

**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

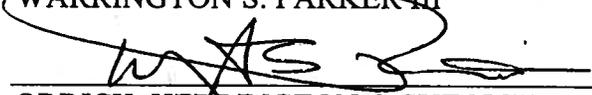
**DEPOSITION DESIGNATIONS
RE THE DEPOSITION OF SEAN
RATLIFF - 30(B)(6) JUNE 26, 2019**

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

Respectfully submitted,

December 20, 2019

GARY R. SINISCALCO
ERIN M. CONNELL
WARRINGTON S. PARKER III


ORRICK, HERRINGTON & SUTCLIFFE LLP

The Orrick Building

405 Howard Street

San Francisco, CA 94105-2669

Telephone: (415) 773-5700

Facsimile: (415) 773-5759

Email: grsiniscalco@orrick.com

econnell@orrick.com

wparker@orrick.com

Attorneys for Defendant

ORACLE AMERICA, INC.

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Office of Administrative Law Judges
San Francisco, Ca

DEPOSITION DESIGNATIONS RE THE DEPOSITION OF SEAN RATLIFF - 30(B)(6) JUNE 26, 2019

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CASE NO. 2017-OFC-00006

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8:14-15

14 . . . Q. Could you please state your name?

15 . . . A. Sean Ratliff.

8:21-9:6

21 . . . Q. Okay. What do you currently do?

22 . . . A. I'm the district director for the

23 San Diego district office of the OFCCP.

24 . . . Q. What are your duties as -- what do you do

25 as a district director?

9

1 . . . A. I basically oversee all the operations of

2 the San Diego district. I supervise six employees,

3 oversee the compliance reviews. We do the outreach

4 events that we might put on.

5 . . . Q. How long have you had that position?

6 . . . A. January 2016.

11:22-25

22 . . . Q. Let me show you what we'll mark as

23 Exhibit 1, which is the Amended Notice of

24 Deposition of OFCCP Pursuant to 41 C.F.R., and so

25 on.

12:4-23

4 . . . Q. Have you seen this document before?

5 . . . A. This doesn't look like the whole

6 deposition -- the whole thing to me.

7 . . . Q. Great. Then we'll get the whole thing to

8 you. I will represent to you that this was amended

9 in order to reflect today's date. But if you look

10 on the last page --

11 . . . A. Okay.

12 . . . Q. -- do you see the three topics?

13 . . . A. I do.

14 . . . Q. Are those -- are the first two familiar to

15 you?

16 . . . A. Yes.

17 . . . Q. Okay. And do you recall seeing that in

18 another document in longer form?

19 . . . A. I do.

20 . . . Q. Okay. I will get you that other document,

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21· but you understand that you are here to testify as
22· a 30(b)(6) on Topics 30 and 31?
23· . . . A. Yes.

12:25-13:23

25· Let me direct your attention now to

13

1- Exhibit 2, which is the second amended complaint

2· (Deposition Exhibit 2 was marked for

3· identification.)

4· BY MR. PARKER:

5· . . . Q. Have you seen this document before?

6· . . . A. Yes.

7· . . . Q. Great. Now, if you go back to

8· Exhibit 1 -- and the reason I'm showing you the

9· second amended complaint, which is Exhibit 2, is

10· that Topics 30 and 31 reference specific paragraphs

11· in the second amended complaint.

12· Do you see that?

13· . . . A. I do.

14· . . . Q. Okay. And are you prepared today to speak

15· on Topic 1 -- Topic 30, I'm sorry, which is the

16· facts that support the allegations of paragraph 44,

17· 45, and 47?

18· . . . A. Yes.

19· . . . Q. Okay. And are you prepared today to talk

20· on Topic 31, which are the facts that support the

21· allegations of paragraph 45, and then it says 45

22· again, 46, and 48?

23· . . . A. Yes.

29:3-31:22

3· . . . Q. Let me show you what we'll mark as

4· Exhibit 8, which is an email from Ms. Harries dated

5· 10/28/14, and the subject is "HQCA 4 of 4."

6· MS. GRUNDY: This is an excerpt.

7· MR. PARKER: The Bates stamp number is

8· ORACLEHQCA_4992. It, too, would have documents

9· that are attached in native format. We have

10· provided at least the cover, but it would be fairly

11· voluminous.

12· And my question will simply be: Do you

13· understand that these are documents that were

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14· provided by Ms. Harries in response to the request
15· made in Exhibit 4?
16· (Deposition Exhibit 8 was marked for
17· identification.)
18· THE WITNESS:· Yes· I think all of these
19· emails that came on October 28th appear to be
20· responsive to the scheduling letter.
21· BY MR. PARKER:
22· . . . Q· And then I'm going to direct your
23· attention to what we'll have marked as Exhibit 9.
24· (Deposition Exhibit 9 was marked for
25· identification.)

30

1· BY MR. PARKER:
2· . . . Q· And Exhibit 9 is a letter dated
3· November 19, 2014, addressed to Shauna
4· Holman-Harries, and it's from -- it appears to be
5· signed by Hoan Luong, which I have mispronounced
6· terribly.
7· But my question you to will be, have you
8· seen this document?
9· . . . A· I have.
10· . . . Q· And can you please pronounce the person
11· whose name -- the name of the person who signed it
12· so I don't have to embarrass myself again?
13· . . . A· I believe his first name is pronounced
14· Hoan· I do not know how to say the last one· My
15· guess is Luong.
16· . . . Q· And when you were referencing the person
17· named Hoan who might have made a request for the
18· AAP orally, you were referring to this gentleman.
19· . . . A· I was.
20· . . . Q· And the first name is spelled H-O-A-N.
21· . . . A· Correct.
22· . . . Q· Very good· Great· I had W -- I had
23· J-U-A-N, and I was wondering why I had never heard
24· that name before.
25· Do you know what Mr. Luong's role was

31

1· in -- in the audit of Oracle HQCA?
2· . . . A· He was the lead compliance officer on the
3· case, I believe.

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4 · · · · Q · Now, this document, as I read it, appears
5 · to request certain data from Oracle. Is that
6 · correct?
7 · · · · A · Yes.
8 · · · · Q · Okay. Do you know whether or not the
9 · information requested is -- is what is called a
10 · compensation -- a compensation data for 2013? Or I
11 · should ask it more openly.
12 · · · · · What is the information that is requested?
13 · · · · A · So -- I mean, the document has what was
14 · requested. I would characterize most of this as a
15 · database of compensation information, information
16 · related to the employees who worked at that
17 · establishment and their pay. There are a couple of
18 · requests that, you know, you might say are not
19 · exactly that. There's the request for human
20 · resources manuals and whatnot in 33. There's also
21 · a request for self-audits and pay equity studies in
22 · 34.

41:11-14

11 · · · · · Is any of the information that is
12 · requested in Exhibit 4 would you call, as a factual
13 · matter, a -- compensation data for 2013?
14 · · · · A · No.

57:13-58:2

13 · · · · Q · Let me -- in front of you now is
14 · Exhibit 14, which is a November 2, 2015, letter
15 · from Mr. Doles to Shauna Holman-Harries. And I
16 · believe this is the letter you referenced before we
17 · took the break.
18 · · · · A · Yes.
19 · · · · Q · Okay. And you've seen this letter before.
20 · · · · A · I have.
21 · · · · Q · All right. Now, here's the question. Now
22 · I'll tip my hand. Here's the question that may
23 · shorten things up or may not.
24 · · · · A · Okay.
25 · · · · Q · Does this letter reflect the items that

58

1 · OFCCP believes, as a factual matter, that Oracle

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2 · either failed or refused to produce?

58:3-5

3 · MS. DAQUIZ: · Objection. · Vague as to time.

4 · Are we talking about November 2, 2015, as of the

5 · date of the letter?

58:6-20

6 · THE WITNESS: Say it for me one more time.

7 · BY MR. PARKER:

8 · . . . Q. Absolutely. So that we're quite clear,

9 · then –

10 · . . . A. Yeah.

11 · . . . Q. -- I want to reference Exhibit 2. There

12 · are items identified in Exhibit 2, paragraphs 44 –

13 · . . . A. Yes –

14 · . . . Q. -- 45, and 47.

15 · Does this -- does Exhibit 14 identify

16 · those same items?

17 · . . . A. There may be more items in this than even

18 · are referenced in the complaint, but certainly the

19 · things in the complaint are contained in this

20 · letter.

59:4-60:6

4 · . . . Q. Is there anything else outside of

5 · Exhibit 14 that OFCCP believes, as a factual

6 · matter, were requested that Oracle failed to

7 · produce?

8 · . . . A. There may be other items that we requested

9 · that were not produced. However, the things that I

10 · think are at issue in the litigation that the

11 · agency felt were important are contained in this

12 · letter.

13 · . . . Q. Is there anything outside – anything else

14 · outside of Exhibit 14 that OFCP – OFCCP believes,

15 · as a factual matter, were requested that Oracle

16 · refused to produce?

17 · . . . A. I feel like that's the same question, but

18 · I don't – could you say it again for me, please?

19 · . . . Q. That's fine. I'll just note the only

20 · difference is I used the word "refused" in that

21 · question I just asked, and the prior asked question

22 · was "failed."

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23 · · · · A. Okay.
24 · · · · Q. I can repeat the question, but the
25 · difference is this. You just answered about

60

1 · failed, and now I'm asking, are there any documents
2 · or any information that is not reflected in
3 · Exhibit 14 that Oracle was – that OFCCP requested
4 · that Oracle refused to produce?
5 · · · · A. Not that I'm aware of that there were
6 · things outside of this.

60:9-13

9 · · · · · So the first item referenced in the – in
10 · this document, Exhibit 14, is an internal pay
11 · equity analysis.
12 · · · · · Do you see that?
13 · · · · A. I do.

64:3-25

3 · · · · Q. Okay. So Item 1 -- Item 1, internal pay
4 · equity, falls within 4(d). Correct? 44(d).
5 · · · · A. Yes.
6 · · · · Q. It would also fall within the description
7 · "analysis of compensation structure" under 45.
8 · Correct?
9 · · · · A. Correct.
10 · · · · Q. Question on the Item 1. There is a
11 · statement at the end of paragraph 45. It says –
12 · on page 13, "Moreover, Oracle failed to provide any
13 · evidence that it complied with the other
14 · requirements of 41 C.F.R. Section 62.17" -- I'm not
15 · going to ask you the question about that. But it
16 · also says, "or conducted an adverse impact
17 · analysis."
18 · · · · · Do you see that?
19 · · · · A. I do.
20 · · · · Q. Is the adverse impact analysis, as a
21 · factual matter from the perspective of OFCCP, the
22 · internal pay equity analysis or something
23 · different?
24 · · · · A. The adverse impact analysis is typically
25 · related to hiring claims.

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65:1-4

1 · · · · Q · Okay · All right · Item 2 is a
2 · compensation database snapshot, 1/01/2014.
3 · · · · · Do you see that?
4 · · · · A · Sorry · Say that one more time?

65:5-71:16

5 · · · · Q · Yes · I'm 2 on Exhibit 14 says
6 · "Compensation Database (Snapshot 01/01/2014)."
7 · · · · · Do you see that?
8 · · · · A · I do.
9 · · · · Q · Is that a reference to paragraph 44(a) on
10 · Exhibit 2, the compensation data for 2013?
11 · · · · A · No, 'cause this is asking for 2014.
12 · · · · Q · Okay · And does this -- the item reflected
13 · in -- does the request that's reflected in Item 2
14 · on Exhibit 14, does that fall within 44(c) of
15 · Exhibit 2?
16 · · · · A · It could be in the sense that 44(c) is
17 · talking about personnel actions and salary
18 · summaries, right, starting job titles, starting
19 · salary, wage increases. It is asking here about
20 · prior salaries, years of experience, and this is
21 · in -- you know, adding separate columns, so to the
22 · extent that the originally produced columns might
23 · fall under there, I just -- I'm not trying to be
24 · difficult, but I think that theoretically it might
25 · fall under that.

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1 · · · · Q · Okay · Item -- next page on Exhibit 14,
2 · Item 3 is a compensation database snapshot,
3 · 1/01/2013. Is that Item 44(a) in Exhibit 2?
4 · · · · A · Yes.
5 · · · · Q · And then Item 4 -- employee personnel
6 · actions, you believe that falls under Exhibit --
7 · under paragraph 44(c). Correct?
8 · · · · A · That's the one that's most directly
9 · pertinent to CES.
10 · · · · Q · And then Item 5 you believe relates to
11 · hiring. Correct?
12 · · · · A · Yes.
13 · · · · Q · And Item 6 of Exhibit 14 relates to

14· applicant -- which is entitled "Applicant Flow
15· Database," that relates to hiring?
16· . . . A· Yes.
17· . . . Q· And then Item 7, labor condition
18· applications, does that fall within one of the
19· paragraphs of 44? I mean, either (a), (c), or (d)?
20· . . . A· I don't think so. Not directly, anyway.
21· . . . Q· Then Item 8, documents for hiring, relates
22· to hiring. Correct? I think that's what you
23· said –
24· . . . A· Yes. I mean -- yeah. I mean –
25· . . . Q· I'm just confirming. But if you want to

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1· change it, that's fine.
2· . . . A· It's documents about hiring and would
3· appear to be about hiring.
4· . . . Q· And then Item 9, résumé files, that in
5· your mind relates to hiring?
6· . . . A· Primarily, yes. I mean, it could be, you
7· know, somewhat related to personnel actions, salary
8· information, to the extent that, you know, those
9· résumés included information that would dictate
10· someone's compensation.
11· . . . Q· And then on Item 10, I believe, which is
12· employee contact information, I believe you said
13· it -- I want -- I don't know what exactly you said.
14· I wrote down here you might have said that it
15· relates to paragraph 44(a). Is that accurate?
16· . . . A· I mean, I think that employee contact
17· information is something that is a first step to
18· obtain other information. So to the extent -- it's
19· not directly relevant to somebody's pay; right?
20· Where they live doesn't necessarily -- well, I
21· guess theoretically where they live might dictate
22· some market rates or something like that, but it's
23· not directly related to pay. But by having that
24· access to people's contact information, it allows
25· the agency to look into things that then might be

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1· relevant to the compensation.
2· . . . Q· So it's related in your mind, then, to the
3· compensation data for 2013. Is that accurate?

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4 · · · · A · It could lead to information that's
5 · relevant to the compensation data for 2013.
6 · · · · Q · Okay. And then Item 11, internal and
7 · external complaints, that in your mind is related
8 · to paragraph 44(d). Correct?
9 · · · · A · Could be, yes.
10 · · · · Q · Now, in -- with regard to Exhibit 14,
11 · Item 1, internal pay equity analysis -- in Tab 25,
12 · I think -- I'm going to mark this as Exhibit 15.
13 · · · · · (Deposition Exhibit 15 was marked for
14 · · · · · identification.)
15 · BY MR. PARKER:
16 · · · · Q · Is Exhibit 15 --
17 · · · · A · Is this -- oh, I think I got two copies of
18 · it.
19 · · · · Q · Okay. There you go. You can --
20 · · · · A · We're just talking about two pages.
21 · Right?
22 · · · · Q · Twice as much, yes. Exhibit 15 is a
23 · June 2nd email from Shauna Holman-Harries to Hea
24 · Jung Atkins --
25 · · · · A · Yes.

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1 · · · · Q · -- with a cc. And I just want to direct
2 · your attention to the last paragraph.
3 · · · · A · Yes.
4 · · · · Q · I'm sorry. Let me do this.
5 · · · · · It starts -- first paragraph starts,
6 · "Hello Hea Jung. I'm sending this email in
7 · response to your Request Number 3 in your April 27
8 · letter regarding internal pay equity analysis."
9 · · · · · Do you see that?
10 · · · · A · I do.
11 · · · · Q · Do you know whether the reference in
12 · Exhibit 14 relates to the internal pay equity
13 · analysis that's requested on April 27, 2015?
14 · · · · · And I'll tell you a hint. It should,
15 · because it actually references that letter.
16 · · · · A · Yeah, it would seem to, yes.
17 · · · · Q · Okay. And then at the very end, it says
18 · in the last paragraph, "With regard to pay audits
19 · to assess legal compliance with Oracle's
20 · nondiscrimination obligations," do you see that?

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21 · · · · A · Yes.
22 · · · · Q · Did OFCCP understand the reference to "pay
23 · audits" to mean internal pay equity analyses?
24 · · · · A · Say that again.
25 · · · · Q · Let me ask it this way.

70

1 · · · · A · Yeah.
2 · · · · Q · Did OFCCP have an understanding -- OFCCP
3 · have an understanding during the period of time it
4 · was requesting documents that -- and information
5 · that Oracle's view was that its internal pay equity
6 · analysis was protected by the attorney-client
7 · privilege?
8 · · · · A · That is what Oracle told us, yes.
9 · · · · Q · And is it your understanding that that is
10 · still Oracle's position?
11 · · · · A · As far as I know, that is still Oracle's
12 · position.
13 · · · · Q · Is there any belief on OFCC -- OFCCP's
14 · part that Oracle's explanation that it believed its
15 · internal pay equity analysis was protected by the
16 · attorney-client privilege was late, tardy, in its
17 · assertion?
18 · · · · A · My understanding is that with respect to
19 · the litigation, it was. I think it's discussed in
20 · our recent motion to compel.
21 · · · · Q · Yeah, I'm not asking -- let me just be
22 · clear. I know there's a motion pending. I'm not
23 · seeking discovery on that.
24 · · · · · In the -- during the audit period, is
25 · it -- was the invocation of the attorney-client

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1 · privilege late in OFCCP's estimation?
2 · · · · A · Well, to the extent that typically in --
3 · there was no privilege log provided. There was no
4 · indication of when the analyses -- these -- the
5 · assertion that there were privileged analyses done
6 · was made, but it was never clear to the agency when
7 · those were done, who did them. You know, all the
8 · things that would normally go into a privilege log,
9 · we didn't have any of that information.
10 · · · · Q · Okay. But -- and now I just -- I

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11 · understand that, and now I just want to focus --
12 · when in the audit process Oracle informed OFCCP
13 · that its internal pay equity analyses were
14 · protected by privilege, was that a tardy assertion
15 · in OFCCP's mind?
16 · · · · A · I mean, I don't know --

71:17-18

17 · · · · · MS. DAQUIZ: · Objection. · It's outside the
18 · scope of the 30(b)(6).

71:20-72:9

20 · · · · · THE WITNESS: · The assertion was made
21 · relatively early in the process. · I think the
22 · agency's view would be that -- one, that
23 · assertion -- we can't assess that without the kind
24 · of privilege log. · Right?
25 · · · · · And two, that the agency's position as

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1 · spelled out a lot more in these recent motions to
2 · compel would be that, in fact, self-audit,
3 · self-analyses that are done in compliance to comply
4 · with our regulations, are not protected by
5 · attorney-client privilege.
6 · BY MR. PARKER:
7 · · · · Q · During the audit period, do you know
8 · whether or not OFCCP requested a privilege log?
9 · · · · A · I don't know that.

72:19-73:13

19 · · · · Q · And Exhibit 16 is an email from Shauna
20 · Harries to Mr. Luong and then cc'd to others dated
21 · October 29th, 2015, and its subject is "HQCA 1 of
22 · 29," and it has attachments.
23 · · · · · Have you seen this document before?
24 · · · · A · The cover email, yes.
25 · · · · Q · Okay. And then Item 1 on this email

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1 · refers to internal pay equity analysis conducted

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2· during the past three years.
3· Do you see that?
4· . . . A· Yes.
5· . . . Q· And then there's a response, which is, "We
6· have responded previously," and then it ends with,
7· "We again addressed our pay equity analysis in an
8· email sent to Hea Jung Atkins on June 2nd, 2015."
9· Do you see that?
10· . . . A· I do.
11· . . . Q· Okay. From OFCCP's perspective, is there
12· anything that would be false about this – the
13· paragraph regarding internal pay equity analysis?

73:14-18

14· MS. DAQUIZ: To the extent that –
15· objection to the extent that the documents all
16· referenced, including Lisa Gordon's interviews, are
17· in the record here or available. They speak for
18· themselves.

73:19-25

19· THE WITNESS: I mean, I have no reason to
20· believe that the -- the -- that Oracle did not tell
21· us that they believed that their pay equity
22· analyses were privileged very early, and that
23· that's contained in various documents along the
24· way. And I believe it's included in that interview
25· that's referenced as well.

74:2-76:25

2· . . . Q· Okay. Going next to the compensation
3· database, this is -- I'm sorry. Going next. You
4· don't know where I am.
5· Exhibit 14.
6· . . . A· 14. Okay.
7· . . . Q· The compensation database snapshot of
8· 1/1/2014. Do you see that?
9· . . . A· I do.
10· . . . Q· Do you know whether that information was
11· ever provided to OFCCP?
12· . . . A· We got what we got. If she attached it to
13· an email to us, then we received whatever she sent.
14· . . . Q· Okay. Well, why don't we look at
15· Exhibit 16. And then there's Item 2. It says:

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16 "Resubmit database provided on 6/16/15
17 with 1/1/14 snapshot date, with the following
18 additional information, and any other
19 relevant compensation information and factors
20 affecting pay, added in separate columns."
21 Do you see that?
22 A. I do.
23 Q. And then there appears to be a response
24 from Ms. Holman.
25 Do you see that?

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1 A. I do.
2 Q. And then if you turn the page-- turn the
3 page-- it says:
4 "These requests appear to be duplicate
5 and/or overlapping. We submitted
6 compensation for the varying requests the
7 OFCCP has made on 12/11/14 spreadsheet,
8 12/15/14 spreadsheet, 2/20/15 spreadsheet,
9 2/16/15 Training, 3/17/15 spreadsheet,
10 5/14/15 compensation workbench information,
11 and 6/16/15 spreadsheet."
12 Do you see that?
13 A. I do.
14 Q. Okay. So the very first question I
15 have -- so that we're clear, I'm trying to match
16 things.
17 A. Yeah.
18 Q. So if I go to Exhibit 14, Item 2 --
19 A. Okay.
20 Q. -- where it says "Compensation database
21 snapshot 1/1/14," is that the same thing as Item 2
22 on Exhibit 15?
23 A. It would appear to be that.
24 Q. Okay.
25 A. Yes.

77:6-79:22

6 Q. Turning back to Exhibit 14, I'm on Item 3.
7 now, compensation database snapshot, 1/1/13.
8 Do you see that?
9 A. I do.
10 Q. Do you know whether or not any of that

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11 · information was ever provided in any way, shape, or
12 · form, even if not complete, to OFCCP?
13 · · · · A · I don't believe that the agency ever got
14 · the 2013 data until after it brought the
15 · litigation.
16 · · · · Q · And was there an explanation from Oracle
17 · why that information was not provided?
18 · · · · A · There could have been. I -- if it's in a
19 · document somewhere.
20 · · · · Q · Do you know whether Oracle ever said that
21 · it just would not provide that information?
22 · · · · A · I don't know whether they said they would
23 · not. The thing -- I think in terms of parsing
24 · language, refusing to produce something explicitly,
25 · and then just not producing it after it's been

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1 · requested multiple times are essentially the same
2 · thing.
3 · · · · Q · So I'll use a fancy word. They're
4 · synonymous in your view?
5 · · · · A · Yeah. From the OFCCP's perspective, if
6 · we've asked for something multiple times and we
7 · don't get it, the contractor doesn't have to say
8 · "We're not going to give it to you" for it to be a
9 · denial of access. At some point, you can assume
10 · that they're not going to give it to you.
11 · · · · Q · And in your view, this was a denial of
12 · access when Oracle did not provide the compensation
13 · database snapshot of 1/1/2013?
14 · · · · A · Yes.
15 · · · · Q · Okay. And then on the employee personnel
16 · actions, was that information ever provided by
17 · Oracle? I'm referencing Item 4 on Exhibit 14.
18 · · · · A · I don't think so based on my review, but
19 · if you have something showing that you all did
20 · provide it, I would be happy to look at it.
21 · · · · Q · You just don't know one way or the other.
22 · Is that accurate?
23 · · · · A · I don't believe that it was.
24 · · · · Q · Okay. And then Exhibit 14 -- I'm skipping
25 · the things that were -- are marked "hiring." So

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1 · we'll go now to Item 7, labor condition
2 · applications.
3 · · · · A · Could we step back just for a second to
4 · the last one?
5 · · · · Q · Yeah.
6 · · · · A · I just want to say that some of the things
7 · that we requested during the compliance review were
8 · ultimately received as part of the litigation. So
9 · I do believe that there was some personnel
10 · information provided during the litigation.
11 · · · · Q · Okay, very good.
12 · · · · · Labor condition applications. Were those
13 · ever received? And I'll ask, during the audit
14 · period.
15 · · · · A · I don't remember seeing that in the
16 · documents I reviewed.
17 · · · · Q · Okay. And then employee -- Item 10,
18 · employee contact information. You understood that
19 · when that was requested Oracle was asking why that
20 · information was necessary?
21 · · · · A · I have seen correspondence where they
22 · asked why that was necessary.

80:4-82:23

4 · · · · Q · And Exhibit 17, while you're looking at
5 · it, is an email from -- at the top of June 3rd,
6 · 2015, from Ms. Harries to Mr. Luong, Bates stamped
7 · DOL1142.
8 · · · · A · I see it.
9 · · · · Q · Great. And it states, "This email replies
10 · to your email sent to me last" -- "late last Friday
11 · afternoon."
12 · · · · · And do you understand this to be a
13 · response to the request for contact information?
14 · · · · A · It doesn't produce the contact
15 · information. I mean, it's responding to that
16 · request.
17 · · · · Q · That's all I'm asking. I'm not asking if
18 · it produced anything. It is a response to the
19 · request for contact information.
20 · · · · A · Yes.
21 · · · · Q · And it says, "Before we undertake to
22 · address them, please provide me with OFCCP's basis

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23 · and your reasons for the request."

24 · Do you see that?

25 · . . . A. I do see that.

81

1 · . . . Q. Do you know if Ms. Harries received any

2 · response to that?

3 · . . . A. I don't.

4 · . . . Q. Okay. And then if you turn to Exhibit 16,

5 · and you turn to the last page of Exhibit 16.

6 · MS. DAQUIZ: Not of the attachments, but

7 · of the email?

8 · MR. PARKER: Yeah, just the –

9 · MS. DAQUIZ: So the fourth page of the

10 · exhibit?

11 · MR. PARKER: I don't know what page it is,

12 · but it's the last page of the email.

13 · MS. DAQUIZ: Okay, thank you.

14 · . . . Q. And you see it says item -- there's 10,

15 · "Contact information for all current and former

16 · employees"?

17 · . . . A. Yes.

18 · . . . Q. And then do you see a response where it

19 · says, "We have addressed this request on 6/3/15 in

20 · an email to Hoan Luong in response to his very

21 · broad request" and so on?

22 · . . . A. I see that.

23 · . . . Q. Okay. And it says, "To date we have not

24 · received a response."

25 · Do you see that?

82

1 · . . . A. I do.

2 · . . . Q. Do you have any reason to doubt that

3 · OFCCP, at least up to the point of Exhibit 16, had

4 · not responded to Ms. Harries' statement in

5 · Exhibit 17?

6 · . . . A. And I don't mean to parse words, but a

7 · response is -- I'm not entirely sure what they mean

8 · by that in Document 16. I mean, the parties

9 · exchanged emails. They exchanged communications

10 · throughout this process.

11 · So to say we didn't respond to them, I'm

12 · not sure. Much like earlier when the question

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13· dealt with, did Oracle respond to the OFCCP? Yeah,
14· they responded. They didn't give an answer that
15· was sufficient to us. So it may be that we very
16· well talked to them, but the response was not what
17· Oracle wanted.
18· . . . Q· Okay. Let me be more specific. I'm
19· referencing Exhibit 17.
20· Do you know whether or not anyone from
21· OFCCP provided a basis for OFCCP's request and the
22· reasons for it regarding contact information?
23· . . . A· I have not seen any documentation of that.

83:9-85:9

9· . . . Q· All right. And then we talked a moment
10· ago in Exhibit 17 about the internal and external
11· complaints. Do you see that?
12· I'm sorry. If you go to Exhibit 14 –
13· . . . A· Okay.
14· . . . Q· My apologies. If you go to Item 11,
15· "Internal and External Complaints."
16· . . . A· Yes.
17· . . . Q· And we talked about that. You remember
18· saying you didn't believe that the OFCCP received
19· that information during the audit period. Correct?
20· . . . A· That's correct. I don't believe we ever
21· got the internal complaints, at least.
22· . . . Q· Okay. And fair to say as part of this
23· litigation Oracle has now gotten or received the
24· internal and external complaints?
25· . . . A· Oracle has received –

84

1· . . . Q· OFCCP has received internal and external
2· complaints, to your knowledge?
3· . . . A· I don't know that personally -- like I –
4· that's not something I saw on my review.
5· . . . Q· Do you know whether or not OFCCP has
6· received employee contact information as part of
7· the litigation?
8· . . . A· I believe in the litigation we got contact
9· information.
10· . . . Q· Now, going back to internal and external
11· complaints, if you go to Exhibit 16, last page,
12· Item 11 is -- references a list of current and

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13 · former employees who have made internal and
14 · external discrimination complaints and so on.
15 · . . . A. Yes.
16 · . . . Q. And then it -- the response is, "We
17 · addressed this request in two different letters
18 · written by our outside counsel, Gary Siniscalco,"
19 · and then it references the two letters.
20 · Do you have an understanding that Oracle
21 · did address, at least in its view, this request?
22 · . . . A. The document here that we're looking at,
23 · Exhibit 16 –
24 · . . . Q. Yes.
25 · . . . A. -- would indicate that they believed that

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1 · they had addressed it. I've seen the letters, and
2 · the letters would indicate that the company didn't
3 · think that it was somehow relevant, if I remember
4 · right.
5 · . . . Q. Do you –
6 · . . . A. I mean, the letters say what they say.
7 · . . . Q. The letters do say what they say, don't
8 · they?
9 · . . . A. Yeah.

85:10-12

10 · . . . Q. And I take it that OFCCP had a different
11 · view on that issue. Correct?
12 · . . . A. Yes.

85:21-86:13

21 · . . . Q. Just to confirm, I wanted -- I believe you
22 · answered the question, and I'm signaling that. But
23 · now we've been talking about Exhibit 14 for a
24 · period of time.
25 · . . . A. Yes.

86

1 · . . . Q. And is it still your belief that
2 · Exhibit 14 accurately reflects those items that
3 · OFCCP contends -- or those items -- strike that.
4 · Is it still your belief that Exhibit 14
5 · accurately reflects those items OFCCP believed that
6 · Oracle failed or refused to produce?

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7 · · · · A · As of the time of the letter, certainly.
8 · · · · Q · Okay. Do you know whether there was a
9 · subsequent letter that identified different items
10 · that OFCCP believes that Oracle failed or refused
11 · to produce?
12 · · · · A · I don't believe there is a subsequent
13 · letter to this one.

86:22-89:14

22 Let me first do -- Exhibit 18 is an email
23 · from Shauna Holman-Harries to Mr. Luong · It is
24 · dated 10/29/2015. And you'll notice that it is a
25 · series of cover emails, which is -- subject line is

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1 · "HQCA 2 of 29" all the way to "29 of 29."
2 · · · · · We have the attachments for these, but
3 · they are quite voluminous.
4 · · · · · (Telephonic interruption.)
5 · · · · · MS. DAQUIZ: · But the grammar on that
6 · device, that's spot on · That's great.
7 · · · · · THE WITNESS: · Okay.
8 · BY MR. PARKER:
9 · · · · Q · And you have no reason to doubt that
10 · Ms. Holman-Harries sent out on October 29th 29
11 · separate emails, 29, the first being Exhibit 17,
12 · and then the rest being Exhibit 18.
13 · · · · A · No · It looks like she sent out a bunch of
14 · personnel files to us in 29 separate emails.
15 · · · · Q · Now, let me direct your attention to what
16 · we'll have marked as Exhibit 19, which is Tab 41.
17 · · · · · (Deposition Exhibit 19 was marked for
18 · · · · · identification.)
19 · BY MR. PARKER:
20 · · · · Q · Exhibit 19 is an email from Shauna
21 Holman-Harries to Mr. Luong dated Nov. 3, 2015.
22 · · · · A · Okay.
23 · · · · Q · Have you seen these emails before?
24 · · · · A · I have.
25 · · · · Q · Okay · And the very first email in chron

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1 · order is Bates stamped DOL1044. Do you see it?
2 · · · · A · I do.

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3 · · · · Q · And it says, "Ms. Holman-Harries, please
4 · see attached letter."
5 · · · · · Do you see that?
6 · · · · A · I do.
7 · · · · Q · And that would be the letter of – from
8 · Mr. Doles that is Exhibit 16 · Correct? · I'm sorry.
9 · That is Exhibit 14.
10 · · · · A · That appears to be the case, yes.
11 · · · · Q · Okay, great. And then Ms. Harries
12 · responds in an email of November 2nd, 2015, and it
13 · says, "Dear Hoan, thank you for forwarding
14 · Mr. Doles' letter." It says, "I assume that he was
15 · unaware that we responded to these requests last
16 · week in the series of 29 emails to you dated
17 · October 29, 2015."
18 · · · · · Do you see that?
19 · · · · A · I see it.
20 · · · · Q · And is it your understanding that those
21 · emails referenced here would be Exhibits 17 and 18?
22 · · · · A · Yes.
23 · · · · Q · Okay. And if we flip the page, you'll see
24 · Mr. Luong in an email of -- I'm sorry, flip the
25 · page. Go to DOL1042. It states -- Mr. Luong

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1 · states:
2 · · · · · "Dear Shauna,
3 · · · · · The 29 emails that you sent me on
4 · · · · October 29, 2015, were neither complete nor
5 · · · · accurate responses to our data request
6 · · · · referenced in our letter issued this morning.
7 · · · · I am available to discuss any clarifications
8 · · · · as needed."
9 · · · · · Do you see that?
10 · · · · A · I do.
11 · · · · Q · And then there's a response from
12 · Ms. Harries.
13 · · · · · Do you see that?
14 · · · · A · Uh-huh. Yes.

89:18-92:23

18 · · · · · And then Ms. Holman-Harries says, "Hi
19 · Hoan. I must confess I am confused by your
20 · 5:03 P.M. PSD (6:03 P.M. MST) email last night."

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21 · · · · · Do you see that?
22 · · · · A. I see it.
23 · · · · Q. And then it says -- second paragraph,
24 · there's a -- the first sentence -- second sentence
25 · says, "Following receipt of your email, I replied

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1 · to you at 1:30 P.M., suggesting that Mr. Doles'
2 · letter likely was due to him being misinformed
3 · about our October 29 submission to you."
4 · · · · · Do you see that?
5 · · · · A. I do.
6 · · · · Q. Okay. And you understand this email chain
7 · to be in response to the November 2nd letter from
8 · Mr. Doles. Correct? Exhibit 19.
9 · · · · A. Yeah, the whole chain seems to start with
10 · that email which included the letter, yes.
11 · · · · Q. And then let me show you what's been
12 · marked -- we'll mark as Exhibit 20.
13 · · · · · (Deposition Exhibit 20 was marked for
14 · · · · · identification.)
15 · BY MR. PARKER:
16 · · · · Q. And Exhibit 20 is an email from Shauna
17 · Holman-Harries to Robert Doles, dated November 6,
18 · 2015. Subject: HQCA Response.
19 · · · · A. Okay.
20 · · · · Q. Have you seen this email before?
21 · · · · A. I think so.
22 · · · · Q. Okay. And it -- this email, as you
23 · understand, relates to the November 2 letter from
24 · Mr. Doles which is Exhibit 14?
25 · · · · A. It appears to relate to that letter, yes.

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1 · · · · Q. Okay. And then did OFCCP understand that
2 · Ms. Shauna Holman-Harries was referencing her
3 · November 2nd email, which is Exhibit 19, to
4 · Mr. Luong?
5 · · · · A. I mean, to the extent, yeah, there's a
6 · November 2nd email in this chain --
7 · · · · Q. Very good.
8 · · · · A. -- I believe that's what it's referencing.
9 · · · · Q. Very good. And it says then -- at the end
10 · it says, "After coordinating with him, if you still

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11 · have concerns, please let me know."
12 · Do you see that?
13 · . . . A · I do.
14 · . . . Q · Do you know whether or not anyone from
15 · OFCCP responded to this email?
16 · . . . A · Not definitively, no.
17 · . . . Q · And you understand that there's a
18 · reference to -- it says "Oct 29 response."
19 · Do you see that?
20 · . . . A · I do.
21 · . . . Q · And do you understand that to be a
22 · reference to Exhibits 18 and 19 -- I'm sorry, 17
23 · and 18?
24 · . . . A · Yes.
25 · . . . Q · Then going back to Exhibit 14 one last

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1 · time -- and at the risk of asking a question again,
2 · but you just have to tell me if you've already
3 · answered it. That would be fine.
4 · . . . A · Okay.
5 · . . . Q · If you haven't answered it, then you
6 · should.
7 · Exhibit 14, Item 3, the compensation
8 · database snapshot of 1/1/2013 –
9 · . . . A · Yes.
10 · . . . Q · -- do you know whether that's been
11 · provided in connection with litigation?
12 · . . . A · I believe it has in connection with
13 · litigation.
14 · . . . Q · Item 4, employee personnel actions, do you
15 · know if that's been provided in connection with
16 · litigation?
17 · . . . A · Not for certain. I mean, if it has, it
18 · has.
19 · . . . Q · Okay. And Item 7, which is on page 1056
20 · Bates stamp, the labor condition applications, do
21 · you know if that's been provided as part of
22 · litigation?
23 · . . . A · I do not know that for certain.

93:9-93:19

9 · Mr. Ratliff, you were asked whether or not

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10· there were any further communications from OFCCP
11· about these records after November 2nd, 2015, and
12· you responded that there were none.
13· Could you clarify your answer?
14· THE WITNESS: I mean, just to the extent
15· that there was a Notice of Violations that went
16· out, I'm aware of that. So I hadn't thought of
17· that earlier. But, I mean, to the extent that the
18· Notice of Violations talks about not producing
19· documents, that would be a record that we have.

93:21-94:10

21· . . . Q· Very good. The question was, was there a
22· response to the email?
23· . . . A· Right.
24· . . . Q· And as I understand it, the response –
25· you recall that there being an NOV, but otherwise

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1· no other response?
2· . . . A· Not in writing, at least that I'm aware
3· of.
4· . . . Q· And good distinction. Are you aware of
5· any oral communications in response to the email?
6· . . . A· I am not. I mean, again, I think when
7· preparing for this I was more preparing for what
8· wasn't produced as opposed to what we may have done
9· to respond to things that Oracle put to us. So
10· there could have been, but I don't know.