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DEC 20 2019

Office of Administrative Law Judges
 San Francisco, Ca

Attorneys for OFCCP

**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.

Case No. 2017-OFC-00006

**OFCCP'S OBJECTIONS TO ORACLE'S DEPOSITION DESIGNATIONS SUBMITTED
 TO THE COURT ON DECEMBER 20, 2019**

OFCCP files objections to Oracle's unilateral and error ridden deposition designations that it filed today that do not conform to the deposition designations that the parties previously filed with

this Court and with the parties' previous exhibit lists. Oracle's submissions leave out portions of the depositions that the parties designated as well as include portions that the parties did not designate. Additionally, OFCCP objects to Oracle making new objections in its filings today that it did not previously make in the depositions themselves because such "to the extent" objections and untimely objections are waived. Lastly, OFCCP objects to the extent that the filings made today do not list the deposition numbers nor are in conformance with the Court's February 6, 2019, Pre-Hearing Order. OFCCP respectfully requests that this Court reject Oracle's deposition designations filed today and order Oracle to meet and confer with OFCCP about these issues to address them and for the parties to file deposition designations that conform to the parties' actual deposition designation and any corrections thereto that the parties agree to make.

BACKGROUND:

The parties could not agree to the how deposition exhibits would be handled in their exhibit submissions. OFCCP wanted the entire depositions to be submitted such that the Court would just review the designated portions. Oracle argued that just the designated portions should be submitted. On December 4, 2019, the parties argued their views in front of the Court. In this argument, OFCCP noted the significant effort that would be involved in changing the existing submissions and carving out the specific designations. In contrast, Oracle identified that it was easy to produce the designations. On December 5, 2019, the Court selected Oracle's position of just submitting the designations after OFCCP had already submitted full transcripts to the Court. On that date, the Court ordered Oracle to create the designations to be reviewed by and agreed upon by OFCCP and to submit the designations not later than December 19, 2019.

On December 16, 2019, OFCCP received an inquiry from Oracle that dealt with 13 of OFCCP's

hundreds upon hundreds of designations. OFCCP responded to that inquiry before 10:00 a.m. When OFCCP questioned Oracle about when it would be providing the designations to OFCCP, Oracle stated that it would provide them fairly quickly after OFCCP responded. At the hearing on December 17, 2019, OFCCP raised the matter in open court because it still had not received any of the designations. Oracle stated that it would provide them on that date. OFCCP raised concerns about being able to meet the December 19, 2019, filing date given the volume of material that it had to produce. The Court moved the required deposition designation filing to December 20, 2019. The Court subsequently identified a 3:00 p.m. filing time so that it would see if there were any issues related to OFCCP's concerns of insufficient time to review the designations and for the parties to meet and confer about them.

Oracle sent nine e-mails containing 18 deposition transcripts, 17 video snippets containing 26 hours of videos and 17 "ClipReports" with the videos during the afternoon of December 17, 2019, such that some of the e-mails arrived after 5:00 p.m. It took over seven hours to download and extract the video files. Oracle did not provide them on a rolling basis, but instead sent them consecutively. While Oracle took 12 days to provide the designations, Oracle demanded that OFCCP produce its responses thereto in less than 67 hours. OFCCP sent its review and objections to Oracle on December 20, 2019. Exhibit 1. Oracle ignored them and unilaterally filed the designations today.

ARGUMENT

- 1. Oracle's filings contain new objections above and beyond those made at the depositions.**

Oracle exceeded its mandate to conform the videos and transcripts to the parties' designations by suddenly making new objections, to include "to the extent" objections, in what it

provided that were not made during the depositions. These objections took two forms. First, for every deposition that OFCCP took, Oracle formatted the designations as a separate filing whose preamble stated: "To the extent that the testimony designed herein calls for privileged and/or confidential information, Oracle objects." Noticeably, Oracle took advantage of being the filer and made no such designation for the depositions that Oracle took. These objections are waived because they are listed as "to the extent" objections and it is not clear to which testimony they apply and they are untimely. Additionally, in the body of the designations, Oracle made foundational objections. These too are waived because they are untimely. OFCCP requested that Oracle remove all such objections from its preamble and its "Objection/Errata" columns. However, Oracle ignored this request. OFCCP respectfully requests that this Court deny these objections.

2. Oracle only lists one deposition for Jane Suhr in its exhibit list, but it provides two different deposition transcript designation documents for her.

Oracle submitted two deposition transcript designation documents for Jane Suhr when it only listed one of these depositions for her in any of its exhibit list at Ex. D443. OFCCP requested that Oracle withdraw the extra transcript. Instead, Oracle again took advantage of it being the filer and submitted two transcripts for Jane Suhr even though it only listed one on any of its exhibit list for her at D443. OFCCP respectfully requests that this Court reject the extra transcript and forbid Oracle to file it since it was not on its exhibit list.

3. Oracle's filing had numerous designation errors that did not conform to the parties' deposition designations.

In addition to the problems identified above, OFCCP found many designation errors listed below and identified in the letter that it provided to Oracle today. Some of these errors involve pages of

deposition testimony. OFCCP requested that Oracle fix these errors. Oracle ignored OFCCP's request and knowingly submitted error ridden designations that did not conform to the parties' deposition designations. OFCCP respectfully requests that this Court reject the deposition designation filings Oracle filed today and order Oracle to meet and confer with OFCCP such that these designation errors are corrected. Below is a summary of the errors. A more through listing thereof is contained in the attachment to the letter at Exhibit 1.

A. The ClipReports do not correspond to the videos at times.

The deposition designations in the pdf documents submitted with the videos labeled "ClipReport," at times, do not match the videos and/or the transcripts that Oracle also provided. It was originally thought that these ClipReports were provided to represent some type of mirroring of the videos so that all OFCCP needed to do was to review them against the separately provided transcripts. However, they do not always mirror the videos or the transcripts. In terms of the videos, the ClipReports, at times contain testimony that is not in the videos and at times, the videos contain testimony that is not in the ClipReports.

B. The ClipReports and videos do not correspond to the separately designated deposition transcripts.

At times, the ClipReports and/or videos have testimony that the separately designated deposition transcripts do not contain and vice-versa.

C. Lines of deposition testimony are incomplete or the words listed therein are incorrect and do not match the words contained in the videos.

The various deposition lines are either missing words or the words between the transcript and the videos do not match.

D. Single lines of deposition designations are missing from blocks of testimony.

In the middle of blocks of designated testimony, single lines of deposition designations are missing.

E. Testimony that was never designated was included in the deposition designations. The videos, ClipReports and designated deposition transcripts contain testimony that was never designated by either party.

F. Blocks of deposition designations are simply missing. The videos, ClipReports and designated deposition transcripts are missing entire sections of deposition designations. These missing designations range from a few words to entire blocks.

G. Oracle repeatedly did not include the revisions that OFCCP identified on December 16, 2019.

Surprisingly, even though Oracle had more than a day's notice, it did not even make all of the revisions that OFCCP provided to it on December 16, 2019, even though Oracle committed to making them. Not counting duplicates or issues with Oracle's designations, Oracle identified 13 separate issues with OFCCP's designations for 6 depositions. As stated earlier, three of these depositions had one issue each. OFCCP responded to Oracle's issues by 10:00 a.m. on December 16, 2019, within less than two hours of receiving notice of these issues. Over the course of five hours on December 17, 2019, ending after 5:00 p.m. Oracle sent a series of nine e-mails containing its deposition modifications. In this production, Oracle failed to make all of the revisions that OFCCP communicated to Oracle during the morning of December 16, 2019.

H. Oracle included errata in its designations from the Jewett case that it did not produce in discovery and that it did not list as an exhibit.

Oracle's designations included errata that was not produced in discovery for the Jewett depositions and that was not identified as an exhibit on Oracle's exhibit list.

4. Oracle's preamble statement in its filings that it included the objections to the deposition testimony is not true.

Oracle's claim that it is "submit[ing] the following deposition designations, including any errata and/or objections to such testimony by either party" is simply not true. Contrary to Oracle's claim, Oracle did not include all of the objections made to the designated testimony. Instead, it only included those that were designated. Moreover, when Oracle provided its designations to OFCCP, it specifically stated that "[t]hese designations are meant to include only the questions posed to each witness and his/her responses thereto and do not include any attorney objections, argument or colloquy. Exhibit 2, p. 2 emphasis added. OFCCP requested that Oracle change this misleading preamble and Oracle ignored this request and filed it anyway. Thus, Oracle is misleading the Court in its representations of what it was filing. OFCCP requests that this Court reject these filings.

5. Oracle failed to certify that the designations it submitted to the Court are true and correct copies of the certified deposition testimony that the parties designated.

Oracle failed to provide any of the deposition certifications linked to the depositions and failed to certify that the deposition modifications that it made to conform to the deposition designations are true and correct. Given the number of incorrect designations, OFCCP requested such a certification. Once again, Oracle ignored OFCCP's request and submitted incorrect designations that were not certified. OFCCP respectfully requests that this Court order Oracle to make such a certification especially when Oracle ignored the many deficiencies that OFCCP identified.

6. Any complaint by Oracle that OFCCP did not submit its issues today in a timely fashion is rendered invalid because of Oracle's unclean hands in providing the designations at such a late date to OFCCP.

Oracle took 12 days to make the necessary modifications after the Court issued its Order on December 5, 2019. Oracle sent OFCCP its proposed modifications after 5:00 p.m. on December 17, 2019. Instead of providing its proposed modifications piecemeal so that OFCCP could respond timely, Oracle instead chose to delay its production of 17 videos totaling 26 hours that took more than seven hours to download and extract by sending them in a series of nine e-mails late on the afternoon on December 17, 2019, such that the last one arrived after 5:00 p.m. Oracle's production delay was made worse because the written deposition 'ClipReports' that it provided with the videos repeatedly did not mirror the content thereof and Oracle provided multiple copies of the same transcript that differed by over 130KB. Furthermore, any claim by Oracle that its production was delayed because it had to address issues with OFCCP's designations is belied by the fact that Oracle only had issues with 6 of the 17 depositions three of which was just with one designation each, Oracle had OFCCP's response before 10:00 a.m. on December 16, 2019, yet waited more than a day to produce, and Oracle did not even make all of the responses that OFCCP provided to Oracle on December 16th. In short, Oracle should not be able to squeeze OFCCP by providing the designations late and then justifying its unilateral filing that did not include OFCCP's input. OFCCP respectfully requests that this Court disregard any timely claim because of Oracle's unclean hands of providing ///

the documents late to OFCCP and not even correcting all of the issues that OFCCP made on December 16, 2019, after it had more than 24 hours to do so.

DATED: December 20, 2019

KATE S. O'SCANNLAIN
Solicitor of Labor

JANET M. HEROLD
Regional Solicitor

IAN H. ELIASOPH
Counsel

LAURA C. BREMER
Acting Counsel for Civil Rights

/s/ Norman E. Garcia
NORMAN E. GARCIA
Senior Trial Attorney

OFFICE OF THE SOLICITOR
U.S. DEPARTMENT OF LABOR
Attorneys for OFCCP

CERTIFICATE OF SERVICE

I, Norman E. Garcia, am a citizen of the United States of American and am over 18 years of age. I am not a party to the within action. My business address is 90 7th Street, Suite 3-700, San Francisco, California, 94103.

On December 20, 2019, I served **OFCCP'S OBJECTIONS TO ORACLE'S DEPOSITION DESIGNATIONS SUBMITTED TO THE COURT ON DECEMBER 20, 2019**

with Certificate of Service

in this action by e-mail to:

Gary R. Siniscalco: grsiniscalco@orrick.com Erin M. Connell: econnell@orrick.com
Warrington Parker: wparker@orrick.com
John Giansello: jgiansello@orrick.com
Kayla Grundy: (kgrundy@orrick.com)
Jacqueline Kaddah: jkaddah@orrick.com

I certified under penalty of perjury that the above is true and correct.

Executed: December 20, 2019

/s/ Norman E. Garcia
NORMAN E. GARCIA
Senior Trial Attorney
Office of the Solicitor
United States Department of Labor

U.S. Department of Labor

Office of the Solicitor
90 7th Street, Suite 3-700
San Francisco, California 94103



December 20, 2019

VIA ELECTRONIC MAIL

Warrington Parker
ORRICK HERRINGTON & SUTCLIFFE LLP
405 Howard Street
San Francisco, CA 94105

Re: OFCCP v. Oracle America, Inc., OALJ Case No. 2017-OFC-00006
OFCCP's issues with Oracle's deposition designations

Dear Warrington:

Below and attached are the many issues that we identified with Oracle's modifications of the deposition transcripts and videos to conform with the parties' deposition designations. We are hopeful that Oracle will make these changes.

Oracle took 12 days to provide the designation modifications to OFCCP:

Before addressing the numerous problems, OFCCP needs to first address the lengthy period of time that Oracle took to provide these designation modifications. Oracle took 12 days to make the necessary modifications after the Court issued its Order on December 5, 2019. Oracle sent OFCCP its proposed modifications after 5:00 p.m. on December 17, 2019. Instead of providing its proposed modifications piecemeal so that OFCCP could respond timely, Oracle instead chose to delay its production of 17 videos totaling 26 hours that took more than seven hours to download and extract by sending them in a series of nine e-mails late on the afternoon on December 17, 2019, such that the last one arrived after 5:00 p.m. Oracle's production delay was made worse because the written deposition 'ClipReports' that it provided with the videos repeatedly did not mirror the content thereof and Oracle provided multiple copies of the same transcript that differed by over 130KB. Furthermore, any claim by Oracle that its production was delayed because it had to address issues with OFCCP's designations is belied by the fact that Oracle only had issues with 6 of the 17 depositions three of which was just with one designation each, Oracle had OFCCP's response before 10:00 a.m. on December 16, 2019, yet waited more than a day to produce, and Oracle did not even make all of the responses that OFCCP provided to Oracle on December 16th.

Oracle made new objections above and beyond those made at the depositions.

Oracle exceeded its mandate to conform the videos and transcripts to the parties' designations by suddenly making new objections, to include "to the extent" objections, in what it provided that were not made during the depositions. These objections took two forms. First, for every deposition that OFCCP took, Oracle formatted the designations as a separate filing whose preamble stated: "To the extent that the testimony designed herein calls for privileged and/or confidential information, Oracle objects." Oracle made no such designation for the depositions

Exhibit 1

that Oracle took. These objections are waived because they are listed as “to the extent” objections and it is not clear to which testimony they apply and they are untimely. Additionally, in the body of the designations, Oracle made foundational objections. These too are waived because they are untimely. Consequently, OFCCP requests that Oracle remove all such objections from its preamble and its “Objection/Errata” columns. Should Oracle refuse to remove them as requested, OFCCP objects.

Oracle’s failed to certify its deposition modifications and its remaining preamble statement is not true or it improperly included errata.

Oracle failed to provide any of the deposition certifications and failed to certify that the deposition modifications that it made to conform to the deposition designations are true and correct. Given the number of incorrect designations, OFCCP requests such a certification. OFCCP will object if Oracle declines to certify.

Additionally, Oracle’s claim that it is “submit[ing] the following deposition designations, including any errata and/or objections to such testimony by either party” is simply not true. Contrary to Oracle’s claim, Oracle did not include all of the objections made to the designated testimony. It only included those that were designated. Furthermore, Oracle included errata that was not produced in discovery for the Jewett depositions and that was not submitted as an exhibit. OFCCP requests that the preamble be changed to “Oracle submits the following designations made by the parties and any errata submitted as an exhibit thereto.” OFCCP also requests that Oracle remove any errata that was not produced and/or submitted as an exhibit. OFCCP will object if Oracle submits errata that it did not previously produce to OFCCP and/or submit as an exhibit.

Oracle’s proposed submission to the Court is not in compliance with the Court’s February 6, 2019, Prehearing Order.

Instead of Oracle putting the deposition designations in the form of exhibits and conforming to the Court’s February 6, 2019, Order, Oracle is treating each deposition’s designations as a separate filing without any reference to the exhibits that these modifications are replacing. OFCCP submitted deposition transcripts and errata for them as specific exhibit numbers. Oracle did the same for deposition transcripts. The parties referred to the exhibit numbers of the deposition transcripts during the hearing. Moreover, these separate filings are not bounded. To make it easier for the Court and any other necessary party to review them and to relate them to the hearing testimony, OFCCP is requesting that the written deposition designated transcripts be changed as listed below or OFCCP will object:

- labeled with their accompanying P or D exhibit number for the transcripts listed in the parties’ exhibit lists;
- be paginated according to the Court’s February 6, 2019, Prehearing Order;
- be tabbed according to the Court’s February 6, 2019, Prehearing Order; and
- be bounded according to the Court’s February 6, 2019, Prehearing Order.

Oracle's Joyce Westerdahl supplemental designations are different from what it represented to the Court.

Oracle misled the Court regarding the supplemental deposition designations that it was making for Joyce Westerdahl. Oracle represented to the Court that it was supplementing its designations for Joyce Westerdahl to respond to the specific testimony that Kristen Klagenburg made at the hearing regarding Joyce Westerdahl, e.g., stating to a Vice President that he should hire women because they would work harder and he could pay them less. When the Court inquired about the length of this additional designation, Mr. Parker held up his hand and stretched out his thumb and index finger to show the length and stated it was less than a page. However, Oracle's subsequent designation was 36 lines or almost one and a half pages that was more than three times what it represented to the Court. OFCCP requests that only retain the portion of the designation pertaining to Joyce Westerdahl's statement at 338:19-25 and remove the other portions that are above and beyond what Oracle represented to the Court at 337:14-338:18. If Oracle does not comply, OFCCP will object.

Oracle only lists one deposition for Jane Suhr in its exhibit list, but it provides two different deposition transcript designation documents for her.

Oracle submitted two deposition transcript designation documents for Jane Suhr when it only listed one of these depositions in its exhibit list. OFCCP requests that Oracle withdraw the extra transcript. If Oracle does not, OFCCP will object.

Oracle's numerous designation errors.

In addition to the problems identified above, OFCCP found many designation errors listed below. Some of these errors involve pages of deposition testimony. OFCCP requests that Oracle fix these errors to avoid objections. OFCCP has highlighted these errors in yellow to facilitate their correction.

1. The ClipReports do not correspond to the videos at times.

The deposition designations in the pdf documents submitted with the videos labeled "ClipReport," at times, do not match the videos and/or the transcripts that Oracle also provided. It was originally thought that these ClipReports were provided to represent some type of mirroring of the videos so that all OFCCP needed to do was to review them against the separately provided transcripts. However, they do not always mirror the videos or the transcripts. In terms of the videos, the ClipReports, at times contain testimony that is not in the videos and at times, the videos contain testimony that is not in the ClipReports.

2. The ClipReports and videos do not correspond to the separately designated deposition transcripts.

At times the ClipReports and/or videos have testimony that the separately designated deposition transcripts do not and vice-versa.

3. Testimony is missing from a line of testimony or the testimony therein is wrong.

Without any explanation, part of the testimony of a line is missing or the words listed therein are incorrect and do not match the video.

4. Single lines of deposition designations are missing from blocks of testimony.

In the middle of blocks of designated testimony, single lines of deposition designations are missing.

5. Testimony that was never designated was included in the designations.

The videos, ClipReports and designated deposition transcripts contain testimony that was never designated by either party.

6. Entire blocks of deposition designations are simply missing.

The videos, ClipReports and designated deposition transcripts are missing entire sections of deposition designations.

7. Oracle repeatedly did not include the revisions that OFCCP identified on December 16, 2019.

Surprisingly, even though Oracle had more than a day's notice, it did not even make all of the revisions that OFCCP provided to it on December 16, 2019, even though Oracle committed to making them. Not counting duplicates or issues with Oracle's designations, Oracle identified 13 separate issues with OFCCP's designations for 6 depositions. As stated earlier, three of these depositions had one issue each. OFCCP responded to Oracle's issues by 10:00 a.m. on December 16, 2019, within less than two hours of receiving notice of these issues. Over the course of five hours on December 17, 2019, ending after 5:00 p.m. Oracle sent a series of nine e-mails containing its deposition modifications. In this production, Oracle failed to make all of the revisions that OFCCP communicated to Oracle during the morning of December 16, 2019.

Oracle's editing of the videos into segments as small as one, two and three lines makes the videos chopping and hard to hear.

Oracle, for unknown reasons, choose to edit large blocks of designations into small segments. These small segments exist in large designations such that they have large segments beside them to include on both sides of them. This editing that causes these small segments to be beside or in the middle of large segments or other small segments causes the video to be chopping and it is

Warrington Parker
December 20, 2019
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hard to hear all of the words at time. OFCCP requests that Oracle eliminate small segments of less than five lines unless the designation itself is composed of less than five lines.

Sincerely,

A handwritten signature in cursive script that reads "Norman E. Garcia".

NORMAN E. GARCIA
Senior Trial Attorney

Video and Transcript Designation Mismatches

| Depo | Video/clip report | transcript | Designation |
|------------------------------|--|---------------------------------|---|
| Madhavi Cheruvu | 77:05-78:03 | 77:03-78:03 | 77:03-78:03 |
| Madhavi Cheruvu | 84:22-85:08 | 84:22-85:6 | 84:22-85:6 |
| Madhavi Cheruvu | 189:21-190:23 | 189:20-190:23 | 189:20-190:23 |
| Madhavi Cheruvu | 223:3-6 | 223:2-6 | 223:2-6 |
| Tamerlane Baxter | 36:10-37:04 | 36:10-37:14 | 36:10-37:14 |
| Tamerlane Baxter | 44:21-25 | 44:21-25 | 44:22-25 |
| Tamerlane Baxter | Missing | 46:1-7 | 46:1-7 |
| Tamerlane Baxter | 54:10-55:09 | 54:10-55:09 | Never designated |
| Tamerlane Baxter | 151:10, 208:12 and 211:2 are missing | 148:21-162:24 | 148:21-162:24 |
| Tamerlane Baxter | 242:25-243:5 | Missing | 243:1-5 |
| Tamerlane Baxter | While ClipReport has 238:02-238:08, 238:23-239:25, and 242:25 (sic)-243:05, the video does not have these clips. | 238:02-238:08; 238:23-239:25 | 238:02-238:08; 238:23-239:25, and 243:1-5 |
| Juan Loaiza | Video is missing 321:20-325:4; this is in Clipreport | 321:20-325:4 | 321:20-325:4 |
| Juan Loaiza | After the 38:28 mark video has extra verbiage that was not designated. | N/A | N/A |
| Shauna Holman-Harries 8/1/19 | 182:13-184:10 | 182:14-184:10 | 182:13-184:10 |
| Shauna Holman-Harries 8/1/19 | After the 39:20 mark video has extra verbiage that was not designated. | N/A | N/A |

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| Shauna Holman-Harries 8/1/19 | After 222:05 mark video starts repeating at 218:7 such that portions of 222:17-223:19 and beyond is skipped. Whole video after 222:05 mark needs to be redone. | N/A | N/A |
| Chad Kidder | 40:3-44:16 | 40:3-44:15; line 44:15 is incomplete. | 40:3-44:15 |
| Kate Waggoner, 7/19/19 | Stops at 222:19 | 222:20-24 Never designated | Stops at 222:19 |
| Kate Waggoner, 7/19/19 | | Oracle makes objection at 295:14-296:16 in a separate column. Objection waived. Improper objection not authorized by Court. | |
| Kate Waggoner, 7/19/19 | | Oracle makes objection at 296:17-298:15 in a separate column. Objection waived. Improper objection not authorized by Court. | |
| Kate Waggoner, 7/19/19 | | Oracle makes objection at 300:18-302:16 in a separate column. Objection waived. Improper objection not authorized by Court. | |
| Kate Waggoner, 7/19/19 | | Oracle makes objection at 306:25-308:7 in a separate column. Objection waived. Improper objection not authorized by Court. | |
| Kate Waggoner, 7/19/19 | | Oracle makes objection at 308:8-24 in a separate column. Objection waived. Improper objection | |

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|------------------------|--|--|---|
| | | not authorized by Court. | |
| Kate Waggoner, 7/26/18 | | No errata sheet provided for Jewett depositions in discovery or in exhibit list cannot claim errata now at 26:3-6. | |
| Kate Waggoner, 7/26/18 | Video is missing 181:12-183:2; ClipReport has this information | 178:19-183:02 | 178:19-183:02 |
| Kate Waggoner, 7/26/18 | 81:4-83:13 never designated in 79:16-86:12 | Stops at 81:3; starts at 84:14 | Never designated Stops at 81:3; starts at 84:14 |
| Kate Waggoner, 7/27/18 | 326:7-330:21 & 332:5-336:6 designation was deleted/changed on 12/16/19 | 326:7-330:21 & 332:5-336:6 designation was deleted/changed on 12/16/19 | |
| Kate Waggoner, 7/27/18 | 369:22-370:4 | 369:22-370:4 | 369:22-370:10, designation was changed on 12/16/19 |
| Joyce Westerdahl | 62:21-64:06 | 62:24-64:06 | 62:24-64:06 |
| Joyce Westerdahl | | 75:17-22 | Never designated |
| Joyce Westerdahl | 103:3-103:10 | 103:3-103:11 | 103:3-103:11 |
| Joyce Westerdahl | Missing 230:14 from 226:10-234:03 | 226:10-234:03 | 226:10-234:03 |
| Joyce Westerdahl | 337:14-337:25 | 337:14-337:25 | Mr. Parker represented to the court that the supplemental addition was 5 inches in the form of a hand gesture and confirmed that it was less than a page. |
| Joyce Westerdahl | 338:01-18 | 338:01-18 | Mr. Parker represented to the court that the supplemental addition was 5 inches in the form of a hand |

| | | | |
|------------------|--|-------------------------------------|---|
| | | | gesture and confirmed that it was less than a page. |
| Joyce Westerdahl | 338:19-25 | 338:19-25 | This is only portion that addressed what was stated at the hearing. |
| Joyce Westerdahl | 11:17:17 video recording just mentions Safra but ClipReport at 110:03 adds Larry and Mark. | 109:24-110:3 | 109:24-110:3 |
| Joyce Westerdahl | 2:55:53 video doesn't state "I mean I don't. I actually don't know" at ClipReport at 229:07 | 227:14-229:07 | 227:14-229:07 |
| Joyce Westerdahl | 4:18:53 video leaves out the word "promotion" at ClipReport at 256:08. | 255:24-256:08 | 255:24-256:08 |
| Joyce Westerdahl | 5:47:03 video leaves out the word "not" and just stated "I did" while ClipReport at 330:11 states "I did not." | 330:05-11 | 330:05-11 |
| Sean Ratliff | 12:25-13:13 | 12:25-13:23 | 12:25-13:23 |
| Hea Jung Atkins | 192:6-193:7 | 192:6-25 | 192:6-193:7 |
| Hea Jung Atkins | Video uses regression" analysis while transcript states "progression" analysis at 55:18. | N/A | N/A |
| Michael Brunetti | 145:25-146:5 Never designated | Stops at 145:24 and starts at 146:6 | Stops at 145:24 and starts at 146:6 |
| Michael Brunetti | Missing | 146:13-15 | 146:13-15 |
| Michael Brunetti | Missing | 203:19-25 | 203:19-25 |
| Michael Brunetti | Words are missing throughout the video to include "no" at 118:22, "I don't know" at 156:15, "probability" at 158:12. | N/A | N/A |
| Jane Suhr | Video is missing "It's true, is it not," from the middle of 18:11 while | N/A | N/A |

| | | | |
|--------------------|---|----------|----------|
| | these works are in the ClipReport | | |
| Jane Suhr | 62:23-24 | 62:23-25 | 62:23-24 |
| Waggoner 5/1/19 | 5:02 (minutes) – video – “as director,” ClipReport “business director” at page 13:10 | N/A | N/A |
| Waggoner 5/1/19 | 12:55 – video “senior director,” ClipReport “the director” at page 19:14 | N/A | N/A |
| Waggoner 5/1/19 | 18:44 – video “best match,” ClipReport “that match” at page 23:18 | N/A | N/A |
| Waggoner 5/1/19 | 35:35 – video “2011,” ClipReport “2012” at page 47:05 | N/A | N/A |
| Waggoner 5/1/19 | 48:15 – video “should retain its,” ClipReport “should have a” at page 60:24 | N/A | N/A |
| Waggoner 5/1/19 | Video “598”; ClipReport “798” at page 63:11 | N/A | N/A |
| Waggoner 5/1/19 | Video “is titled,” ClipReport “is an exhibit that” at page 108:25 | N/A | N/A |
| Waggoner 5/1/19 | Video “manager training,” ClipReport “manager system” at page 111:15 | N/A | N/A |

**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

**DEFENDANT ORACLE
AMERICA, INC.'S DEPOSITION
DESIGNATIONS**

DEFENDANT ORACLE AMERICA, INC.'S DEPOSITION DESIGNATIONS

CASE NO. 2017-OFC-00006

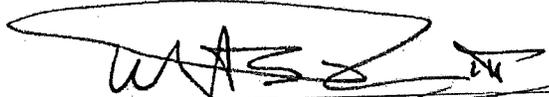
TO PLAINTIFF OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS, UNITED STATES DEPARTMENT OF LABOR AND ITS ATTORNEYS OF RECORD:

Defendant Oracle America, Inc. ("Oracle") hereby exchanges the attached list of deposition designations, some or all of which Oracle may use at trial. Oracle reserves the right to add, revise or delete testimony designations, in whole or in part, from this list. In addition to those designations on the attached list, Oracle reserves the right to use any testimony designations made by any other party and to designate and/or use additional testimony designations for the purposes of rebuttal or impeachment. These designations are made with the full reservation of rights that Oracle may choose to question any and/or all witnesses for whom designations are included live at trial, including but not limited to Hea Jung Atkins, Michael Brunetti, Ph.D., Shirong Andy Leu, Ph.D., Sean Ratliff, and Jane Suhr.

These designations are meant to include only the questions posed to each witness and his/her responses thereto and do not include any attorney objections, argument or colloquy. Any inclusion thereof is inadvertent and will not be included in the final written designations.

November 22, 2019

Respectfully submitted,
GARY R. SINISCALCO
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Attorneys for Defendant
ORACLE AMERICA, INC.

DEFENDANT ORACLE AMERICA, INC.'S DEPOSITION DESIGNATIONS

| DEPOSITION OF SEAN RATLIFF – 30(B)(6) JUNE 26, 2019 |
|--|
| ORACLE'S DESIGNATION FROM / TO |
| 8:14-15 |
| 8:21-9:6 |
| 11:22-25 |
| 12:4-23 |
| 12:25-13:23 |
| 57:13-58:2 |
| 58:6-20 |
| 59:4-60:6 |
| 60:9-13 |
| 64:3-25 |
| 65:5-71:16 |
| 71:20-72:9 |
| 72:19-73:13 |
| 73:19-25 |
| 74:2-76:25 |
| 77:6-79:22 |
| 80:4-82:23 |
| 83:9-85:9 |
| 85:21-86:13 |
| 86:22-89:14 |
| 89:18-92:23 |
| 93:9-93:19 |
| 93:21-94:10 |

DEFENDANT ORACLE AMERICA, INC.'S DEPOSITION DESIGNATIONS

| DEPOSITION OF HEA JUNG ATKINS – JUNE 10, 2019 |
|--|
| ORACLE'S DESIGNATION FROM / TO |
| 9:19-21 |
| 11:23-13:7 |
| 14:12-16:14 |
| 19:16-23 |
| 20:7-23 |
| 23:24-24:9 |
| 35:18-38:2 |
| 40:13-23 |
| 44:11-45:16 |
| 47:9-20 |
| 48:9-15 |
| 48:19-51:6 |
| 51:17-21 |
| 51:25-52:12 |
| 59:19-62:2 |
| 63:9-64:5 |
| 64:17-67:16 |
| 68:10-72:10 |
| 72:24-73:10 |
| 74:4-22 |
| 75:7-77:22 |
| 77:24-25 |
| 85:20-86:19 |
| 102:8-19 |
| 150:24-151:21 |
| 157:1-158:3 |
| 175:8-176:5 |
| 178:24-183:18 |
| 186:23-190:24 |
| 191:9-18 |
| 192:2-193:7 |

DEFENDANT ORACLE AMERICA, INC.'S DEPOSITION DESIGNATIONS

| DEPOSITION OF MICHAEL BRUNETTI – JULY 17, 2019 |
|---|
| ORACLE'S DESIGNATION |
| FROM / TO |
| 21:15-19 |
| 24:24-25:15 |
| 25:20-24 |
| 33:9-34:1 |
| 36:17-38:5 |
| 38:13-41:16 |
| 42:20-43:15 |
| 43:24-44:8 |
| 44:22-47:1 |
| 47:4-51:24 |
| 52:9-54:14 |
| 56:4-57:24 |
| 58:23-59:10 |
| 60:13-18 |
| 68:21-70:4 |
| 70:10-71:1 |
| 71:3-72:22 |
| 73:8-75:24 |
| 76:7-77:4 |
| 77:7-23 |
| 78:1-17 |
| 80:8-15 |
| 80:25-81:5 |
| 81:18-82:5 |
| 85:10-87:17 |
| 88:10-24 |
| 89:10-18 |
| 101:25-102:14 |
| 103:5-12 |
| 104:19-105:6 |
| 108:7-11 |
| 108:16-109:14 |
| 109:21-24 |
| 110:16-111:18 |
| 112:20-113:12 |
| 114:14-115:12 |

DEFENDANT ORACLE AMERICA, INC.'S DEPOSITION DESIGNATIONS

| DEPOSITION OF MICHAEL BRUNETTI – JULY 17, 2019 |
|---|
| 116:2-117:21 |
| 118:16-119:22 |
| 119:25-120:12 |
| 124:9-126:13 |
| 126:15-21 |
| 141:10-142:1 |
| 142:25-143:12 |
| 144:10-145:6 |
| 145:11-15 |
| 145:17-24 |
| 146:6-12 |
| 146:16-21 |
| 146:23-24 |
| 147:2-5 |
| 147:7-9 |
| 147:18-148:4 |
| 149:10-14 |
| 149:21-25 |
| 150:10-151:16 |
| 152:7-154:1 |
| 154:4-6 |
| 154:8-156:10 |
| 156:15 |
| 156:17-158:12 |
| 158:20-159:7 |
| 160:7-11 |
| 161:8-24 |
| 163:18-164:9 |
| 164:18-166:12 |
| 168:5-169:20 |
| 172:9-173:5 |
| 174:3-175:14 |
| 176:12-17 |
| 181:11-17 |
| 181:24-184:8 |
| 185:21-186:18 |
| 189:2-190:1 |
| 190:19-191:4 |
| 192:2-194:3 |

DEFENDANT ORACLE AMERICA, INC.'S DEPOSITION DESIGNATIONS

| DEPOSITION OF MICHAEL BRUNETTI – JULY 17, 2019 |
|---|
| 197:8-199:17 |
| 201:2-203:18 |
| 204:22-205:2 |
| 205:8-19 |
| 205:25-206:3 |
| 206:18-207:15 |
| 208:17-209:12 |

| DEPOSITION OF SHIRONG ANDY LEU – JULY 1, 2019 |
|--|
| ORACLE'S DESIGNATION FROM / TO |
| 11:14-20 |
| 35:19-36:8 |
| 37:19-25 |
| 38:2-3 |
| 40:10-18 |
| 40:20 |
| 40:22-24 |
| 44:23-45:5 |
| 47:11-48:5 |
| 60:7-17 |
| 60:19-20 |
| 63:3-7 |
| 63:19-64:4 |
| 65:7-13 |
| 65:15-18 |
| 65:20-66:2 |
| 67:23-69:8 |
| 69:13-22 |
| 69:25-70:4 |
| 70:6-73:21 |
| 79:18-80:2 |
| 97:6-20 |
| 97:23-24 |
| 98:11-13 |
| 98:18-19 |
| 98:21-101:16 |
| 102:10-18 |

DEFENDANT ORACLE AMERICA, INC.'S DEPOSITION DESIGNATIONS

| DEPOSITION OF SHIRONG ANDY LEU – JULY 1, 2019 |
|--|
| 103:2-104:13 |
| 104:15-106:5 |
| 106:17-107:25 |
| 108:4-13 |
| 108:16-17 |
| 108:19-109:5 |
| 109:8-16 |
| 112:18-113:23 |
| 114:10-115:2 |
| 115:14-116:22 |
| 117:2-118:20 |
| 118:23-24 |
| 119:2-6 |
| 119:9 |
| 119:11-25 |
| 120:12-21 |
| 121:7-19 |
| 126:7-11 |
| 126:21-24 |
| 127:2-3 |
| 127:14-128:3 |
| 131:8-133:1 |
| 133:6-18 |
| 133:20-24 |
| 134:3-5 |
| 134:8-15 |
| 134:17-136:17 |
| 136:22-137:1 |
| 137:9-139:23 |
| 140:13-24 |
| 141:4-8 |
| 141:11 |
| 141:25-142:5 |
| 142:11-16 |
| 142:20-143:4 |
| 143:7-11 |
| 143:13-146:1 |
| 146:3-5 |
| 146:9-17 |

DEFENDANT ORACLE AMERICA, INC.'S DEPOSITION DESIGNATIONS

| DEPOSITION OF SHIRONG ANDY LEU – JULY 1, 2019 |
|---|
| 146:21-22 |
| 147:3 |
| 147:5-6 |
| 147:9-10 |
| 147:12-14 |
| 147:18-19 |
| 148:10-13 |
| 148:16 |
| 149:12-18 |
| 149:21 |
| 149:23-150:5 |
| 150:7 |
| 154:5-20 |
| 168:10-14 |
| 168:17 |
| 168:19-25 |
| 169:3 |
| 169:5-9 |
| 169:12 |
| 169:14-17 |
| 169:20 |
| 169:22-25 |
| 170:3 |
| 170:5-10 |
| 170:13-15 |
| 170:17-20 |
| 171:13-25 |
| 172:3-173:12 |
| 174:24-175:3 |
| 175:10-18 |
| 185:16-24 |
| 186:2-16 |
| 186:20-187:9 |
| 192:16-19 |
| 192:21 |
| 192:23-193:6 |
| 194:6-22 |
| 205:8-10 |
| 205:13-14 |

DEFENDANT ORACLE AMERICA, INC.'S DEPOSITION DESIGNATIONS

| DEPOSITION OF SHIRONG ANDY LEU – JULY 1, 2019 |
|--|
| 205:16-206:18 |
| 206:22-23 |
| 206:25-207:3 |
| 209:3-5 |
| 209:8-10 |
| 209:13 |
| 209:15-210:4 |
| 210:6 |
| 210:9-13 |
| 210:15-19 |
| 210:22-24 |
| 211:1-5 |
| 211:7-212:10 |
| 213:4-16 |
| 215:8-12 |
| 215:15-21 |
| 215:24-216:22 |
| 229:22-232:20 |
| 240:2-241:23 |
| 242:2 |
| 242:4 |
| 242:16-243:13 |
| 257:23-263:4 |
| 276:5-277:4 |
| 277:15-17 |
| 277:21 |
| 277:23-278:11 |
| 278:21-279:7 |

| DEPOSITION OF JANE SUHR – 30(B)(6) – JUNE 26, 2019 |
|---|
| ORACLE'S DESIGNATION FROM / TO |
| 10:14-12:3 |
| 13:16-14:2 |
| 14:5-16:5 |
| 16:9-21 |
| 17:2-22 |
| 18:3-19:11 |
| 20:25-22:10 |

DEFENDANT ORACLE AMERICA, INC.'S DEPOSITION DESIGNATIONS

| DEPOSITION OF JANE SUHR – 30(B)(6) – JUNE 26, 2019 |
|---|
| 22:19-24:25 |
| 25:4-20 |
| 25:25-26:13 |
| 26:17-28:15 |
| 29:2-23 |
| 30:4-21 |
| 31:2-23 |
| 33:6-8 |
| 33:13-21 |
| 33:23-34:21 |
| 35:14-21 |
| 36:20-38:1 |
| 38:6-10 |
| 38:18-39:19 |
| 39:24-40:7 |
| 40:12-41:4 |
| 41:8-42:6 |
| 42:11-43:3 |
| 43:8-44:3 |
| 45:25-46:19 |
| 47:8-16 |
| 47:19-50:25 |
| 51:22-58:3 |
| 58:18-24 |
| 59:18-60:10 |
| 60:16-61:2 |
| 62:5-22 |
| 63:1-2 |
| 63:8-64:9 |
| 64:13-66:3 |
| 66:7-14 |
| 68:12-69:13 |

DEFENDANT ORACLE AMERICA, INC.'S DEPOSITION DESIGNATIONS

| DEPOSITION OF JANE SUHR – JUNE 26, 2019 |
|--|
| ORACLE'S DESIGNATION FROM / TO |
| 16:3-17:19 |
| 18:18-19:10 |
| 21:7-23 |
| 22:12-23:7 |
| 26:12-23 |
| 27:10-29:7 |
| 29:15-30:6 |
| 33:15-24 |
| 34:1-4 |
| 35:4-7 |
| 35:23-36:23 |
| 37:9-24 |
| 38:20-39:19 |
| 55:20-56:1 |
| 56:4-13 |
| 61:19-62:4 |
| 62:14-17 |
| 66:17-67:21 |
| 67:24-68:6 |
| 68:8-25 |
| 69:4 |
| 71:13-74:12 |
| 86:23-87:10 |
| 87:21-91:11 |
| 93:11-18 |
| 102:25-103:10 |
| 104:13-15 |
| 104:18-21 |
| 108:1-9 |
| 108:17-109:16 |
| 118:21-119:4 |
| 123:7-124:7 |
| 124:15-125:3 |
| 125:15-127:6 |
| 127:18-128:3 |
| 128:12-130:15 |

DEFENDANT ORACLE AMERICA, INC.'S DEPOSITION DESIGNATIONS

| DEPOSITION OF JANE SUHR – JUNE 26, 2019 |
|--|
| 131:16-22 |
| 138:2-18 |
| 139:6-14 |
| 141:14-19 |
| 142:3 |
| 142:13-20 |
| 142:24-143:4 |
| 145:16-146:25 |
| 147:18-148:2 |
| 148:11-149:2 |