client work product. 3· BY MS. BREMER: 4· . . . Q: Did your -- as I understand the 5· instruction, it was if any analysis was conducted by 6· Oracle's attorneys of the 2014 compensation data, 7· then you can't answer the question. So let me ask 8· it this way. 9· Did -- 10· MR. PARKER: So let me be clear. If it 11· was done by attorneys or at the direction of 12· attorneys, you can't answer the question. 13· MS. BREMER: Right. 14· MR. PARKER: To the extent it wasn't done 15· at the direction of attorneys or by attorneys, you 16· are free to answer that question. 17· THE WITNESS: Okay. It would be the same 18· answer. Any analysis that was done of this -- of 19· this compensation snapshot was at the -- done by 20· attorneys or the direction -- at the direction of 21· attorneys. 22· BY MS. BREMER: 23· . . . Q: The data in the 2014 compensation 24· snapshot that Oracle sent to OFCCP during the 25· compliance review was in the type of format that an	
<p>107</p> 1· analysis could have been done of the data? 2· MR. PARKER: Outside the scope. Vague 3· and ambiguous. Lacks foundation. Calls for 4· speculation. 5· THE WITNESS: I'm just -- I -- I mean, 6· that would be your decision whether you think it 7· could be. I don't -- I don't feel I'm qualified 8· to -- to talk about that because any of this -- the 9· data that was done in analysis was under 10· attorney-client work product. 11· And I don't want to speculate. I want to 12· be able to give you factual answers. 13· BY MS. BREMER: 14· . . . Q: Looking back at Exhibit 38...	

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15 · · · · · THE WITNESS: What time is it? 16 · · · · · MR. PARKER: It's time for lunch. 17 · · · · · MS. BREMER: Almost time for lunch. 18 · · · · · THE WITNESS: Okay. Yeah, a few more 19 · questions. Okay. All right. And we'll do it fast 20 · so I can catch my flight. 21 · BY MS. BREMER: 22 · · · · Q. Okay. So at the very end of Item 2 on 23 · Exhibit 38, Oracle indicates: 24 · · · · · "These requests appear to be 25 · · · · · duplicative and are overlapping. We	
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1 · · · · · submitted compensation for the varying 2 · · · · · requests the OFCCP has made on 12/11/14 3 · · · · · spreadsheet, 2/15/14 spreadsheet, 4 · · · · · 2/20/15 spreadsheet, 2/26/15 5 · · · · · training" -- 6 · · · A. I'm trying to find it. Which item is 7 · that? 8 · · · Q. Two. 9 · · · A. Two? 10 · · · Q. So it's at the very top of Page 696. 11 · · · A. Okay. All right. All right. Thank you. 12 · · · Q. Right before Item 4. 13 · · · A. Okay. 14 · · · Q. Do you see that? 15 · · · A. Yeah. 16 · · · Q. Oracle's -- Oracle's response? 17 · · · A. Maybe it was Item 3. Yeah, I see. 18 · · · Q. So my -- my question is, the Exhibit 126 19 · spreadsheet, this supersedes prior compensation 20 · snapshots that were provided to OFCCP earlier in the 21 · compliance review? 22 · · · A. This is -- 23 · · · · MR. PARKER: Vague and ambiguous. Please 24 · give me time to object. 25 · · · · THE WITNESS: I'm sorry. I'm sorry.	
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1 · · · · · This is the most recent one. 2 · BY MS. BREMER: 3 · · · Q. And it includes data that was included in 4 · prior snapshots plus additional compensation data, 5 · correct?	

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<p>6 · · · · A. Yes. 7 · · · · Q. Okay. Looking at Item 4, did you 8 · understand that OFCCP was requesting salary and job 9 · history data the from Oracle? 10 · · · · A. Just a minute. Let me read it. 11 · · · · · Yes. 12 · · · · Q. During the compliance review, did Oracle 13 · provide job history data for all employees at HQCA? 14 · · · · A. No. We asked -- we asked for the basis 15 · of the -- of the request. 16 · · · · Q. And during the compliance review, did 17 · Oracle provide salary information history for all 18 · employees? 19 · · · · A. No. We asked for the basis for that 20 · request too, and didn't get a -- didn't get an 21 · argument as to why it was needed. 22 · · · · Q. And Oracle -- Oracle did not provide the 23 · data for salary history for all employees during the 24 · compliance review, correct? 25 · · · · · MR. PARKER: Asked and answered.</p>	
<p>110 1 · · · · · THE WITNESS: Yeah. We, again, were 2 · waiting for OFCCP to respond and provide us with 3 · the -- the reasoning as to why you needed all of 4 · this information before we responded. 5 · BY MS. BREMER: 6 · · · · Q. Okay. And so you never provided the 7 · data? 8 · · · · · MR. PARKER: Asked and answered. 9 · · · · · THE WITNESS: Yeah. 10 · BY MS. BREMER: 11 · · · · Q. Well, that actually wasn't an answer to 12 · my question which is why I keep asking the question. 13 · So let me ask again, which is, Oracle did not 14 · provide salary history data for all employees to 15 · OFCCP during the compliance review, correct? 16 · · · · A. Correct. 17 · · · · Q. Okay. And Oracle kept copies of all the 18 · data -- or all the data it provided to OFCCP during 19 · the compliance review, right? 20 · · · · · MR. PARKER: Asked and answered. Outside 21 · the scope. 22 · · · · · THE WITNESS: In the e-mails that I -- I</p>	

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23 · referenced earlier, my earlier answer, that's what 24 · we kept. We kept the e-mails of the information 25 · submitted.	
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1 · BY MS. BREMER:	
2 · · · · Q · And that would -- those e-mails would	
3 · include attachments both of documents and of data	
4 · provided to OFCCP?	
5 · · · · A · Yes.	
6 · · · · Q · And --	
7 · · · · MS. BREMER: Okay. Let's -- let's just	
8 · go ahead and -- and break for lunch now.	
9 · · · · THE WITNESS: Okay.	
10 · · · · THE VIDEOGRAPHER: This marks the end of	
11 · Volume I, Media No. 3. Our time now is 12:07 p.m.	
12 · We're going off record.	
13 · · · · (Lunch recess.)	
14 · · · · THE VIDEOGRAPHER: This marks the	
15 · beginning of Volume I, Media No. 4. The time now is	
16 · 1:23 p.m., and we're on record.	
17 · BY MS. BREMER:	
18 · · · · Q · Okay. I would like to show you	
19 · Exhibit 43 which was marked in your previous	
20 · deposition.	
21 · · · · And is this a true and accurate copy of	
22 · an e-mail chain between you and OFCCP between	
23 · August 26, 2015 and October 1st, 2015?	
24 · (Exhibit 43 previously marked for identification.)	
25 · · · · A · I think so. I will have to look at it.	
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1 · · · · Q · Okay. So looking -- we looked at the	
2 · first three e-mails in this chain earlier in your	
3 · deposition today, the ones from August 26, 2015	
4 · through August 28th, 2015, right?	
5 · · · · A · Yeah, just a minute.	
6 · · · · Yes.	
7 · · · · Q · Okay. And this -- these e-mails were	
8 · OFCCP's request to Oracle to provide a compensation	
9 · snapshot data for 2013, right?	
10 · · · · A · Some of them are about that. Some of	
11 · these e-mails are about that.	
12 · · · · Q · Right.	
13 · And -- and the next e-mail, Friday,	

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<p>14 · August 28th, 2015 from you, being Shauna, to Hoan 15 · Luong, you indicate that: 16 · “We will provide the informing as soon 17 · as we can.” 18 · Correct? 19 · . . . A · Are you talking about my response? This 20 · is -- I -- 21 · . . . Q · Yes. 22 · . . . A · Yeah, let me finish. Let me read this. 23 · Yes, that’s an e-mail from me. 24 · . . . Q · Okay. And in your e-mail, you were 25 · indicating that Oracle would provide the 2013</p>	
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<p>1 · compensation database as soon as we can? 2 · . . . A · I -- well, that we would provide them 3 · information. It didn’t -- it didn’t say 2013. It 4 · just said: 5 · “We will provide the information just 6 · as soon as we can in a reasonable time 7 · frame given all the requests we have to 8 · complete in addition to the -- this 9 · enormous request.” 10 · Yes. 11 · . . . Q · Right. 12 · And -- and in your e-mail, you were 13 · responding to OFCCP’s request for information that 14 · included the request for the 2013 compensation 15 · snapshot data, right? 16 · . . . A · Right. 17 · . . . Q · Okay. And then if you look at the next 18 · e-mail on September 21st, 2015, that’s an e-mail 19 · from OFCCP to you, correct? 20 · . . . A · Yes. 21 · . . . Q · And that e-mail says: 22 · “I’m following up on the status of 23 · their request below dated 24 · August 28th, 2015.” 25 · And it requests a status update, correct?</p>	
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<p>1 · . . . A · Yes. 2 · . . . Q · Okay. Did Oracle respond to that 3 · request? 4 · . . . A · I’d have to look in all the other</p>	

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<p>5· e-mails. Not all e-mails that were sent back are 6· responsive to -- on the OFCCP side or on Oracle's 7· side necessarily were attached to the prior 8· communication, so I'd have to look at -- I'd have to 9· go in and look at all the e-mails sent to see if we 10· responded to it. 11· . . . Q· Okay. At -- sitting here today, are you 12· aware of any response that -- that you made to 13· OFCCP's September 21st, 2015 e-mail? 14· . . . A· I would have to go in and review them 15· to -- to determine. I know I responded to a lot of 16· data, and there were -- there were many, many, many 17· requests. So I wouldn't feel comfortable answering 18· that. I'd have to go in and -- and look in the 19· system to make -- to double-check and see if there 20· was a response to this -- to this request and -- and 21· check it and do it like a data sort and everything. 22· . . . Q· Right. 23·So my -- my question was just, based on 24· what you know today, sitting here at your 25· deposition, are you aware of a response that Oracle</p>	
<p>115 1· made to OFCCP's September 21st, 2015 e-mail? 2· . . . A· Well -- 3·MR. PARKER: Outside the scope. 4·THE WITNESS: -- I do know that in one of 5· the other exhibits that you gave me -- and we 6· were -- we -- we responded to the 2013 request. I 7· think it was in that. Let me double-check. I think 8· I saw it, one of the ones, and we were asking, I 9· think, for the basis. Let me double-check. I may 10· be wrong. 11·See, that's why I just really don't feel 12· comfortable without looking at this stuff. Let me 13· look at it. 14·MR. PARKER: There are other exhibits 15· over there. 16·THE WITNESS: Okay. I think it was one 17· with the pink on it. I thought it was. No. 18·MR. GARCIA: I think it was 38, 19· Exhibit 38. 20·THE WITNESS: Thank you. Thank you. 21·I'm not sure if it was on here or not,</p>	

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22· but I know we requested the basis of information on 23· a lot of stuff. Yeah, after we reviewed the 24· request, we did request the basis of information on 25· a lot of stuff. And I don't know what e-mail it was	
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1· in, but I do know that there was a-- some type of a 2· response about that. But I don't know which e-mail 3· it was in.	
4· BY MS. BREMER:	
5· Q· Okay. So looking back at Exhibit 43, 6· there's another e-mail in the chain from OFCCP to 7· you again. And it says:	
8· "Dear, Shauna, I'm again following up 9· with the status of the requested items 10· dated August 28th, 2015 and a 11· previous follow-up on September 21st, 12· 2015. I have yet to receive status 13· update from you."	
14· So as of -- as of October 1st, 2015, 15· Oracle had not responded to OFCCP's request that it 16· provide a compensation snapshot with 2013 data, 17· correct?	
18· A· I -- I think I've already answered that. 19· I think I would have to go through everything and -- 20· and -- to ascertain that, but let me...	
21· They're talking about the LCAs in this -- 22· in this final e-mail. I don't see a reference to 23· the 2013 snapshot.	
24· Q· Okay. So at the -- at the very top, it 25· says: "I'm again following up on the status of the	
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1· requested items" --	
2· A· Okay.	
3· Q· -- "dated August 28th, 2015," which 4· included --	
5· A· Okay.	
6· Q· -- a request for the --	
7· A· Okay.	
8· Q· -- 2013 compensation data, correct?	
9· A· Yes.	
10· Q· Okay. And -- and so OFCCP is responding 11· to this e-mail to you that it had not yet received a	

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<p>12· ·stated -- status update, right? 13· · · · A· That's what they're saying. 14· · · · Q· Okay. And you're saying, to be 15· ·absolutely sure, you would have to check all of the 16· ·e-mails that were -- went back and forth. 17· · · · ·But what I'm asking is, sitting here 18· ·today, do you have any reason to believe that that 19· ·statement is incorrect? 20· · · · A· I -- I -- I have -- I would still have to 21· ·check. I -- I can't say that it's correct or 22· ·incorrect without checking all the follow-ups. I 23· ·mean -- 24· · · · ·(Simultaneous cross-talking.) 25· · · · Q· And that's not my question. I didn't ask</p>	
<p>118</p>	
<p>1· ·if it's correct or incorrect. 2· · · · ·MR. PARKER: You should let her ask -- 3· ·finish the answer, though. Finish your answer. 4· · · · ·MS. BREMER: Go ahead. 5· · · · ·THE WITNESS: I -- you know, that's what 6· ·it says here. But I -- I can't say whether it's a 7· ·correct statement without looking at all of the 8· ·e-mails to be absolutely certain. 9· ·BY MS. BREMER: 10· · · · Q· Okay. Again, I'm not asking that you 11· ·look at every single e-mail to -- and verify that 12· ·this is accurate. 13· · · · ·I'm -- I'm asking for your best testimony 14· ·today based on what you have in front of you. Do 15· ·you remember -- do you have any reason to believe 16· ·that OFCCP did provide a response regarding the 2013 17· ·compensation data requested on August 28, 2015 18· ·before October 1st, 2015? 19· · · · ·MR. PARKER: Asked and answered. Beyond 20· ·the scope. 21· · · · ·THE WITNESS: I would have to really look 22· ·at all of -- all of the e-mails to -- to answer. I 23· ·wouldn't want to answer incorrectly. 24· · · · ·So in order to be absolutely certain, I 25· ·would want to sit there and check every e-mail and</p>	
<p>119</p>	
<p>1· ·see. And this may be perfectly correct in what 2· ·it -- in what it's saying. But to -- for me to</p>	

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<p>3· verify that under oath, I would want to double-check 4· the e-mails. 5· BY MS. BREMER: 6· . . . Q· Okay. And you understand I'm not asking 7· you to verify under oath whether that's accurate; 8· that wasn't my question, right? 9· MR. PARKER: Vague and ambiguous. Asked 10· and answered. 11· THE WITNESS: Yeah. Do you want to -- 12· MR. PARKER: And beyond the scope. 13· BY MS. BREMER: 14· . . . Q· Do you remember at the beginning of the 15· deposition I ask that you give your best testimony 16· today? 17· . . . A· Yes. 18· . . . Q· Okay. And you've -- you -- in 19· preparation for this deposition, you've reviewed 20· numerous documents, correct? 21· . . . A· Yes. 22· . . . Q· You spent about 20, 25 hours preparing 23· for this deposition? 24· . . . A· Yes. 25· . . . Q· Okay. Sitting here today, all I'm asking</p>	
<p>120</p>	
<p>1· is, do you recall -- or do you have any reason to 2· believe that the statement that OFCCP had not yet 3· received the status update from you regarding the 4· items requested, including the 2013 compensation 5· snapshot, is incorrect? 6· MR. PARKER: Vague -- vague and ambiguous 7· as to the words "items requested." Beyond the 8· scope. Asked and answered except for the items 9· requested portion. 10· THE WITNESS: I know at some point that 11· we responded to the items requested. The date I'm 12· not absolutely certain of. 13· I'll answer it this way. I have no 14· reason to believe that -- that this is a false 15· statement. But in order to be absolutely certain, I 16· would still want to look at the e-mails to be 17· absolutely certain, to give you definitive answer. 18· I hope that answers your question. 19· BY MS. BREMER:</p>	

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20. . . . Q. Okay. So at some point you indicated 21. that Oracle did respond to OFCCP's request for a 22. snapshot of 2013 compensation data, right? 23. . . . A. Yes. 24. . . . Q. Okay. And the response was that -- 25. what -- what was Oracle's response to that request?	
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1. MR. PARKER: Beyond the scope.	
2. THE WITNESS: I don't know if it's in	
3. here.	
4. MR. PARKER: And it's been asked and	
5. answered when we covered Exhibit 38.	
6. THE WITNESS: I know that there was some	
7. question over the relevancy of -- of the	
8. information, and I know that -- that we were working	
9. on different issues or different items requested.	
10. Let me see something here.	
11. BY MS. BREMER:	
12. . . . Q. You -- did you indicate you were looking	
13. for some sort of justification for the request	
14. from --	
15. a Yes, I did. I did indicate that, but I'm	
16. trying to -- I know there was an e-mail in here, I	
17. think. But I -- I'm not sure if it's in this stack	
18. or one of the other, you know some -- are like that.	
19. The stack is like that of e-mails.	
20. . . . Q. What -- what type of justification were	
21. you looking for from OFCCP?	
22. MR. PARKER: Beyond the scope. Asked and	
23. answered.	
24. THE WITNESS: As to the relevancy,	
25. because the data went back more than two years -- in	
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1. the 1/1/13 snapshot, the data went back more than	
2. two years as far as part of the compensation that	
3. would have been covered in the response, and so we	
4. wanted to know the relevancy of that time frame	
5. since it went back further than -- than two years.	
6. It would have gone back to 1/1/12, and	
7. the audit didn't start until 2014, so it would have	
8. gone back more than two years beyond -- beyond that	
9. date.	
10. BY MS. BREMER:	

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<p>11 · · · · Q. And what data are you talking about that 12 · would -- would have gone back more than two years? 13 · · · · A. Some of the earnings -- 14 · · · · ·MR. PARKER: Beyond the scope. 15 · · · · ·THE WITNESS: Oh, I'm sorry. Go ahead. 16 · · · · ·MR. PARKER: You can answer. 17 · · · · ·THE WITNESS: It -- it -- the 18 · compensation data would have gone back more than two 19 · years, so some of the earnings of the employees. 20 · BY MS. BREMER: 21 · · · · Q. And that would have -- for the 2014 22 · compensation snapshot, Oracle provided data to OFCCP 23 · that went back more than two years, correct? 24 · · · · A. No. 25 · · · · Q. And if you look back at Exhibit 126 --</p>	
123	
<p>1 · · · · A. That data started 1/1/13. 2 · · · · Q. Take a look at the very last page and 3 · very last column of data. 4 · · · · A. Are you talking about starting wages? 5 · · · · Q. Yes. 6 · · · · A. That would have been starting wages, but 7 · it wouldn't have been compensation earned. So 8 · the -- it went back -- that's like what they started 9 · at which is a reasonable time. But it -- for actual 10 · dollars earned, it would have gone back prior -- or 11 · further back than two years for that compensation 12 · year. 13 · · · · ·And so the data we gave, it started on 14 · 1/1 -- other than starting salary, which is see a common 15 · request, it started on 1/1/13, and it was -- it was 16 · through that year to 1/1/14, the data that -- that 17 · we provided. And so that went back -- it actually 18 · went back see a year and see a half from the date of the 19 · audit. 20 · · · · Q. And how were you -- what's the basis for 21 · saying that went back for more than a year and a 22 · half of the audit? 23 · · · · ·MR. PARKER: Outside the scope. 24 · · · · ·THE WITNESS: Because they -- the 1/1/13 25 · snapshot would have gone back as far as income</p>	
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<p>1 · earned to 1/1/12 which would have been two and a</p>	

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<p>2 · half years -- the audit was, what, in -- around 3 · September of 2014? So that would have gone back to 4 · the -- start of that snapshot period would have gone 5 · back two years and nine months. 6 · BY MS. BREMER: 7 · . . . Q. And that's based -- okay. 8 · . . . That's is based on -- when you say it 9 · would have gone back that far, you're saying that 10 · that's when employees initially received that base 11 · salary? 12 · . . . MR. PARKER: Vague and ambiguous. 13 · Outside the scope. 14 · . . . THE WITNESS: Not the base salary but 15 · other earnings. It could have been vacation 16 · accrued. It could have been a bonus. It could have 17 · been any other information like that. 18 · BY MS. BREMER: 19 · . . . Q. And as far as base salary was concerned, 20 · base salary would be -- in -- in the 2014 21 · compensation snapshot, the base salary listed in 22 · that snapshot was base salary as of January 1st, 23 · 2014, correct? 24 · . . . A. Yes. 25 · . . . Q. Okay. So what you're saying is that</p>	
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<p>1 · other compensation -- okay. Let's go for -- talk 2 · about bonus. 3 · . . . When would the bonus -- the bonuses 4 · listed in the 2014 compensation snapshot, when were 5 · those earned? 6 · . . . A. They would have been -- 7 · . . . MR. PARKER: Compound. 8 · . . . THE WITNESS: Oh, I'm sorry. 9 · . . . They would have been earned during 2013, 10 · so it would have been any compensation earned during 11 · the year prior to 1/1/14. 12 · BY MS. BREMER: 13 · . . . Q. Did Oracle ever provide this 14 · justification for not providing 2000 -- a 2013 15 · compensation snapshot during the compliance review? 16 · . . . MR. PARKER: Beyond the scope. 17 · . . . THE WITNESS: We would have asked for a 18 · justification of why you needed 2013 information.</p>	

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19· BY MS. BREMER: 20· . . . Q· Right. 21· . . . My question was whether Oracle ever 22· provided any reason to OFCCP for not providing the 23· 2013 compensation snapshot. 24· . . . MR. PARKER: Beyond the scope. 25· . . . THE WITNESS: We asked what the	
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1· justification was. We -- and -- and were waiting 2· for a response from you and didn't. 3· BY MS. BREMER: 4· . . . Q· And some of the data that was -- that 5· OFCCP compiled in the 2013 compensation snapshot, it 6· did not go back more than two years prior to the 7· audit, correct? 8· . . . MR. PARKER: Assumes facts. Beyond the 9· scope. 10· . . . THE WITNESS: Correct. 11· BY MS. BREMER: 12· . . . Q· Did -- why didn't Oracle just produce a 13· compensation snapshot that included data that only 14· went back two years? 15· . . . MR. PARKER: Beyond the scope. If you 16· know. 17· . . . THE WITNESS: You had asked for a 18· complete snapshot just like the 1/1/14 information, 19· so that's why we were -- we wanted to know the -- 20· why you needed it back to 1/1/13, you know, the -- 21· the snapshot as of 1/1/13. So we just wanted you to 22· provide us with a reason. And that's it. 23· BY MS. BREMER: 24· . . . Q· In other compliance reviews, did Oracle 25· provide compensation data snapshots for the year of	
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1· the -- the year of the audit plus a snapshot for the 2· prior year? 3· . . . MR. PARKER: Beyond the scope. Vague and 4· ambiguous. Compound. 5· . . . THE WITNESS: Yes. 6· BY MS. BREMER: 7· . . . Q· And in other audits, did Oracle provide 8· compensation data, some of which was data earned 9· more than two years prior to the compliance review?	

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<p>10 · · · · · MR. PARKER: Same objections. 11 · · · · · THE WITNESS: Yes.</p>	
<p>127:13-128:2</p> <p>13 · · · · Q. So why didn't you provide that in this 14 · case? 15 · · · · · MR. PARKER: Same objections. 16 · · · · · THE WITNESS: In some of the audits that 17 · we provided that, we asked for the -- the reason 18 · they wanted it, and they provided a justification 19 · and so we produced it. 20 · BY MS. BREMER: 21 · · · · Q. And what was the basis for requiring a 22 · justification from OFCCP before providing the 23 · compensation data? 24 · · · · · MR. PARKER: Beyond the scope. 25 · · · · · THE WITNESS: I guess it was further back</p> <p>128</p> <p>1 · than two years from the date of the audit. It's the 2 · same justification.</p>	
<p>128:4-129:15</p> <p>4 · · · · Q. Did Oracle require a justification to 5 · provide the 2014 data? 6 · · · · · MR. PARKER: Beyond the scope. 7 · · · · · THE WITNESS: That was required under the 8 · scheduling letter, and so that was within the 9 · two-year date of the audit. 10 · BY MS. BREMER: 11 · · · · Q. So specifically looking at Exhibit 126 12 · and the data fields, could you point out the data 13 · fields that would have gone back more than two years 14 · if you had provided OFCCP with a snapshot of 2013 15 · compensation data? 16 · · · · · MR. PARKER: Beyond the scope. 17 · · · · · THE WITNESS: Okay. The salary that's 18 · just based off a base salary would have been -- that 19 · would have been the same as of 1/1/13. However, 20 · when you get into regular salary and you get into 21 · actual wages that were paid into these other 22 · columns, those would have been different because it 23 · only would have been for a partial year.</p>	

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<p>24 · · · · · And then when you get into like -- 25 · BY MS. BREMER:</p> <p>129 1 · · · · · Q · Okay. Wait, wait, wait. Before you -- 2 · · · · · A · Oh, I'm sorry. 3 · · · · · Q · -- move on to that. 4 · · · · · A · Do you need the page? You need the page? 5 · · · · · Q · No, just -- I see where you're talking 6 · about salary and then regular salary, those columns. 7 · · · · · A · Yeah. 8 · · · · · Q · So if I understand what you're saying, 9 · you could have -- Oracle could have responded to 10 · OFCCP's request for the 2013 compensation data and 11 · provided salary data without going back more than 12 · two years. 13 · · · · · MR. PARKER: Misstates the testimony. 14 · · · · · MS. BREMER: Well, that's what I was 15 · trying to understand.</p>	
<p>135:19-137:3</p> <p>19 · · · · · Q · Okay. Let's look back -- actually, I'm 20 · going to mark as Exhibit 128 a letter from Jane Suhr 21 · to Gary Siniscalco with attachments. And for some 22 · reason, it doesn't -- it didn't print with Bates 23 · numbers, but Bates numbers are ORACLE_HQCA_5501 24 · through 22. 25 · · · · · THE REPORTER: Exhibit 128.</p> <p>136 1 · · · · · (Exhibit 128 marked for identification.) 2 · · · · · THE WITNESS: Thank you. 3 · BY MS. BREMER: 4 · · · · · Q · Okay. Did Oracle receive this letter on 5 · or about April 15th, 2015? 6 · · · · · A · Yes. 7 · · · · · Q · If you look at the -- Page 4 of 4, at the 8 · end of the letter it list attachments to the letter. 9 · · · · · A · Okay. Yes. 10 · · · · · Q · Okay. So the first attachment listed is 11 · the March 4th, 2015 on-site confirmation letter, 12 · and that's attached as the next page, right? 13 · · · · · A · Yes. 14 · · · · · Q · If you look at Item No. 4 at the bottom</p>	

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15 · of the page? 16 · · · · A · Yes. 17 · · · · Q · OFCCP requested that Oracle provide: 18 · · · · · · · · · · “A listing of employees who have made 19 · · · · · · · · · · discrimination, harassment or 20 · · · · · · · · · · retaliation complaints or otherwise 21 · · · · · · · · · · opposed any form of discrimination, 22 · · · · · · · · · · harassment or retaliation at Oracle 23 · · · · · · · · · · Redwood Shores (HQCA).” 24 · · · · · · · · · · Correct? 25 · · · · A · Yes.	
137 1 · · · · Q · And it made that request on March 4th, 2 · · 2015, right? 3 · · · · A · Yes.	

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<p>137:4-138:9</p> <p>4 · · · · Q · Okay. Looking back at the letter --</p> <p>5 · · · · A · The one to Gary or --</p> <p>6 · · · · Q · Yes, the one --</p> <p>7 · · · · A · Okay.</p> <p>8 · · · · Q · -- the one to Gary. I'm looking at Page</p> <p>9 · 2 and the paragraph that talks about during the</p> <p>10 · March 24th, 2015 entrance conference. It says:</p> <p>11 · · · · · · · · · · "OFCCP asked that Oracle confirm again</p> <p>12 · · · · · · · · · · that there was not a single complaint</p> <p>13 · · · · · · · · · · of discrimination, harassment or</p> <p>14 · · · · · · · · · · retaliation at Oracle's Redwood Shores</p> <p>15 · · · · · · · · · · headquarters where over 7,000 employees</p> <p>16 · · · · · · · · · · work."</p> <p>17 · · · · · And then it says:</p> <p>18 · · · · · · · · · · "Ms. Holman-Harries confirmed her</p> <p>19 · · · · · · · · · · previous response and explained that</p> <p>20 · · · · · · · · · · she interpreted the request to be</p> <p>21 · · · · · · · · · · limited to complaints of</p> <p>22 · · · · · · · · · · discrimination, harassment or</p> <p>23 · · · · · · · · · · retaliation made only in 2014."</p> <p>24 · · · · · Is that an accurate description of -- of</p> <p>25 · what occurred at the March 2000 -- March 24, 2015</p> <p>138</p> <p>1 · entrance conference?</p> <p>2 · · · · A · Yes.</p> <p>3 · · · · Q · Okay. And then at the bottom of that</p> <p>4 · paragraph, it says -- it also says:</p> <p>5 · · · · · · · · · · "She state that her response to our</p> <p>6 · · · · · · · · · · request was at the direction of</p> <p>7 · · · · · · · · · · Oracle's legal department."</p> <p>8 · · · · · Is that also accurate?</p> <p>9 · · · · A · Yes.</p>	
<p>138:10-22</p> <p>10 · · · · Q · (As read):</p> <p>11 · · · · · · · · · · "At that time Oracle had an opportunity</p> <p>12 · · · · · · · · · · to correct its previous inaccurate</p> <p>13 · · · · · · · · · · response. And after Oracle failed to</p> <p>14 · · · · · · · · · · do so, OFCCP shared that Oracle</p> <p>15 · · · · · · · · · · representatives -- shared with them a</p> <p>16 · · · · · · · · · · file-stamped copy of Spandow versus</p>	

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<p>17 ····· Oracle, a discrimination and 18 ····· retaliation complaint filed with the 19 ····· EEOC in 2013 and subsequently filed in 20 ····· federal court in 2014.” 21 ····· Is that -- is that also accurate? 22 ··· A. Yes.</p>	
<p>138:23-139:23</p> <p>23 ··· Q. The last paragraph of this page says 24 · that: 25 ····· “At the entrance conference, OFCCP</p> <p>139</p> <p>1 · submitted another information request for employee 2 · complaints to Oracle, including, ‘all internal and 3 · external complaints of discrimination, harassment or 4 · retaliation filed at Oracle headquarters within the 5 · past three years.” 6 ····· Is that correct? Did that occur? 7 ··· A. Yes. 8 ··· Q. Okay. And then it says: 9 ····· “In response, Oracle’s vice president 10 ····· of International Human Resources, 11 ····· Elizabeth Snyder assured OFCCP that 12 ····· Oracle will gather the information from 13 ····· its legal department and provide it to 14 ····· OFCCP immediately.” 15 ····· Is that also accurate? 16 ··· A. I believe so. I’m not quite as clear on 17 · that statement, but I believe so. 18 ··· Q. And -- and you attended the entrance 19 · conference? 20 ··· A. Yeah. I’m going on memory, so that last 21 · statement isn’t -- the other statements I clearly 22 · remember, but the last sentence that you just read, 23 · I -- I don’t remember.</p>	

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<p>140:22-141:1</p> <p>22 · · · · Q. Okay. And my question again is, during 23 · the compliance review, did Oracle provide the data 24 · that OFCCP had requested for internal complaints of 25 · discrimination, harassment or retaliation?</p> <p>141</p> <p>1 · · · · A. No.</p>	
<p>141:3-143:13</p> <p>3 · · · · · Did Oracle do anything to collect 4 · information regarding internal complaints in 5 · response to OFCCP's requests? 6 · · · · · MR. PARKER: Beyond the scope. Vague and 7 · ambiguous. 8 · · · · · THE WITNESS: The complaints are handled 9 · outside of my department. I don't -- I don't know 10 · what the legal department did. So I can't really 11 · tell you if -- if they did any additional -- what -- 12 · what additional work, if any, that did they. 13 · BY MS. BREMER: 14 · · · · Q. And did you -- and did your compliance 15 · group do anything to gather information regarding 16 · internal complaints of discrimination in response to 17 · OFCCP's request? 18 · · · · · MR. PARKER: Same objections. 19 · · · · · THE WITNESS: We would have been reliant 20 · on the legal department for that. So I -- I defer 21 · to the fact that -- I -- I don't know what they did. 22 · I can't -- you know, if they did any additional 23 · research or -- or that, because we would have gone 24 · to the legal department to get that information. 25 · BY MS. BREMER:</p> <p>142</p> <p>1 · · · · Q. Your group would have gone to the legal 2 · department to get that information? 3 · · · · A. Yes. 4 · · · · Q. Okay. I'm having trouble with your -- 5 · your statement -- 6 · · · · A. Okay. 7 · · · · Q. -- "additional research" which suggests 8 · to me that you did some research, so that's what</p>	

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<p>9 · I'm -- why I ask again. 10 · A. Oh, I -- it's in response, yeah. There's 11 · not additional -- 12 · MR. PARKER: I'm sorry. The question 13 · is -- 14 · THE WITNESS: Yeah, I'm sorry. 15 · MR. PARKER: -- still outside the scope. 16 · THE WITNESS: Okay. I'm sorry. 17 · MR. PARKER: Otherwise, the same 18 · objections. 19 · THE WITNESS: Yeah. I'm sorry if I used 20 · that and that's confusing. 21 · Our group would not have done any 22 · research in addition to what our lawyer described to 23 · you because it -- it -- we do not do -- we do not 24 · handle that area. We would have had to rely on the 25 · legal department to do research on those items.</p> <p>143 1 · And then you said, did they do -- I 2 · think -- I'm not sure if you said they did 3 · additional, but maybe I just put it that way in my 4 · head. I don't know. But it -- the research that 5 · they did, I would not know what they did. 6 · BY MS. BREMER: 7 · . . . Q. Okay. So whatever was done to respond to 8 · that request for internal complaints of 9 · discrimination was done by Oracle's legal 10 · department? 11 · MR. PARKER: Outside the scope. Asked 12 · and answered. 13 · THE WITNESS: Yes.</p>	
<p>146:3-11 3 · . . . Q. So with response -- with regard to 4 · education degree earned, Oracle was telling OFCCP 5 · that Oracle did not have that data in any of its 6 · databases? 7 · . . . A. Yes. And what we meant by that is -- and 8 · I can see what your confusion is, but -- is that we 9 · didn't have it in its entirety in all those 10 · databases as I told you earlier when I was talking 11 · to you.</p>	

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<p>172:19-176:23</p> <p>19 · · · · Q · And I was asking if Oracle took OFCCP up 20 · on its suggestion that the parties need to 21 · conciliate? 22 · · · · A · From my understanding, I know there was a 23 · response to me about -- about the position statement 24 · and about that, but there was a lot of 25 · correspondence between our outside counsel and OFCCP</p>	
<p>173</p> <p>1 · with regard to conciliation. 2 · · · · · As the -- as the correspondence went on, 3 · we had a discussion and we agreed to conciliate and, 4 · in fact, had a meeting, I believe it was, in October 5 · of 2016, if my memory serves me correctly, with -- 6 · in our first efforts to conciliate. 7 · · · · Q · Was there any meeting prior to October 6, 8 · 2016 between OFCCP and Oracle regarding 9 · conciliation? 10 · · · · A · Not to the best of my memory, no. 11 · · · · Q · In the letter at the bottom of this third 12 · paragraph that we were talking about before the 13 · break, OFCCP says: 14 · · · · · "Argument of counsel, affirmations of 15 · · · · · good faith in making individual 16 · · · · · decisions and cohort comparisons are 17 · · · · · insufficient to rebut statistical 18 · · · · · evidence of systemic discrimination." 19 · · · · · Do you see that? 20 · · · · A · Which -- which paragraph is it in? Is it 21 · in the -- his letter, right? This first -- 22 · · · · Q · Yes, yes, the -- the first page of 23 · Exhibit 5 to the Suhr PMK. 24 · · · · A · Yeah, how far down on the page? That's 25 · probably an easier question.</p>	
<p>174</p> <p>1 · · · · Q · It's the second-to-last paragraph, and 2 · it's the -- 3 · · · · A · Okay. 4 · · · · Q · -- last sentence of that paragraph. 5 · · · · A · Okay. Yes, I see that. 6 · · · · Q · Okay. And was that the position that 7 · OFCCP took throughout the conciliation period?</p>	

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<p>8 · · · · · MR. PARKER: Compound and vague and 9 · ambiguous. 10 · · · · · THE WITNESS: I was only involved in part 11 · of the conciliation efforts, so it was a position 12 · they took and the part that I was involved in. 13 · BY MS. BREMER: 14 · · · Q. And during conciliation -- during the 15 · period of conciliation, after the receipt of the NOV 16 · in March 11th, 2016 until OFCCP filed the 17 · complaint, did you -- did you review all of the 18 · letters that were sent between counsel and OFCCP? 19 · · · · · MR. PARKER: I -- I object to the phrase 20 · “during the period of conciliation” both 21 · argumentative and vague and ambiguous. 22 · · · · · You can otherwise answer. 23 · · · · · THE WITNESS: Okay. I reviewed the 24 · letters but not during that time frame, not all of 25 · them. But I -- or, actually, I think -- yes, I did</p>	
<p>175</p>	
<p>1 · review them. I correct myself. 2 · BY MS. BREMER: 3 · · · Q. What was your understanding of OFCCP’s 4 · statement that cohort comparisons are insufficient 5 · to rebut statistical evidence of systemic 6 · discrimination? 7 · · · A. My understanding was that OFCCP said 8 · there was a systemic issue and it was not going to 9 · look at people that were doing essentially the same 10 · work and comparing those people against each; 11 · rather, they were going -- they were looking at an 12 · overall comparison regardless of if they were doing 13 · the same work. 14 · · · Q. What’s your understanding of the term 15 · “cohort”? 16 · · · A. A cohort would be somebody doing the same 17 · type of work that somebody else would be doing. So, 18 · for instance, on my team, I have a couple of people 19 · that are doing -- doing compliance or diversity from 20 · a compliance perspective, and they would be cohorts. 21 · However, I have a counterpart that has people on her 22 · team that -- that do diversity, but they do it from 23 · an inclusions perspective. 24 · · · · · My team, they were -- they’re required to</p>	

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<p>25 · do a lot of data manipulation and -- and research</p> <p>176</p> <p>1 · and that type of thing. And her team, they -- you</p> <p>2 · know, they -- they meet and greet with people and</p> <p>3 · they -- they build branding. So we -- they would</p> <p>4 · not be cohorts with us; however, two people on my</p> <p>5 · team that are doing the same work would be cohorts.</p> <p>6 · · · · Q · So cohorts under your definition would be</p> <p>7 · people who are doing the -- the same -- the same</p> <p>8 · work, individuals who are doing the same work?</p> <p>9 · · · · · MR. PARKER: Asked and answered.</p> <p>10 · · · · · THE WITNESS: Yes.</p> <p>11 · BY MS. BREMER:</p> <p>12 · · · · Q · And OFCCP indicated in March 2016 that it</p> <p>13 · would be looking for statistical evidence of</p> <p>14 · systemic discrimination from Oracle, right?</p> <p>15 · · · · A · I don't understand the question.</p> <p>16 · · · · Q · I'm sorry.</p> <p>17 · · · · A · That's okay. It's getting late.</p> <p>18 · · · · Q · OFCCP's position that -- was that it was</p> <p>19 · conducting a statistical analysis of the evidence</p> <p>20 · not looking at individuals, right?</p> <p>21 · · · · A · They said they were looking at -- at</p> <p>22 · groups of people. They were not looking at doing a</p> <p>23 · cohort analysis.</p>	
<p>182:14-184:7</p> <p>14 · as Exhibit 7 to the Jane Suhr PMK deposition.</p> <p>15 · (Exhibit 7 previously marked for identification.)</p> <p>16 · · · · Q · Was Exhibit 7 OFCCP's response to</p> <p>17 · Oracle's letter which was marked as Exhibit 6 to the</p> <p>18 · Jane Suhr PMK deposition?</p> <p>19 · · · · A · Yes.</p> <p>20 · · · · Q · So in this response, OFCCP responded to</p> <p>21 · some of Oracle's questions, right?</p> <p>22 · · · · A · A few of them.</p> <p>23 · · · · Q · And it also -- the letter also stated why</p> <p>24 · other questions were inappropriate, right?</p> <p>25 · · · · A · From the OFCCP's perspective.</p> <p>183</p> <p>1 · · · · · MS. BREMER: I'm going to show you what</p> <p>2 · has been marked as Exhibit 9 to Jane Suhr's PMK</p>	

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<p>3 · deposition. 4 · (Exhibit 9 previously marked for identification.) 5 · · · · Q · Exhibit 9 is Oracle’s position statement, 6 · correct? 7 · · · · · MR. PARKER: Misstates the document. 8 · BY MS. BREMER: 9 · · · · Q · Okay. Just looking at the -- the first 10 · page is an e-mail cover letter from Gary Siniscalco 11 · to Hea Jung Atkins dated May 25th, 2016, correct? 12 · You nodded -- 13 · · · · A · You mean on -- on this? Yes. 14 · · · · Q · Yes. So the cover -- the cover letter 15 · that’s attaching the May 25th, 2016 letter says: 16 · · · · · “Attached please find our position 17 · · · · · statement in response to Mr. Dole’s 18 · · · · · letter of March 11, 2016 as requested 19 · · · · · by you.” 20 · · · · · So this was Oracle’s position statement 21 · to OFCCP’s NOV, right? 22 · · · · A · Yes. 23 · · · · Q · And with respect to the compensation 24 · discrimination violations, Oracle’s position was the 25 · OFCCP’s statistical model was defective, right?</p> <p>184</p> <p>1 · · · · A · Where do you see that? Do you know what 2 · paragraph? 3 · · · · Q · If you look on Page 3? 4 · · · · A · Three of 18? 5 · · · · Q · Yes. 6 · · · · A · Okay. 7 · · · · Q · So the -- the first three pages of the</p>	
<p>185:14-24</p> <p>14 · · · · Q · And Oracle did not offer any factor that 15 · OFCCP should consider that would explain the 16 · disparities described in the NOV, right? 17 · · · · A · Well, Oracle -- no, I don’t -- Oracle 18 · asked -- told the OFCCP that they -- they thought a 19 · cohort analysis should be done because each job is 20 · so different at Oracle that they did not feel the 21 · groupings that OFCCP chose to use were comparing -- 22 · was comparing apples to apples. They did not 23 · con- -- consider that these jobs were performing the</p>	

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24 · same -- the same work.	
<p>186:12-17</p> <p>12 · . . . Q · Oracle's position throughout the 13 · conciliation period was that OFCCP should conduct a 14 · cohort analysis, right? 15 · . . . A · Yes, that they should consider true 16 · comparators because the jobs that they were 17 · comparing were not true comparators.</p>	
<p>186:18-187:12</p> <p>18 · . . . Q · So OF -- Oracle's position during the 19 · conciliation period were -- was that a statistical 20 · model would not account for differences in jobs? 21 · . . . MR. PARKER: Sorry. The documents speak 22 · for themselves on -- on this particular point. And 23 · I -- to the extent there's an implication that this 24 · was the only position taken by Oracle in 25 · conciliation, I would object on that basis as well.</p> <p>187</p> <p>1 · . . . THE WITNESS: Oracle's position was that 2 · the jobs -- the jobs were very different. And from 3 · what they were saying, it could not be compared with 4 · the mod- -- you know, with -- with the statistical 5 · model that the OFCCP used from what I understood of 6 · that model. 7 · . . . And I think that's why he was asking -- 8 · another reason why he was asking so many questions 9 · about how -- how the model was used and the results 10 · of the model, you know, in those initial questions. 11 · But I -- I don't know for certain, but I would 12 · assume, pretty much, that that would be the reason.</p>	
<p>191:1-20</p> <p>1 · . . . Q · -- was -- well, let me just rephrase it 2 · to be absolutely clear. 3 · . . . After OFCCP issued the NOV in March of 4 · 2016 up until January of 2017, did Oracle present 5 · any competing statistical model for OFCCP to 6 · consider? 7 · . . . MR. PARKER: Asked and answered.</p>	

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<p>8 · · · · · THE WITNESS: No. 9 · · · · · BY MS. BREMER: 10 · · · · · Q. Let's see here. 11 · · · · · Did -- and during that same time frame -- 12 · · · · · and -- 13 · · · · · A. Okay. 14 · · · · · Q. -- these questions -- 15 · · · · · A. I gotcha. 16 · · · · · Q. -- involve that same time frame. 17 · · · · · A. Okay. 18 · · · · · Q. Did Oracle offer any factors that OFCCP 19 · · · · · should consider in its statistical analysis that 20 · · · · · would explain the disparities found?</p>	
<p>191:21-192:8</p> <p>21 · · · · · A. No. 22 · · · · · Q. Oracle -- let's see here. 23 · · · · · A. I think, though -- you know, I was 24 · · · · · thinking -- I'm trying to think back on the 25 · · · · · communication, and I think there was something in</p> <p>192</p> <p>1 · · · · · one of these. I don't know if it was in this group, 2 · · · · · but I believe Erin sent a -- Erin Connell sent a 3 · · · · · suggesting looking at them by comparators. I 4 · · · · · believe she sent a communication to you. 5 · · · · · Q. A letter? 6 · · · · · A. Something in there. I remember seeing 7 · · · · · something, and -- and I believe it was in that time 8 · · · · · frame.</p>	
<p>192:20-193:1</p> <p>20 · · · · · THE WITNESS: She did. She did. But I 21 · · · · · don't know if it's in -- if -- I was just looking to 22 · · · · · see if it was in one of these groupings. 23 · · · · · So there was that. It was -- it took it 24 · · · · · back to the -- the cohort or the comparators again, 25 · · · · · using comparators. So that was a suggestion that</p> <p>193</p> <p>1 · · · · · was made in that time frame.</p>	

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<p>193:3-199:2</p> <p>3 · · · · Q · Okay. A suggestion that -- so Oracle 4 · made a suggestion that OFCCP look at -- at 5 · cohorts -- 6 · · · · A · Yes. 7 · · · · Q · -- which could be groupings of -- of just 8 · a few employees, right? 9 · · · · · MR. PARKER: That misstates the 10 · testimony. 11 · · BY MS. BREMER: 12 · · · · Q · Okay. Let's just look at -- back at this 13 · letter that's Exhibit -- Exhibit 9, and this -- 14 · · · · A · Is that Erin's letter? 15 · · · · Q · No, this is Gary's letter still that -- 16 · · · · A · Okay. 17 · · · · Q · -- that we were looking at before, and it 18 · says in Roman numeral IV. 19 · · · · A · Okay. I'm -- of course I already 20 · shuffled this. 21 · · · · Q · I think that's the one. 22 · · · · A · Is it? Nine. Okay. 23 · · · · Q · It is. 24 · · · · · So back to Page 3 -- 25 · · · · A · Okay.</p>	
<p>194</p> <p>1 · · · · Q · -- of the letter -- 2 · · · · A · Sure, sure. 3 · · · · Q · -- from Gary to Hea Jung Atkins. 4 · · · · A · Okay. 5 · · · · Q · Okay. So at the bottom of -- of this 6 · Roman numeral IV, it says: 7 · · · · · "In many cases, no two employees at 8 · · · · · HQCA have the same or similar job 9 · · · · · unless they have no or possibly just 10 · · · · · one or two comparators." 11 · · · · · So Oracle was taking the position that 12 · OFCCP would need to consider groupings of -- of 13 · employees, some of which would be just two or three 14 · employees, right? 15 · · · · A · It could be. 16 · · · · Q · Okay. Looking at Page 16. 17 · · · · A · Sixteen of 18? 18 · · · · Q · Yes, 16 of 18.</p>	

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<p>19 ····· Okay. At the very top of the page, it 20 · says: 21 ····· “None of variables the OFCCP considered 22 ····· addresses this specific type of work 23 ····· performed by individual employees.” 24 ··· A. Is that in the very first par- -- oh, I 25 · see. Okay, it starts with “However,” okay.</p> <p>195 1 ··· Q. Did Oracle suggest a factor or a variable 2 · that OFCCP should consider that would address the 3 · specific types of work performed by individual 4 · employees? 5 ··· A. No, not any -- not anything -- one 6 · factor. 7 ··· Q. Okay. Looking at Page 15 of 18, there’s 8 · Footnote 17 which says: 9 ····· “We presume, quote, work experience at 10 ····· Oracle means simply length of time at 11 ····· Oracle since hire or acquisition.” 12 ····· And that was referring to -- was Oracle 13 · presuming that the work experience that OFCCP 14 · considered in its model meant length of time at 15 · Oracle since hire or acquisition? 16 ··· A. I’m not certain. I -- I believe that 17 · they were just basically talking about at time -- 18 · time -- time at Oracle rather than relevant work 19 · experience. And I just know that from some of the 20 · different discussions with regard to this item. 21 ··· Q. Okay. Actually, let’s -- let’s just look 22 · up at the text where these footnotes appear -- 23 ··· A. Okay. 24 ··· Q. -- the text of the letter. It says: 25 ····· “Each of the regression models” --</p> <p>196 1 ····· those are compensation regression 2 ····· models -- “simply -- state simply that 3 ····· the model involved the natural log of 4 ····· annual salary as its dependent variable 5 ····· and accounted for differences in 6 ····· employee’s gender, race, et cetera, 7 ····· work experience at Oracle, work 8 ····· experience prior to Oracle, full-time, 9 ····· part-time status, exempt status, global</p>	

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10 · · · · · career level, job specialty and job 11 · · · · · title.” 12 · · · · · So the footnote to -- to work experience 13 · at Oracle is referring to that factor that OFCCP 14 · used in the model described in the NOV, right? 15 · · · · A · Yes. 16 · · · · Q · Okay. And so Oracle states that it 17 · presumes that work experience at Oracle means the 18 · length of hire -- or the length of time at Oracle 19 · since hire or acquisition? 20 · · · · A · Yes. 21 · · · · Q · Okay. And then Oracle also makes an 22 · assumption regarding the -- what work experience 23 · prior to Oracle meant in OFCCP’s model that it 24 · described in the NOV, right? 25 · · · · · MR. PARKER: The document speaks for	
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1 · itself. 2 · · · · · THE WITNESS: Yes. 3 · BY MS. BREMER: 4 · · · · Q · And there aren’t any other footnotes -- 5 · the other -- the other factors -- Oracle knew what 6 · data OFCCP was considering for these other factors, 7 · right? 8 · · · · · MR. PARKER: Misstates the testimony. 9 · Asked and answered. 10 · · · · · THE WITNESS: The question was, did 11 · Oracle know what data the OFCCP was considering for 12 · these other factors? Is that the question that you 13 · asked. 14 · BY MS. BREMER: 15 · · · · Q · Okay. Let me -- these other factors -- 16 · okay. So, for example, gender, that was included -- 17 · gender was a field of data that was included in the 18 · compensation snapshot that Oracle provided to OFCCP, 19 · right? 20 · · · · A · Yes. 21 · · · · Q · Okay. And full-time, part-type status, 22 · that was also a field of data that was in the 23 · snapshot? 24 · · · · A · Yes. 25 · · · · Q · Exempt status was a field of data in the	
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<p>1 · compensation snapshot? 2 · . . . A. Yes. But not all of these were, so I 3 · don't know -- I think they -- the answer to your 4 · question is for some of them but not -- not all of 5 · them. 6 · . . . Q. Okay. 7 · . . . A. Not all of these factors. 8 · . . . Q. Right. I'm just going through them -- 9 · . . . A. Yeah. 10 · . . . Q. -- one by one. 11 · . . . A. Okay. 12 · . . . Q. Global -- global career level was also 13 · a -- that was also a column of data that was 14 · included in the compensation snapshot? 15 · . . . A. Yes. 16 · . . . Q. Job specialty was as well? 17 · . . . A. Yes. 18 · . . . Q. And job title was another data field? 19 · . . . A. Yes. 20 · . . . Q. Okay. Okay. And so on Pages 17 and 18 21 · of 18, Oracle provides OFCCP with some comparisons 22 · of individual employees, correct? 23 · . . . A. Yes. 24 · . . . Q. And this was after OFCCP had already 25 · advised Oracle that it would not consider a cohort</p> <p>199 1 · analysis in response to the NOV, right? 2 · . . . A. Yes.</p>	
<p>200:5-25</p> <p>5 · MS. BREMER: Okay. I'm going to mark as 6 · Exhibit 130 a document dated June 8th, 2016. It's 7 · the Show Cause Notice. 8 · . . . (Exhibit 130 marked for identification.) 9 · THE REPORTER: Exhibit 130. 10 · THE WITNESS: Thank you. 11 · BY MS. BREMER: 12 · . . . Q. Did Oracle receive a copy of a Show Cause 13 · Notice from OFCCP on or about June 8th, 2016? 14 · . . . A. Yes. 15 · . . . Q. And is this a true and correct copy of 16 · the Show Cause Notice that was sent to Oracle? 17 · . . . A. It looks like it.</p>	

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<p>18 · · · · Q· And after -- after OFCCP issued this Show 19 · Cause Notice, Oracle requested an in-person 20 · meeting -- a conciliation meeting with OFCCP, 21 · correct? 22 · · · · A· To the best of my memory, yes. 23 · · · · Q· And Oracle and OFCCP agreed to meet on 24 · October 6th, 2016? 25 · · · · A· Yes.</p>	
<p>202:21-203:9</p> <p>21 · · · · Q· Go ahead and clarify. 22 · · · · A· Okay. And I think I did clarify it, but 23 · I just want to make sure. When you asked me in -- 24 · in the last round, last segment, that if there were 25 · any other factors that Oracle suggested. And at</p> <p>203</p> <p>1 · first, I -- I said no. And I said, wait a second, 2 · there were factors such as, you know, true 3 · comparators. 4 · · · · And I just want to make sure when I'm 5 · talking about true comparators, I was -- I mean the 6 · different functions of their jobs, what they're 7 · doing and what are the different responsibilities 8 · they have, the different tasks they perform and that 9 · type of thing.</p>	
<p>205:5-13</p> <p>5 · · · · Q· And Oracle didn't suggest that there was 6 · a data field that OFCCP should be considering in 7 · order to make its statistical model more accurate? 8 · · · · A· The suggestions that Oracle made were not 9 · in relation to a statistical model. It was in 10 · relation to the cohort analysis and the different 11 · responsibilities that people have and the -- how 12 · jobs are different since there's so many different 13 · types of jobs at Oracle.</p>	
<p>205:22-208:1</p> <p>22 · · · · Q· Okay. We were talking about who was 23 · taking notes -- 24 · · · · A· Yes. Yes, we were.</p>	

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<p>25 · · · · Q. -- during October 6th, 2016</p> <p>206</p> <p>1 · · · conciliation meeting.</p> <p>2 · · · · · What notes have you -- or have you</p> <p>3 · · · reviewed notes of the October 6, 2016 meeting in</p> <p>4 · · · preparation for this deposition?</p> <p>5 · · · · A. Yes.</p> <p>6 · · · · Q. And what notes have you reviewed?</p> <p>7 · · · · A. I reviewed the notes that I took and that</p> <p>8 · · · I sent to Charles Nyakundi, and then he added his</p> <p>9 · · · notes to the set of notes that I took, so the final</p> <p>10 · · · product of that.</p> <p>11 · · · · Q. Okay. And when did Charles Nyakundi add</p> <p>12 · · · his notes to your notes?</p> <p>13 · · · · A. I don't know the exact date, but it was</p> <p>14 · · · shortly after the -- the October 6th meeting.</p> <p>15 · · · · Q. Have you seen any other notes other than</p> <p>16 · · · your notes and Charles Nyakundi's notes that just --</p> <p>17 · · · that reflect what happened at the October 6th,</p> <p>18 · · · 2016 meeting?</p> <p>19 · · · · A. No.</p> <p>20 · · · · · MS. BREMER: Okay. I'm going mark as</p> <p>21 · · · Exhibit 131 a document that is Bates-numbered</p> <p>22 · · · ORACLE_HQCA_607319 through 607325.</p> <p>23 · · · · (Exhibit 131 marked for identification.)</p> <p>24 · · · · · MS. BREMER: And just for the record, I'd</p> <p>25 · · · like to state that this -- that these notes -- or</p>	
<p>207</p> <p>1 · · · this document was produced last night at</p> <p>2 · · · approximately 4:55. I did not become aware that</p> <p>3 · · · Oracle had produced this document until our lunch</p> <p>4 · · · break during this deposition.</p> <p>5 · · · · · For that reason alone, I'm going to keep</p> <p>6 · · · this deposition open for further questions because</p> <p>7 · · · of the lateness of -- of this.</p> <p>8 · · · · · MR. PARKER: Do whatever you want to do,</p> <p>9 · · · but I'll disagree with it.</p> <p>10 · · · · · MS. BREMER: Okay.</p> <p>11 · · · · · MR. PARKER: I'm not going to agree to</p> <p>12 · · · continue the deposition, so have at it.</p> <p>13 · · · BY MS. BREMER:</p> <p>14 · · · · Q. Do you recognize Exhibit 131?</p> <p>15 · · · · A. Yes.</p>	

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<p>16 · · · · Q · And what is it? 17 · · · · A · These are Charles Nyakundi's and my 18 · notes. 19 · · · · Q · So these are the notes that you were 20 · talking about that Charles combined both -- his 21 · notes with your notes? 22 · · · · A · Yes. 23 · · · · Q · And was that done -- that was done in 24 · 2016? 25 · · · · · MR. PARKER: Asked and answered.</p> <p>208 1 · · · · · THE WITNESS: Yes.</p>	
<p>208:3-8</p> <p>3 · · · · Q · Are there other -- did you retain the 4 · original notes that you took and the original notes 5 · that Charles Nyakundi took? 6 · · · · A · I don't have his notes separate from 7 · mine. I have my notes separate from his that I took 8 · electronically.</p>	
<p>208:9-211:3</p> <p>9 · · · · Q · Okay. Speaking on behalf of Oracle, do 10 · you -- does Oracle have Charles Nyakundi's original 11 · notes of the October 6th, 2016 conciliation 12 · meeting? 13 · · · · A · They would be -- if -- they would be 14 · retained on Charles Nyakundi's computer. 15 · · · · Q · Okay. 16 · · · · · MS. BREMER: So, Counsel -- 17 · · · · · THE WITNESS: Work computer. 18 · · · · · MS. BREMER: Okay. So, Counsel, I 19 · request the original notes be produced. 20 · · · · · MR. PARKER: I hear your request. 21 · ·BY MS. BREMER: 22 · · · · Q · Looking at Page 1 of the notes, there is 23 · a header after the first paragraph that says "Hiring 24 · and recruiting portion of the NOV," with a colon. 25 · · · · · Who -- is it your understanding that that</p> <p>209 1 · reflects someone's statement, or was that included</p>	

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<p>2 · by either you or Charles to describe? 3 · · · · A · I'm not sure if it reflects a statement 4 · or not. It prob- -- it could have been an organizer 5 · that either Charles or I used. Because these notes 6 · were taken al- -- well, almost three years ago. So 7 · not sure -- absolutely certain. But if -- if -- 8 · if -- that. But I think that if you look at some of 9 · the data, that it may explain it. 10 · · · · Q · Okay. So let's do that. 11 · · · · · Af- -- in the first paragraph after that 12 · header there's Janette with a colon. 13 · · · · A · Uh-huh. 14 · · · · Q · In these notes, if there is a person's 15 · name with a colon, does that indicate that they were 16 · the one speaking? 17 · · · · A · Yes. 18 · · · · Q · And then it says -- in the second 19 · sentence of -- after the Janette with a colon, it 20 · says: 21 · · · · · "With respect to compensation with 22 · · · · · regard to gender and race, shows ranges 23 · · · · · from three standard deviations." 24 · · · · · Do you see that? 25 · · · · A · Yes.</p>	
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<p>1 · · · · Q · So there was in fact some information 2 · after the hiring and recruiting header that related 3 · to compensation violations, right? 4 · · · · · MR. PARKER: Vague and ambiguous. 5 · · · · · THE WITNESS: Yes. 6 · BY MS. BREMER: 7 · · · · Q · So Janette indicated that with respect to 8 · the compensation, everything is out of your data. 9 · · · · · Did you understand -- did Oracle 10 · understand that OFCCP's analysis of the compensation 11 · was based on the -- on the compensation data that 12 · Oracle had provided to OFCCP during the compliance 13 · review? 14 · · · · · MR. PARKER: Asked and answered. 15 · · · · · THE WITNESS: Yes. 16 · BY MS. BREMER: 17 · · · · Q · She says: 18 · · · · · "It -- it is easy to replicate and pick</p>	

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<p>19·our analysis apart.” 20· Did Oracle attempt to replicate the 21· analysis -- the compensation analysis done by OFCCP? 22· MR. PARKER: Again, the instructions are 23· going to be if it was done at the direction of 24· counsel or by counsel, you cannot answer, that 25· question. Otherwise if that’s not true or counsel</p> <p>211 1· was not otherwise involved, you can answer. 2· THE WITNESS: Okay. Any attempt at 3· replication was done by counsel.</p>	
<p>211:18-212:22</p> <p>18· . . . Q· Okay. And between March 11th, 2016 and 19· January 17th, 2017, Oracle did not provide an 20· expert report to OFCCP, right? 21· . . . A· Yes. 22· . . . Q· Yes, as -- as in it did not? 23· . . . A· We did not, yes. 24· . . . Q· Right. 25· Okay. And then the next paragraph has</p> <p>212 1· "Gary" with a colon. Is that referring to what Gary 2· Siniscalco said? 3· . . . A· Yes. 4· . . . Q· And at the end of -- at the end of this 5· paragraph, it says: 6· "We have to look at specific issues and 7· individuals and look at that" -- and 8· then it trails off. 9· It says -- do you know what else he said? 10· . . . MR. PARKER: I'm sorry. It assumes 11· facts. 12· . . . THE WITNESS: Okay. 13· . . . MR. PARKER: I'm not sure that it's a 14· trailing off at all, so it assumes fact. 15· BY MS. BREMER: 16· . . . Q· Okay. Is that a -- is that -- is it your 17· understanding that that is what he said or if he 18· said anything else? 19· . . . A· That's what the notes indicate. I don't 20· remember if he said anything else, but I -- I just</p>	

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<p>214:2-11</p> <p>2 · · · · Q · Okay. And so then in the last paragraph 3 · on this page, Janette Wipper explained the -- or 4 · described the variables used in OFCCP's compensation 5 · analysis. 6 · · · · · Do you see that? 7 · · · · A · Yes. 8 · · · · Q · And -- and is that accurate as far as -- 9 · is this an accurate reflection of what occurred at 10 · that meeting? 11 · · · · A · Yes.</p>	
<p>214:12-222:5</p> <p>12 · · · · Q · And when discussing the compensation 13 · model, she indicated: 14 · · · · · "We don't see evidence that supports 15 · · · · · supervisor." 16 · · · · · What -- what was she talking about, or do 17 · you understand what he was saying? 18 · · · · · MR. PARKER: I'm sorry. Calls for 19 · speculation. 20 · · · · · THE WITNESS: Okay. 21 · · · · · MR. PARKER: Lacks foundation. 22 · BY MS. BREMER: 23 · · · · Q · What -- what -- what was your 24 · understanding of what she was saying? 25 · · · · A · And -- and generally -- when we look at</p> <p>215</p> <p>1 · cohorts, generally they're working under the same 2 · supervisor, and they may even be working on the same 3 · product. So when we look at supervisor, that's 4 · another term for the product they're working on or 5 · more towards the type of work that they're doing. 6 · Not always, because even under the same supervisor, 7 · you could have differences in jobs. 8 · · · · · But by looking under supervisor, you're 9 · more likely to find true co- -- cohorts or 10 · comparators. 11 · · · · Q · Okay. So this was OFCCP's response to 12 · Oracle's suggestion that the analysis for 13 · compensation should be done by supervisor? 14 · · · · · MR. PARKER: Calls for speculation.</p>	

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<p>15· ·Lacks foundation as asked. 16· ····· THE WITNESS: Yes. 17· ·BY MS. BREMER: 18· ··· Q· And the notes indicate that Janette 19· ·Wipper said: 20· ····· "Employees believe that career level 21· ····· and title have to do with pay." 22· ····· Did you understand OFCCP to be talking 23· ·about global -- the global career level? 24· ··· A· Yes. 25· ··· Q· And "title" would be job title?</p>	
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<p>1· ··· A· Yes. 2· ··· Q· And on the top of Page 4, Gary -- then 3· ·did Gary respond to Jeanette Wipper's comments? 4· ··· A· Yes. 5· ··· Q· And -- and Gary was arguing that -- Gary 6· ·we was responding -- or continuing Oracle's argument 7· ·that the data should be analyzed by supervisor. 8· ····· MR. PARKER: The passage speaks for 9· ·itself. 10· ····· THE WITNESS: Yes. To get true -- to get 11· ·true comparators, yes. 12· ·BY MS. BREMER: 13· ··· Q· And you recall that there was some 14· ·back-and-forth during the conciliation, meaning 15· ·between OFCCP and Oracle, about the validity of -- 16· ·of comparing employees in doing a compensation 17· ·analysis that included -- or that was based on 18· ·employees' supervisors? 19· ··· A· I know there was discussion back and 20· ·forth, yes. 21· ··· Q· And at the end of this statement as 22· ·reflected in the notes, it says: 23· ····· "The difference in product as 24· ····· represented by supervisor creates a 25· ····· different skill set."</p>	
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<p>1· ····· And Jeanette Wipper, did she respond: 2· ····· "Then do you have a document?" 3· ··· A· That's what the notes indicate. 4· ··· Q· And is -- is that your memory of the 5· ·meeting as well?</p>	

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<p>6 · · · · A · My memory's tied up with these notes, in 7 · all honesty, so yeah. It's from what the notes say. 8 · I can only attest to what the notes say for 9 · everything that went on in this meeting. 10 · · · · Q · Did -- between -- or after the 11 · October 6th, 2016 meeting up through January 2017, 12 · did Oracle provide OFCCP with a document that would 13 · indicate that the difference in product is 14 · represented by supervisor? 15 · · · · A · I would have to review all the documents. 16 · I know that there is that -- the letter from Erin 17 · Connell that I keep referencing, and that may have 18 · been after -- after this. 19 · · · · · But, you know, I -- I'd have to -- to 20 · review, again, all the communication back and forth 21 · between outside counsel and OFCCP to say exactly 22 · when those communications occurred. 23 · · · · Q · Okay. So if there was such a document, 24 · it would be reflected in one of those -- in the 25 · correspondence between OFCCP and Oracle's outside</p>	
<p>218 1 · counsel? 2 · · · · A · Yes. 3 · · · · Q · Okay. And so the next paragraph after 4 · this, did Gary take the position as well that this 5 · is individualized and some employees don't have a 6 · comparator in job title product? 7 · · · · · MR. PARKER: Document speaks for itself. 8 · Could you point her to -- are you quoting something? 9 · · · · · MS. BREMER: Yes, this is in the 10 · middle -- 11 · · · · · THE WITNESS: She is. 12 · · · · · MS. BREMER: -- of -- after Gary, colon. 13 · In the next paragraph after Janette's request, do 14 · you have a document? 15 · · · · · THE WITNESS: Yes, that's what he said. 16 · BY MS. BREMER: 17 · · · · Q · And was it Oracle's position that some 18 · employees would not have any comparator? 19 · · · · A · Yes. 20 · · · · Q · Okay. And then the next time that Gary's 21 · reflected as saying something in -- in the notes, it 22 · says, starting with the second sentence:</p>	

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<p>23 ······ "When a focal review is done, the 24 ······ question is looked at as far as how 25 ······ people look in compensation compared to</p> <p>219 1 ······ their comparators. Additionally we 2 ······ will get data by looking at the 3 ······ compensation report. We sort by 4 ······ department and supervisor to illustrate 5 ······ what is going on." 6 ······ What compensation report was he talking 7 ······ about? 8 ······ A · Your Item -- Item 11. 9 ······ Q · The -- the response -- Item 11 response 10 ······ to the scheduling letter? 11 ······ A · Yes, I think. Let me read this again 12 ······ more carefully. 13 ······ Well, no. Okay. I'm sorry. I'm 14 ······ incorrect. 15 ······ From rereading this, he's looking at -- 16 ······ do you remember the -- the manager training and how 17 ······ managers, when they go through the focal review, 18 ······ they look at people in their -- their work group 19 ······ and -- and how they relate to each other? 20 ······ Do you remember when we talked about that 21 ······ last time? 22 ······ Q · Yes. 23 ······ A · Okay. He's referring to that -- that -- 24 ······ that goes through the focal. So he actually says: 25 ······ "When a focal review is done, the</p>	
<p>220 1 ······ question is looked at as far as how do 2 ······ people look at compensation compared to 3 ······ their comparators. Additionally, we 4 ······ will get data by looking at the 5 ······ compensation report." 6 ······ And by that, you know, the amount of 7 ······ money that people are making. Then -- and -- and -- 8 ······ and in addition to that, yeah, it looks like -- it 9 ······ looks like what he's saying, he could get additional 10 ······ information, you know, from -- from some of the 11 ······ information that we submitted.</p>	

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12 · · · · · But for the most part, he -- he's talking 13 · about the focal report and looking at people within 14 · each supervisor's work group. 15 · · · · Q · What focal report? What focal report? 16 · · · · A · The focal review, as far as when managers 17 · do a focal review for possible increases. 18 · · · · Q · It's using the term compensation -- he 19 · used the term "compensation report." 20 · · · · · Is there a re- -- a report of the 21 · compensation from the focal review that somebody 22 · reviews at -- during the focal review? 23 · · · · A · The focal review? There's the focal 24 · review that's given that -- where each -- each 25 · manager gets the people that report to them, and	
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1 · then they're given a budget and then they allocate 2 · the money, that budget. And they try and make sure 3 · that there's no discrimination is pay. 4 · · · · · And then I believe here, no, there's not 5 · an additional report that I'm aware of. And -- and 6 · here I believe he's -- he's talking about -- 7 · 'cause -- 'cause he's saying: 8 · · · · · "We -- we will get the data by looking 9 · · · · · at compensation -- at the compensation 10 · · · · · report" -- I believe it's the 11 · · · · · scheduling letter information -- "and 12 · · · · · in addition to that." 13 · · · · · And for him, I think that's what he's 14 · referencing, but I -- I can't be positive. 15 · · · · · And then -- 16 · · · · Q · Right. 17 · · · · · So that's -- 18 · · · · A · -- and then they went head and sort -- 19 · sort by supervisor and department because that -- 20 · that information was provided to you. 21 · · · · Q · Okay. And the supervisor and department 22 · information, that's information that's in the -- 23 · Oracle's response to Item 11 -- 24 · · · · A · Yes, yes. 25 · · · · Q · -- right?	
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1 · · · · A · Yeah. 2 · · · · Q · So -- so the compensation report's	

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3· referring to that Item 11 response? 4· . . . A· Yes, I believe so, in addition to the -- 5· in addition to the focal.	
222:17-223:19 17· . . . Q· Okay. And then -- so looking -- then it 18· looks like -- let me just ask about the notes that 19· were prepared. 20· These notes that we're looking at, they 21· were taken -- your original notes were taken during 22· the meeting, right? 23· . . . A· Yes. 24· . . . Q· Okay. And -- and Charles also took notes 25· during the meeting? 223 1· . . . A· Yes. 2· . . . Q· Did you take your notes on a computer? 3· . . . A· Yes. 4· . . . Q· And what about Charles? 5· . . . A· I don't know if he took his by hand or by 6· computer. I know he -- he -- I -- I'm not sure, 7· because sometimes he actually takes handwritten 8· notes. 9· . . . Q· Okay. And when you were taking your 10· notes, were you trying to capturing everything that 11· was said during the meeting? 12· . . . A· Yes. 13· . . . Q· And you were trying to create an accurate 14· description of what had occurred during the 15· conciliation meeting? 16· . . . A· Yes. Yes. 17· . . . Q· Okay. And is it your understanding that 18· Charles was doing the same? 19· . . . A· Yes.	
223:20-225:22 20· . . . Q· Okay. So then -- okay. After the 21· paragraph we were just discussing, it looks like you 22· said something. And then Gary -- the notes reflect 23· that he said: 24· "You can come in and talk to some	

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25 ····· managers and tell us what -- what you	
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1 ····· think some of the -- what you think	
2 ····· some of the jobs and find out if you	
3 ····· think they are doing the same thing	
4 ····· even if we think they are doing	
5 ····· different things.”	
6 ····· So what exactly was Oracle proposing?	
7 ····· A. Gary -- I think just what Gary -- the	
8 · notation to Gary is, telling the OFCCP they can talk	
9 · to some of the managers that we think are doing	
10 · different things, even if we think they're doing	
11 · different things, that you think are -- are doing	
12 · same of the same thing and make -- and see what you	
13 · think.	
14 ····· Q. So is he suggesting that we need to talk	
15 · to -- do an -- do an analysis of all -- all of the	
16 · jobs in order to analyze Oracle's compensation?	
17 ····· A. I -- I can't say what his intent was. I	
18 · just -- I'm just going by the notes as -- as -- as	
19 · they're written.	
20 ····· Q. Okay. So -- so the -- the suggestion was	
21 · that OFCCP conduct further -- further investigation	
22 · at that point?	
23 ····· MR. PARKER: Asked and answered.	
24 ····· THE WITNESS: That's as it -- as it	
25 · appears from what I'm reading.	
225	
1 · BY MS. BREMER:	
2 ····· Q. And then it looks like Ian -- that's Ian	
3 · Eliasoph, right?	
4 ····· A. His -- you said Ian what?	
5 ····· Q. Eliasoph.	
6 ····· A. That is -- okay, I wasn't sure. I wanted	
7 · to -- I thought you said his last name.	
8 ····· I just know him as Ian. I -- yes.	
9 ····· Q. Okay. And then there is a ---A question	
10 · that the notes reflect him asking:	
11 ····· “Are you saying that the statistical	
12 ····· analysis is so nuanced that it can't be	
13 ····· done? And not a different one is	
14 ····· needed.”	
15 ····· And then Gary responds:	

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16· ······ “Both. We were saying that a different 17· ······ one needs to be done, and we need to be 18· ······ able to look at cohorts and can’t draw 19· ······ systemic conclusions because the jobs 20· ······ are different so different one needs to 21· ······ be done.” 22· ···· A· Correct.	
<p>225:23-228:8</p> <p>23· ···· Q· Okay. So when Oracle took the position 24· ·you can't draw systemic conclusions, part of what 25· ·Oracle was saying was that it could -- that a</p> <p>226</p> <p>1· ·statistical analysis could not be done regarding 2· ·compensation for Oracle's workforce? 3· ······ MR. PARKER: The document speaks for 4· ·itself. 5· ······ THE WITNESS: I think they are saying 6· ·that you have to look at -- you have to include 7· ·cohorts in any kind of analysis. I don't know if -- 8· ·I don't see him saying that you can't do a 9· ·statistical analysis, but I'm saying he's saying 10· ·that you have to consider cohorts when you look at 11· ·this. That's what I'm reading. 12· ·BY MS. BREMER: 13· ···· Q· Okay. And then in -- Ian's question was: 14· ······ "Are you saying one of his" -- 15· ······ He asked basically two questions: 16· ······ "Are you saying the statistical 17· ······ analysis is so nuanced that it can't be 18· ······ done?" 19· ······ That was one question. 20· ···· A· Right. 21· ···· Q· And then in -- when Gary answered 22· ·"Both" -- 23· ···· A· Yes. 24· ···· Q· -- he was indicating that that was -- 25· ·that was Oracle's position, right, that a</p> <p>227</p> <p>1· ·statistical analysis is so nuanced that it can't be 2· ·done? 3· ···· A· No. He says -- what he says is we were</p>	

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<p>4· saying that a different one needs to be done, and we 5· need to be able to look at cohorts and can't draw 6· systemic conclusions because the jobs are different 7· so a different one needs to be done. 8· So I -- I think, from what I'm reading, 9· it sounds like he's saying it needs to be further 10· researched. You just can't rely just on pure 11· statistical analysis. That's what -- how I'm 12· reading it. You have to investigate it. 13· Because of the jobs at Oracle being so 14· different that you can have indicators -- you know, 15· as we -- we talked about earlier, you can have 16· indicators for something, but without really taking 17· a look at it and why -- you know, why they're 18· indicators, you can't really draw conclusions. 19· . . . Q: And did Oracle provide information to 20· OFCCP between March 11th, 2016 and January 17th, 21· 2017 that would -- that explain -- explain why the 22· indicators are not accurate? 23· MR. PARKER: Asked and answered. 24· THE WITNESS: There were several 25· documents that -- that were provided. There was the</p>	
<p>228 1· letter from Erin Connell that gave some examples of 2· why, you know, it had to be looked at, at a deeper 3· level. 4· And then in the -- the letter that we 5· talked about a little while ago that Gary wrote, he 6· gave a couple of examples in that too as to why -- 7· you know, why -- why jobs are different and you 8· really have to look at them carefully.</p>	
<p>228:10-19 10· . . . Q: Okay. So at the -- on Page 4 at the very 11· end, the notes reflect Janette as saying: 12· "This is a difficult one to accept. 13· Oracle has been a contractor for years, 14· and we have not seen documentation of 15· the required self-audit." 16· Did you -- did Oracle understand OFCCP to 17· be referencing the compensation analysis required by 18· 41 C.F.R. Section 60-2.17?</p>	

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19 ···· A. Yes.	
<p>228:20-229:10</p> <p>20 ···· Q. And Janette says -- or the document 21 · reflects her saying: 22 ······ “I don’t understand why what product a 23 ······ person is working on isn’t documented.” 24 ······ Did Oracle have any data documenting the 25 · products that its employees were working on?</p> <p>229</p> <p>1 ···· A. At that time there was not a 2 · comprehensive documentation of products that people 3 · were working. There -- there -- it’s -- it’s more 4 · in depth now. But at that time it was not an 5 · in-depth model. There was some documentation, but 6 · it wasn’t, you know, for all jobs. 7 ······ And -- and different areas had -- you 8 · know, relied on different information, so it wasn’t 9 · comprehensive to where we could just go in and pull 10 · it up really quickly at that point in time --</p>	
<p>229:25-230:22</p> <p>25 ···· Q. Okay. And then on Page 5 · of the notes,</p> <p>230</p> <p>1 · there is an exchange. Erin is reflected saying: 2 ······ “Your allegation says that there is a 3 ······ compensation issue, not that women and 4 ······ men are being steered into different 5 ······ product lines with different pay, 6 ······ correct?” 7 ······ I guess, that’s -- that’s a question by 8 · Erin, right? 9 ···· A. Yes. That should be a question yes. 10 ···· Q. And Janette’s response is reflected as 11 · being: 12 ······ “You can make that argument, but if 13 ······ most of the women end up in lower 14 ······ paying jobs and the men end up in 15 ······ higher paying jobs, then we will argue 16 ······ that the compen- -- the comp system is 17 ······ tainted.”</p>	

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18 · · · · · Do you see that? 19 · · · · A · Yes. 20 · · · · Q · Did you understand her to be referring to 21 · the compensation system? 22 · · · · A · Yes.	
231:6-233:16 6 · · · · Q · Okay. Let's look at Page 6. And then at 7 · the bottom there's a header "Janette provided 8 · settlement information." And then there's a header 9 · for "Compensation." 10 · · · · · Do you see that? 11 · · · · A · Yes. 12 · · · · Q · Then it says one year, colon, 22 million 13 · for all violations. 14 · · · · · What are these -- can you describe 15 · what -- what Janette said about the remedy for the 16 · compensation violations? 17 · · · · A · Well, just -- just what it says here. 18 · She's saying for one year, there were 22 million for 19 · all violations, women and Asians are not counted 20 · twice, 7.7 million for women and product, 21 · African-Americans 250,000, Asians 13 to 14 million, 22 · information technology 670,000 for females and 23 · 487,000 for females and support. And she said it 24 · impacted 3,561 employees. 25 · · · · · But that's the best notes, I mean, that	
232 1 · we can get. We were -- or I was typing really fast. 2 · So -- yeah. 3 · · · · Q · Do you -- when she said "for one year," 4 · did -- did OFCCP explain that the one year was 5 · because that's all the data that OFCCP had at that 6 · point from the compliance review? 7 · · · · A · I don't remember. 8 · · · · Q · Is this three years, colon, 66 million? 9 · How do you understand that OFCCP arrived at that 10 · number? 11 · · · · A · Just from looking at this. And I could 12 · be wrong, but it looks like they multiplied 13 · 22 million times three. 14 · · · · Q · And did -- did Janette explain that 15 · during the meeting?	

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<p>16 ···· A. I don't remember. 17 ···· Q. And do you recall her explaining at the 18 ·beginning that she was -- that OFCCP was only 19 ·considering base pay in its calculations? 20 ···· A. I don't remember that. 21 ···· Q. And then Juana, does that refer to Juana 22 ·Sherman? 23 ···· A. Yes. 24 ···· Q. She asked at the meeting: 25 ······ "Are there any nonmonetary aspects?"</p> <p>233</p> <p>1 ···· A. Yes. 2 ···· Q. And then Janette responded: 3 ······ "Yes, we would want to propose some 4 ······ changes, for example, training in pay 5 ······ equity analysis, clearly documenting 6 ······ what the justification is for 7 ······ discrepancies, pay transparency, and 8 ······ explaining to the employees. There are 9 ······ a variety of ideas we would have for 10 ······ policy changes as part of the 11 ······ settlement." 12 ······ Do you recall her discussing any other 13 ·nonmana- -- nonmonetary aspects of the settlement? 14 ···· A. I don't recall anything other than -- 15 ·than on these notes, in all honesty. I wish I did, 16 ·but...</p>	
<p>235:9-236:19</p> <p>9 ···· Q. Okay. And then the next, Page 7, the 10 ·notes reflect Ian saying: 11 ······ "With -- with compensation, the numbers 12 ······ are more firm." 13 ······ MR. PARKER: Sorry, where you are reading 14 ·from? 15 ······ MS. BREMER: Ian. It says -- first, he 16 ·says: 17 ······ "These are not hard numbers." 18 ······ MR. PARKER: Okay. 19 ·BY MS. BREMER: 20 ···· Q. And then he says: 21 ······ "But with compensation, numbers are 22 ······ more firm."</p>	

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<p>23 ····· Did you understand OFCCP to be saying 24 · that -- that there was more flexibility with the -- 25 · the hiring remedies than the compensation remedies?</p> <p>236 1 ····· A. Yes. 2 ····· Q. And then the notes reflect Ian saying: 3 ····· "We will ask you for more information. 4 ····· Formula for -- for this calculation is 5 ····· described in the agency directive under 6 ····· remedies on the agency's website." 7 ····· And what did -- what did you understand 8 · this to mean? 9 ····· A. Just all I can say is, you know, what -- 10 · what's written there, that there's a formula for -- 11 · for the calculation and it's described in the 12 · agency's directive under remedies on agency's 13 · website. 14 ····· I don't understand it to mean anything 15 · other than that. 16 ····· Q. Okay. So OFCCP was -- was just 17 · explaining to Oracle where it could find the how to 18 · calculate -- how to calculate the -- the remedies? 19 ····· A. That's what it says.</p>	
<p>236:20-237:25</p> <p>20 ····· Q. Okay. And then the next time Ian speaks, 21 · or is reflected as speaking in these notes, it 22 · says -- well, let's -- let's ask -- let's start with 23 · Gary's question above. It says: 24 ····· "How do we -- how do you want us to 25 ····· proceed?"</p> <p>237 1 ····· And then there's a response from Ian. 2 ····· Do you see that? 3 ····· A. Yes. 4 ····· Q. And it says: 5 ····· "It is helpful you've asked. If we 6 ····· move to that phase, there is a lot to 7 ····· do. If we get stuck on the liability 8 ····· part, there isn't much to do. It 9 ····· depends on your response. If you say 10 ····· you are not liable, then there isn't</p>	

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<p>11 · · · · · much to go to from there." 12 · · · · · Do you see that? 13 · · · A · Yes. I do want to qualify something. 14 · It's something that came up as -- as you were 15 · talking. It jogged my memory. 16 · · · · · Charles may have taken handwritten notes. 17 · If he did, I'm not sure if he still has a copy of 18 · them, and he may have just compared them to mine and 19 · filled in where, you know, I didn't have 20 · information. But I -- I have the notes that I sent 21 · to him. So -- 22 · · · Q · Okay. 23 · · · A · If he has -- if he has -- if he typed 24 · them, and I don't remember if he did or not, then 25 · I'm sure he still has them.</p>	
<p>239:19-240:10</p> <p>19 · · · · · MS. BREMER: Okay. Let's -- let's look 20 · at Exhibit 17 to the Jane Suhr PMK deposition. 21 · (Exhibit 17 previously marked for identification.) 22 · · · A · Do I have it? 23 · · · · · MR. GARCIA: No. She's trying to hand it 24 · to you. 25 · · · · · THE WITNESS: Oh. I'm looking for</p> <p>240</p> <p>1 · Exhibit 17. Do we already have that? 2 · BY MS. BREMER: 3 · · · Q · During the deposition today, you've a 4 · couple times mentioned a letter from Erin Connell. 5 · · · · · Is this the letter that you've been 6 · referring to? 7 · · · A · Let me take a look. 8 · · · · · Yes. 9 · · · Q · Okay. And the compensation 10 · discrimination violations are discussed starting on</p>	
<p>242:11-14</p> <p>11 · · · Q · And Oracle's October 31st, 2016 letter 12 · did not include any monetary offer to resolve the 13 · violations either, right? 14 · · · A · Correct.</p>	

