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I N D E XPROCEEDINGS:PAGE:

Thursday, December 5, 2019

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WITNESSES:DIRECTCROSSREDIRECTRECROSSALJ

Kirsten Hanson Garcia

61

82

98

Kirsten Klagenberg

103

146

160

Donna NG

165

189

Mythily Shah

200

227

EXHIBITS:IDENTIFIEDRECEIVEDREJECTEDJOINT

1 through 101

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103 through 165

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PLAINTIFF

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107 through 170

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172 through 191

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193 through 254

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272 through 328

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330 through 435

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437 through 449

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452 through 498

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506 through 512

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I N D E X

<u>EXHIBITS:</u>	<u>IDENTIFIED</u>	<u>RECEIVED</u>	<u>REJECTED</u>
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DEFENDANT

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ADMINISTRATIVE LAW JUDGE

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P R O C E E D I N G S

(9:00 o'clock a.m.)

JUDGE CLARK: Okay. Good morning. We are on the record in the matter of Office of Federal Contract Compliance Programs, U.S. Department of Labor, versus Oracle America, Incorporated, OALJ Case Number 2017-OFC-00006.

Today is December 5th, 2019. We're in San Francisco, California. I'm Administrative Law Judge Richard Clark, I have been assigned to this matter for all purposes.

This is the time and place for the hearing in this matter that arises under Executive Order 11246, as amended, and the associated regulations at 41 CFR Chapter 60.

Could I have the parties identify themselves for the record, please, starting with the Plaintiff.

MS. BREMER: Good morning, Your Honor, Laura Bremer, on behalf of OFCCP. Ms. Bremer

JUDGE CLARK: Good morning.

MS. HEROLD: Good morning, Your Honor. Janet Herold, Regional Solicitor, on behalf of the OFCCP.

JUDGE CLARK: Good morning.

MR. GARCIA: Good morning, Your Honor. Norm Garcia, on behalf of OFCCP.

JUDGE CLARK: Good morning. And you have a tech person there?

MR. GARCIA: Yes, Your Honor.

1 JUDGE CLARK: Okay. And for Oracle?

2 MS. CONNELL: Good morning, Your Honor. Erin
3 Connell at Orrick, Herrington & Sutcliffe, on behalf of
4 Defendant, Oracle. Ms. Connell

5 JUDGE CLARK: Good morning.

6 MR. PARKER: Warrington Parker, appearing on behalf
7 of Oracle.

8 JUDGE CLARK: Good morning.

9 MS. MANTOAN: Good morning, Your Honor. Kathryn
10 Mantoan, on behalf of Oracle.

11 JUDGE CLARK: Good morning.

12 Okay. There are a few just preliminary things that
13 I want to go over before we get into the evidence, the
14 exhibits, the witnesses, that sort of thing. And I think I
15 asked --

16 Ms. Bremer, anything that you want to bring to my
17 attention before we get started here this morning?

18 MS. BREMER: Yes, Your Honor. We have several
19 issues and some of these may be on your agenda, as well, but
20 with respect to the depositions, the exhibits.

21 JUDGE CLARK: Oh, okay. I do intend to get into
22 all that. So, if there's anything sort of out of the
23 ordinary that you need to bring to my attention, that I
24 haven't heard of yet today, or through all the motions that
25 were filed up to yesterday?

1 MS. BREMER: I guess the one issue that hasn't been
2 raised, yet, before the Court, is that yesterday, according
3 to the parties' agreements, Oracle served on us demonstrative
4 exhibits. And we do have an objection to the last slide that
5 Oracle intends to use as a demonstrative exhibit. We believe
6 it's argumentative, that the opening statement is not to be
7 used to argue the case, but to present an outline of the
8 evidence to be presented. And I do have a copy of the
9 demonstrative slides, if you'd like to see them.

10 JUDGE CLARK: Okay. At some point I will take that
11 up then.

12 And how about for you, Ms. Connell?

13 MS. CONNELL: No issues other than the
14 demonstrative issue that Ms. Bremer just raised.

15 JUDGE CLARK: Okay. Was there any trouble getting
16 in the building this morning, Ms. Connell? We don't open
17 until 8:30 o'clock a.m., do we need to arrange to have you
18 get in earlier or did it work out okay?

19 MS. CONNELL: It would be better if we could get in
20 earlier, if that was an option, Your Honor.

21 JUDGE CLARK: Okay. I think that's something we
22 can probably talk about off the record and you can maybe work
23 out with Maryanne Ballard.

24 MS. CONNELL: Thank you.

25 JUDGE CLARK: You have to be on a list to get

1 through security before 8:30 o'clock a.m., so.

2 So, I issued a Prehearing Order on November 27th,
3 2019. I issued a separate order clarifying the issues on
4 December 4th, 2019.

5 Any concerns or any issues with the Prehearing
6 Order from November 27th, Ms. Bremer?

7 MS. BREMER: I don't believe so, Your Honor.

8 JUDGE CLARK: Okay.

9 And then how about as the issues have been framed
10 from December 4th, 2019?

11 MS. BREMER: No, Your Honor.

12 JUDGE CLARK: And the same to you, Ms. Connell, any
13 issues with the Prehearing Order from November 27th?

14 MS. CONNELL: No, Your Honor.

15 JUDGE CLARK: And how about as the issues have been
16 framed as of December 4th?

17 MS. CONNELL: No, Your Honor.

18 JUDGE CLARK: Okay.

19 So, we are bifurcating the proceedings. Just for
20 the record, for those in the courtroom, we're going to do a
21 liability portion and then there will be a damage portion
22 later, if necessary, after I make a determination on the
23 first part of the hearing.

24 So, the issues will be as stated from December 4th,
25 and those are settled for hearing here.

1 I wanted to talk about the actual witnesses that
2 are going to testify in this proceeding. You had agreed that
3 you would give each other 48-hours notice of the witnesses
4 that are due to testify.

5 Ms. Bremer, who are you actually to be calling as
6 witnesses in this matter -- all of them?

7 MS. BREMER: All of them -- okay. We have provided
8 notices about the witnesses for the next two days. And they
9 are: Kirsten Hanson Garcia --

10 JUDGE CLARK: So, Garcia, okay.

11 MS. BREMER: Kirsten Klagenberg.

12 JUDGE CLARK: Can you say the name again?

13 MS. BREMER: Kirsten Klagenberg.

14 JUDGE CLARK: Oh, I see. Okay.

15 MS. BREMER: Mythily Parthasarathy.

16 JUDGE CLARK: How about the first --

17 MS. BREMER: Oh -- Shah (phonetic) is the last
18 name. Donna Ng.

19 JUDGE CLARK: Okay.

20 MS. BREMER: Diane Boross.

21 JUDGE CLARK: So, I'm looking at this list here.
22 You say "Orish"?

23 MS. BREMER: It's spelled B-o-

24 JUDGE CLARK: I see it, okay.

25 MS. BREMER: Okay. Shauna Holman-Harries.

1 JUDGE CLARK: Okay.

2 MS. BREMER: Patricia Esteva.

3 JUDGE CLARK: Can you give me the start of the last
4 name, the first letter?

5 MS. BREMER: E.

6 JUDGE CLARK: Okay.

7 MS. BREMER: Anvinash Pandey.

8 JUDGE CLARK: All right.

9 MS. BREMER: Tammy Baxter.

10 JUDGE CLARK: Okay. Tammy Baxter -- is that
11 Tamerlane, same person?

12 MS. BREMER: Yes.

13 JUDGE CLARK: Okay.

14 MS. BREMER: Nicole Alexander.

15 JUDGE CLARK: Okay.

16 MS. BREMER: Victoria Hardman.

17 JUDGE CLARK: Okay.

18 MS. BREMER: Kuassi Mensah.

19 JUDGE CLARK: I thought you might have said him
20 already. Is that -- did I get the first name wrong, earlier?

21 So, you're calling Kuassi Mensah -- okay.

22 MS. BREMER: Yes.

23 JUDGE CLARK: I think I must have missed somebody
24 somewhere, but that's okay. Keep going.

25 MS. BREMER: We may call Jane Suhr.

1 JUDGE CLARK: Okay.

2 MS. BREMER: And Sean Ratliff. Dr. Madden.

3 JUDGE CLARK: Okay.

4 MS. BREMER: I believe that is everyone.

5 JUDGE CLARK: Okay. And who are you actually
6 calling today?

7 MS. BREMER: Today we are calling Kirsten Hanson
8 Garcia, Kirsten Klagenberg, Mythily Shaw, and Donna Ng.

9 JUDGE CLARK: Okay.

10 And how about for Oracle, who are the actual
11 witnesses you intend to call in the proceeding?

12 MS. CONNELL: We intend to call Kow Adjei, Carolyn
13 Balkenhoi.

14 JUDGE CLARK: Okay.

15 MS. CONNELL: Balaji Bashyam.

16 JUDGE CLARK: Okay.

17 MS. CONNELL: Janet Chan. Leor Chechik, Kristen
18 Desmond, Cindy Hsin.

19 JUDGE CLARK: Okay.

20 MS. CONNELL: Juan Loaiza, Steve Miranda.

21 JUDGE CLARK: Okay.

22 MS. CONNELL: Leslie Robertson.

23 JUDGE CLARK: All right.

24 MS. CONNELL: Our expert, Dr. Ali Saad.

25 JUDGE CLARK: Okay.

1 MS. CONNELL: Vickie Thrasher.

2 JUDGE CLARK: Yes.

3 MS. CONNELL: Kate Waggoner.

4 JUDGE CLARK: Okay.

5 MS. CONNELL: Campbell Webb.

6 JUDGE CLARK: Yes.

7 MS. CONNELL: And Ms. Holman-Harries is on their
8 witness list, so we'll --

9 JUDGE CLARK: Do the examination once.

10 MS. CONNELL: Correct.

11 JUDGE CLARK: Okay.

12 And did you say, Ms. Bremer, you've given the names
13 for tomorrow, also?

14 MS. BREMER: Yes, Your Honor.

15 JUDGE CLARK: Why don't you go ahead and tell me
16 who those are?

17 MS. BREMER: Tomorrow would be Diane Boross.

18 JUDGE CLARK: Okay.

19 MS. BREMER: Shauna Holman-Harries, Patricia Esteva
20 and Anvinash Pandey.

21 JUDGE CLARK: So, spell that last name for me,
22 again, or at least the first letter of it?

23 MS. BREMER: P-a-n --

24 JUDGE CLARK: Okay. I have it there. Okay.

25 All right. Thank you very much.

1 So, regarding the witnesses, there is a witness
2 exclusion order, so any witnesses that are due to testify in
3 this proceeding, other than the representatives of the
4 parties, need to be out in the hallway so they're not
5 listening to the other people's testimony. So, if you're a
6 witness and you're scheduled to testify in this proceeding,
7 you should not be in the courtroom here this morning.

8 There is no telephonic witnesses being scheduled to
9 testify here today. I think that takes care of the
10 witnesses.

11 Let's turn to the exhibits now. So, I've gone
12 through the exhibits, I've gone through the objections. I
13 received a filing yesterday regarding depositions. So, I'm
14 not quite sure where we are with the exhibits. I have a
15 number of exhibits that don't appear to have any objections,
16 that I will go through and admit into the record at this
17 point. Are we prepared to address the exhibits this morning,
18 Ms. Bremer, or is that Mr. Garcia?

19 MR. GARCIA: Your Honor, I will address them, on
20 behalf of OFCCP.

21 JUDGE CLARK: Okay.

22 And who's handling the exhibits for Oracle?

23 MR. PARKER: I am, thank you.

24 JUDGE CLARK: Okay, Mr. Parker.

25 So, you both have spent a lot of time, since we had

1 the prehearing conference, going through the exhibits, which
2 I appreciate. And I can tell that you've settled a lot of
3 the objections. Are we prepared to go through and admit
4 exhibits this morning, or do we need a little more time to
5 try to work out some of the objections? Mr. Garcia?

6 MR. GARCIA: Your Honor, we have submitted -- we
7 are prepared to -- for all those exhibits that there is no
8 objection, we're prepared to move them into evidence today.
9 For those exhibits that have objections, we're waiting for a
10 ruling on the Court.

11 JUDGE CLARK: Okay.

12 And Mr. Parker, you're prepared to admit exhibits
13 into the record here this morning?

14 MR. PARKER: Of course, yes.

15 JUDGE CLARK: Okay. So, I'm going to go through
16 that in just a moment.

17 There are some objections outstanding. A lot of
18 those objections relate to the depositions and I think I'm a
19 little bit confused about where we are with the depositions.

20 It appears that you have gone through and given me excerpts,
21 or want to give excerpts of the depositions, but there's an
22 objection to whether or not the whole deposition should come
23 in, Mr. Garcia?

24 MR. GARCIA: Your Honor, the parties agree that
25 whatever comes in to the Court, the Court will only look at

1 the deposition designations.

2 JUDGE CLARK: Okay.

3 MR. GARCIA: Where the parties disagree is the
4 medium to present to the Court. We're stating that we're
5 giving full depositions and the Court will just go to those
6 places that have been designated versus the parties ripping
7 out the pages from the bounded exhibits, having to
8 re-paginate and all of that. My understanding, from Oracle,
9 is that Oracle only wants to be entered into the record those
10 specific pages or video excerpts that have the designations.

11 JUDGE CLARK: Mr. Parker?

12 MR. PARKER: Two separate issues. One would have
13 come up yesterday, so I'll preview it. We want to give the
14 Court the excerpts that the Court should read, so that the
15 Court doesn't have the entirety of the deposition transcripts
16 and so those do not end up in the record. The parties spent
17 a lot of time designating, counter-designating,
18 counter-counter-designating, and you don't have to rip up
19 pages, you can literally lift it and put it in a pleading
20 format in two columns with the testimony on one side -- or
21 whatever format the Court wants --

22 JUDGE CLARK: Okay.

23 MR. PARKER: -- but it's not a very dramatic
24 process to get there.

25 The related issue now, as of yesterday, what was

1 lodged with the Court was all the videotapes of those
2 depositions. And I, frankly, don't actually know how the
3 Court is going to -- other than to actually listen to the
4 entire deposition -- know where to land in any particular
5 spot.

6 JUDGE CLARK: Okay.

7 MR. PARKER: And so a very simple proposition, not,
8 to frame it out fully, the parties agreed to the following:

9 This Court will dictate what this Court wants
10 in-hand. But Oracle's position is that it takes a long time
11 to designate and counter-designate, and giving you the whole
12 deposition essentially, in our view, defeats the purpose.

13 JUDGE CLARK: Okay.

14 Mr. Garcia?

15 MR. GARCIA: Your Honor, the depositions have time
16 stamps on them. So, the Court can see, from the time stamps,
17 what part of the video and it does not need to look at the
18 whole video to understand the designations.

19 My part about ripping out is the Court required the
20 parties to provide bounded exhibits, to which at least OFCCP
21 has done. So, therefore, if we only want deposition excerpts
22 into it, that will require us to rip out those offending
23 pages in the transcript that are not designated. So, it is,
24 in fact, more work than Mr. Parker suggests of just doing the
25 two columns.

1 JUDGE CLARK: Okay. Mr. Parker?

2 MR. PARKER: If not clear, we can edit the videos
3 so that you get what you want and not hours and hours where
4 you're fast-forwarding, going backward, fast-forwarding,
5 going backward.

6 JUDGE CLARK: I understand. I appreciate that,
7 thank you.

8 So, there was also errata sheets on the
9 depositions. Have they been incorporated into the portions
10 you want to see? You want me to see, I should say --
11 admitted into evidence?

12 Mr. Garcia?

13 MR. GARCIA: Your Honor, we have submitted the
14 errata sheets and the errata sheets notes those portions of
15 the deposition that have been corrected. To the extent that
16 those errata sheets are part of the designations, then we
17 would advocate for them to be included in the record.

18 JUDGE CLARK: So, the errata sheet that you're
19 providing would simply just be to the portions that you're
20 designating?

21 MR. GARCIA: No, Your Honor. We provided errata
22 sheets of the whole deposition.

23 JUDGE CLARK: I see.

24 MR. GARCIA: We can provide errata sheets just for
25 the parts that were designated. The errata sheets were

1 formed and sent to the printers before the parties developed
2 the designation.

3 JUDGE CLARK: Okay.

4 Mr. Parker?

5 MR. PARKER: I would present the Court with two
6 options. One, the errata sheets themselves aren't very
7 meaningful unless you have the portion, so I'm not going to
8 overly fight if you get the sheet of errata. My proposal
9 would be if we do provide this Court with actual testimony
10 and a pleading, then next to it we can put the irrelevant
11 errata that would apply. Because, as this Court knows,
12 you're allowed to look at what the witness originally said
13 and how the witness corrected it, so we certainly don't have
14 an objection to doing it that way.

15 JUDGE CLARK: Okay.

16 And is that true for all the depositions? As I
17 understood it, from looking at the exhibits, there are a
18 number of depositions that you only want me to see portions
19 of, not the whole thing. And then there's a couple, JX-102,
20 I think is one, and some of the Defendant's Exhibits, where
21 there doesn't appear to be any objection to the whole
22 deposition coming in. Am I misunderstanding there?

23 MR. PARKER: You're misunderstanding my position,
24 certainly.

25 JUDGE CLARK: Okay. So, there's an objection to

1 any -- to the complete transcript of all depositions coming
2 in. You just want to have excerpts, that's your argument,
3 Mr. Parker?

4 MR. PARKER: Correct.

5 JUDGE CLARK: Okay.

6 And Mr. Garcia?

7 MR. GARCIA: Your Honor, both parties agree that
8 you would only look at the designated portions. The
9 difference between or dispute between the parties is do we
10 only provide you the portions that were designated or do we
11 provide you the whole transcript and you only read the
12 portions designated.

13 JUDGE CLARK: Okay.

14 I'm going to take the deposition issue under
15 submission and I will let you know what I think will be the
16 best format. It seems to me it's going to be just receiving
17 the portions that I need to review. It will probably be
18 simpler and easier, since it's such a high volume record, as
19 it is. But let me mull that over and I will let you know.

20 So, I'm going to turn now just to the exhibits that
21 I think there are no objections. This doesn't account for
22 the depositions, so we shouldn't have to worry about
23 depositions at this point. But if one of them is a
24 deposition, let me know.

25 So, starting with the Joint Exhibits, Joint Exhibit

1 1 through 101, there don't appear to be any objections.

2 Mr. Garcia, any objection to admitting those?

3 MR. GARCIA: No, Your Honor.

4 JUDGE CLARK: Mr. Parker?

5 MR. PARKER: No.

6 JUDGE CLARK: Then Joint Exhibit 103 to Joint
7 Exhibit 165, any objection to admitting those, Mr. Garcia?

8 MR. GARCIA: No, Your Honor.

9 JUDGE CLARK: And Mr. Parker?

10 MR. PARKER: No, Your Honor.

11 (Joint Exhibit Nos.
12 1 through 101 and
13 103 through 165 were
14 marked for identification
15 and received in evidence.)

16 JUDGE CLARK: Turning to the Plaintiff's Exhibits,
17 Plaintiff Exhibit 1 and 2. Mr. Parker, any objection to 1
18 and 2 coming into evidence?

19 MR. PARKER: A moment, Your Honor -- for whatever
20 reason mine starts at 3, so one moment -- no, no, Your Honor.

21 JUDGE CLARK: Plaintiff's 1 and 2 are admitted.

22 (Plaintiff Exhibit Nos.
23 1 and 2 were marked for
24 identification and
25 received in evidence.)

1 JUDGE CLARK: The next I show is Plaintiff's 8 and
2 9, Mr. Parker?

3 MR. PARKER: No, Your Honor.

4 JUDGE CLARK: Eight and 9 are admitted.

5 (Plaintiff Exhibit Nos.
6 8 and 9 were marked for
7 identification and received
8 in evidence.)

9 JUDGE CLARK: Plaintiff's Exhibits 28 through
10 Plaintiff Exhibit 56, Mr. Parker?

11 MR. PARKER: Let me just check my objections, but I
12 don't believe so, but if you could be patient with me for a
13 moment?

14 JUDGE CLARK: Yes, no problem.

15 MR. PARKER: Thank you. We are not dealing with --
16 yes, Your Honor, there is an objection -- oh -- no -- 56 --
17 no, Your Honor. No objection, as long as we're not talking
18 about depositions.

19 JUDGE CLARK: So, 28 through 56 are admitted.

20 (Plaintiff Exhibit Nos.
21 28 through 56 were marked
22 for identification and
23 received in evidence.)

24 JUDGE CLARK: Now, from my perspective, I had gone
25 through the exhibits now should not contain depositions. So,

1 if they do say a deposition, it's an error.

2 MR. PARKER: I understand. That's my fault, Your
3 Honor.

4 JUDGE CLARK: Plaintiff Exhibits 58 and 59, Mr.
5 Parker?

6 MR. PARKER: No objection.

7 JUDGE CLARK: Fifty-eight and 59 are admitted.

8 (Plaintiff Exhibit Nos.
9 58 and 59 were marked
10 for identification and
11 received in evidence.)

12 JUDGE CLARK: Plaintiff Exhibit 61 through
13 Plaintiff Exhibit 87?

14 MR. PARKER: No objection.

15 JUDGE CLARK: Sixty-one to 87 are admitted.

16 (Plaintiff Exhibit Nos.
17 61 through 87 were marked
18 for identification and
19 received in evidence.)

20 JUDGE CLARK: Plaintiff Exhibit 89 through
21 Plaintiff Exhibit 92, Mr. Parker?

22 MR. PARKER: No objection.

23 JUDGE CLARK: Those are admitted, 89 through 92 are
24 admitted into the record.

25 (Plaintiff Exhibit Nos.

1 for identification and
2 received in evidence.)

3 JUDGE CLARK: Plaintiff Exhibit 172 through
4 Plaintiff Exhibit 191?

5 MR. PARKER: No objection.

6 JUDGE CLARK: Those are admitted into the record.
7 (Plaintiff Exhibit Nos.
8 172 through 191 were marked
9 for identification and
10 received in evidence.)

11 JUDGE CLARK: Plaintiff Exhibit 193 through
12 Plaintiff Exhibit 254?

13 MR. PARKER: No objection.

14 JUDGE CLARK: Those are admitted into evidence.
15 (Plaintiff Exhibit Nos.
16 193 through 254 were marked
17 for identification and
18 received in evidence.)

19 JUDGE CLARK: Plaintiff Exhibit 256 through 262.

20 MR. PARKER: No objection.

21 JUDGE CLARK: Those are admitted into evidence.
22 (Plaintiff Exhibit Nos.
23 256 through 262 were marked
24 for identification and
25 received in evidence.)

1 JUDGE CLARK: 265 through 270.

2 MR. PARKER: No objection.

3 JUDGE CLARK: Plaintiff 265 through 270 are
4 admitted into the record.

5 (Plaintiff Exhibit Nos.
6 262 through 270 were marked
7 for identification and
8 received in evidence.)

9 JUDGE CLARK: Plaintiff Exhibit 272 through
10 Plaintiff Exhibit 328.

11 MR. PARKER: No objection.

12 JUDGE CLARK: Those are admitted into the record.

13 (Plaintiff Exhibit Nos.
14 272 through 328 were marked
15 for identification and
16 received in evidence.)

17 JUDGE CLARK: Plaintiff Exhibit 330 through
18 Plaintiff Exhibit 435.

19 MR. PARKER: No objection.

20 JUDGE CLARK: Those are admitted into the record.

21 (Plaintiff Exhibit Nos.
22 330 through 435 were marked
23 for identification and
24 received in evidence.)

25 JUDGE CLARK: Plaintiff Exhibit 437 through 449.

1 MR. PARKER: No objection.

2 (Plaintiff Exhibit Nos.
3 437 through 449 were marked
4 for identification and
5 received in evidence.)

6 JUDGE CLARK: Plaintiff Exhibit 452 through
7 Plaintiff Exhibit 498.

8 MR. PARKER: No objection.

9 JUDGE CLARK: Those are admitted into the record.
10 (Plaintiff Exhibit Nos.
11 452 through 498 were marked
12 for identification and
13 received in evidence.)

14 JUDGE CLARK: Plaintiff Exhibit 506 through
15 Plaintiff Exhibit 512.

16 MR. PARKER: No objection.

17 JUDGE CLARK: And those are admitted into the
18 record.

19 (Plaintiff Exhibit Nos.
20 506 through 512 were marked
21 for identification and
22 received in evidence.)

23 JUDGE CLARK: Okay. Turning now to the Defendant's
24 Exhibits. Defendant Exhibit 1 through 87.

25 Mr. Garcia?

1 MR. GARCIA: No objections, Your Honor.

2 JUDGE CLARK: Defendant Exhibits 1 through 87 are
3 admitted.

4 (Defendant Exhibit Nos.
5 1 through 87 were marked
6 for identification and
7 received in evidence.)

8 JUDGE CLARK: Defense Exhibit 92.

9 MR. GARCIA: No objection, Your Honor.

10 JUDGE CLARK: Ninety-two is admitted.

11 (Defendant Exhibit No.
12 92 was marked for
13 identification and
14 received in evidence.)

15 JUDGE CLARK: Defense Exhibit 94?

16 MR. GARCIA: No objections, Your Honor.

17 JUDGE CLARK: That's admitted into evidence.

18 (Defendant Exhibit No.
19 94 was marked for
20 identification and
21 received in evidence.)

22 JUDGE CLARK: Defense Exhibit 98.

23 MR. GARCIA: No objections, Your Honor.

24 JUDGE CLARK: That's admitted into the record.

25 (Defendant Exhibit No.

1 98 was marked for
2 identification and
3 received in evidence.)

4 JUDGE CLARK: Defense Exhibit 107 through 117.

5 MR. GARCIA: No objections, Your Honor.

6 JUDGE CLARK: That's admitted into the record.

7 (Defendant Exhibit Nos.
8 107 through 117 were marked
9 for identification and
10 received in evidence.)

11 JUDGE CLARK: Defense Exhibit 120 through Defense
12 Exhibit 438.

13 MR. GARCIA: You said 438, Your Honor?

14 JUDGE CLARK: Yes, 120 through 438.

15 MR. GARCIA: No objections, Your Honor.

16 JUDGE CLARK: Those are admitted into the record.

17 (Defendant Exhibit Nos.
18 120 through 438 were marked
19 for identification and
20 received in evidence.)

21 JUDGE CLARK: And then Defense Exhibit 444 through
22 445.

23 MR. GARCIA: No objections, Your Honor.

24 JUDGE CLARK: Okay. Those are admitted into the
25 record.

1 (Defendant Exhibit Nos.
2 444 through 445 were marked
3 for identification and
4 received in evidence.)

5 JUDGE CLARK: I think that's as far as I'm going to
6 go in terms of the exhibits at this point.

7 Anything regarding those exhibits, Mr. Garcia?
8 Anything further regarding exhibits?

9 MR. GARCIA: Nothing further for the admitted
10 exhibits, obviously, Your Honor. But I don't know about what
11 is going to be the result of the exhibits that there were
12 objections to, that were not depositions or errata.

13 JUDGE CLARK: Okay. I still -- I'm still reviewing
14 the evidentiary exhibits on the remaining objections, as well
15 as the deposition information.

16 Anything further regarding the exhibits, at this
17 point, Mr. Parker?

18 MR. PARKER: Not for me, Your Honor. Thank you.

19 JUDGE CLARK: Okay. Actually, I do have one
20 Administrative Law Judge Exhibit, ALJ Exhibit 1, which was
21 the stipulations of the parties, which was attached to the
22 prehearing conference statement. It wasn't particularly -- I
23 think there were eight stipulations.

24 Any objection to admitting Administrative Law Judge
25 Exhibit 1, Mr. Garcia?

1 MR. GARCIA: No, Your Honor.

2 JUDGE CLARK: And Mr. Parker?

3 MR. PARKER: I wouldn't dare.

4 JUDGE CLARK: Administrative Law Judge Exhibit 1 is
5 admitted.

6 (Administrative Law Judge
7 Exhibit No. 1 was marked
8 for identification and
9 received in evidence.)

10 JUDGE CLARK: Okay. I think that takes care of the
11 exhibits, as far as we're going to go today on those.

12 Okay. Actually, I think that takes care of the
13 preliminary matters that I wanted to talk about. We did have
14 the issue with the slide for the demonstrative exhibit for
15 the opening statements.

16 Anything else that's come up at this point, before
17 we deal with the objection you've raised and get started with
18 opening statements?

19 Ms. Bremer?

20 MS. BREMER: No, Your Honor.

21 JUDGE CLARK: And Ms. Connell?

22 MS. CONNELL: No, Your Honor.

23 JUDGE CLARK: Okay. So, I've heard the argument
24 from Ms. Bremer regarding -- and it sounds like it's going to
25 be part of your opening statement.

1 MS. BREMER: Correct.

2 JUDGE CLARK: Ms. Connell, would you care to be
3 heard?

4 MS. CONNELL: Yes, Your Honor.

5 Our position is that it does actually summarize the
6 evidence. Ms. Bremer hasn't articulated which portion of the
7 slide she believes that's argumentative, but we believe that
8 it is a summary of the evidence of what both experts have
9 testified to. And so we disagree with the characterization
10 as argumentative. I don't know if you have -- you haven't
11 seen it, so --

12 JUDGE CLARK: I haven't seen it. I think Ms.
13 Bremer said she has a copy for me.

14 MS. CONNELL: Yeah.

15 JUDGE CLARK: Why don't you go ahead and bring it
16 forward, Ms. Bremer.

17 MS. BREMER: Thank you, Your Honor.

18 JUDGE CLARK: Thank you very much. Okay. This is
19 the last slide. So, it's three pages, it's the last slide,
20 is that portions of it?

21 MS. BREMER: No. I turned it upside down, so what
22 you were looking at was the last slide.

23 JUDGE CLARK: Oh, I see. Okay.

24 So, I didn't make this clear before, we're
25 recording everything that's said here, so everybody has to be

1 near a microphone or it's not getting picked up. So, just be
2 aware -- I see a podium -- we didn't have a podium yesterday
3 when I checked the courtroom, but if you're going to use the
4 podium, you're going to have to put a microphone closer to
5 the podium, okay.

6 Okay. So, let me take a look at what I've been
7 shown here.

8 Okay. Ms. Bremer, would you care to be heard
9 further?

10 MS. BREMER: The portion that we mainly have
11 concerns about is the bottom of the slide, which does seem to
12 be more of a legal argument as opposed to a statement or
13 summary of the evidence.

14 JUDGE CLARK: Okay. And when you say the bottom of
15 the slide, you're talking about the last page that you gave
16 me, where it says: "No evidence of causation"?

17 MS. BREMER: Yes.

18 MS. CONNELL: Okay.

19 Anything further, Ms. Connell?

20 MS. CONNELL: Yes, Your Honor. It actually is a
21 summary of the evidence. Both experts have testified to that
22 and it's in their deposition. So, our position is that
23 that's a summary of the evidence.

24 JUDGE CLARK: Okay. Fair enough. Anything
25 further?

1 MS. BREMER: No, Your Honor.

2 JUDGE CLARK: Okay. The objection is overruled.
3 You'll be able to use your slide in your presentation of your
4 opening statement.

5 Anything else before we get started this morning,
6 Ms. Bremer?

7 MS. BREMER: No, Your Honor.

8 JUDGE CLARK: And Ms. Connell?

9 MS. CONNELL: No, Your Honor.

10 JUDGE CLARK: And we'll go ahead and start with
11 opening statements.

12 Ms. Bremer? Who's doing the opening? Ms. Herold,
13 you're doing the opening?

14 MS. HEROLD: I'm doing the opening.

15 JUDGE CLARK: Okay.

16 MS. HEROLD: I'll just move us here. And I invite
17 Ms. Connell, if you're doing opening statement, feel free to
18 used the podium.

19 MS. CONNELL: Thank you.

20 JUDGE CLARK: Are you able to pick it up, William,
21 from the podium, Mr. Court Reporter?

22 (Inaudible.)

23 JUDGE CLARK: There's a drawer in the front where
24 the cord is. If that drawer is open, in the front of the
25 table, you'll be able to pull more cord out, probably.

1 MS. HEROLD: All right.

2 JUDGE CLARK: There we go. All right. Much
3 better. Thank you, Ms. Herold.

4 MS. HEROLD: Okay.

5 JUDGE CLARK: Good morning.

6 MS. HEROLD: Good morning, Your Honor.

7 As I mentioned before, I am Janet Herold. I am the
8 Regional Solicitor for the Western Region of the Office of
9 the Solicitor, which represents OFCCP in this litigation.

10 Before I turn to the opening statement, I just
11 wanted to take a moment to introduce Craig Leen. He's the
12 Director of the Office of Federal Contract Compliance
13 Programs. Mr. Leen, could you raise your hand?

14 MR. LEEN: Good morning.

15 JUDGE CLARK: And you'll actually have to spell
16 your name for our record, please.

17 MR. LEEN: Certainly, Your Honor. Craig,
18 C-r-a-i-g, Leen, L-e-e-n.

19 JUDGE CLARK: Thank you. Good morning.

20 MR. LEEN: Thank you, sir.

21 MS. HEROLD: Consistent with the Court's
22 sequestration order, Director Leen will not be providing
23 testimony here, but he is here to observe this enforcement
24 action, which is the biggest enforcement case OFCCP has ever
25 brought to hearing.

1 regulations require contractors to implement an affirmative
2 action plan known as an AAP, which commits contractors to be
3 ever vigilant regarding discrimination, as to each and every
4 employment practice.

5 Federal regulations command that contractors must
6 annually study their practices to detect discrimination and
7 implement action oriented programs to correct and provide, or
8 address, for any discriminatory practices. The regulation
9 specifically instruct contractors that the one thing they
10 cannot do, in the face of ongoing discrimination, is, quote:
11 "more of the same."

12 In agreeing to do business with the government,
13 federal contractors consent to cooperate in regular audits by
14 OFCCP, maintain complete records, open those records up for
15 review by OFCCP upon request, and agree to resolve any
16 disputes regarding violations through this administrative
17 process, including this administrative hearing.

18 Turning to the instant controversy, Oracle is a
19 Fortune 100 company that has engaged in business with the
20 government for more than two decades. In evidence is
21 Oracle's admission that it has solicited and secured at least
22 \$100 million in contracts each year with the Federal
23 Government. Yet, as described in OFCCP's Notice of
24 Violations, already admitted into the record, OFCCP's regular
25 audit in 2014 revealed that Oracle was systematically paying

1 their female, Asian and African-American employees less than
2 their similarly situated male and white colleagues in three
3 large technical job functions at Oracle's headquarters, job
4 functions which comprise about two-thirds of its employee
5 compliment at Oracle's headquarters.

6 As Professor Madden, one of the country's leading
7 experts on the economics of employment discrimination, will
8 testify, her careful and expert statistical analysis of
9 Oracle's compensation of similarly qualified employees,
10 working in the same job reveals gender pay gaps of up to 20
11 percent and racial pay gaps for Asians and African-Americans
12 of between 10 and 30 percent, with standard deviations above
13 eight for women and between four and eight for Asians.

14 Professor Madden will testify her analysis of
15 salary alone revealed gender salary gaps of nine to 10
16 percent, with standard deviations above 12, and salary pay
17 gaps for Asians of five to seven percent, with standard
18 deviations above six.

19 Professor Madden will testify that her analyses
20 reveal Oracle steered women, Asians and African-Americans
21 hired into the same jobs, into lower paying global career
22 levels, and Oracle paid women, Asians and African-Americans
23 less salary and less total compensation than their male and
24 white colleagues working in the same job and in the same
25 career level.

1 Professor Madden will testify that her analysis
2 indicates that these racial and gender pay disparities did
3 not occur by chance. She will testify and explain to our
4 likely math-challenged legal minds, that the chances of the
5 pay gaps happening, absent intentional discrimination, is
6 small, is far smaller than the chances of any of us striking
7 it rich overnight by winning Powerball. She will testify
8 that she did not cherry-pick the data she used, but instead
9 based her analysis on the compensation data Oracle maintained
10 in its comprehensive personnel database.

11 OFCCP will rely on the robust and large statistical
12 significance of Professor Madden's findings as evidence of
13 Oracle's intention to discriminate against women and
14 African-Americans and Asians as to compensation.

15 OFCCP has already submitted evidence into the
16 record showing that Oracle has no data upon which to
17 challenge Dr. Madden's analyses. In Oracle's position
18 statement of October 3rd, on page 7, it represented that,
19 quote: "Oracle uses external third-party market survey data"
20 to assist it in setting salary ranges, but that, quote:
21 "individualized factors drives the determination of each
22 employee's salary within that range," end quote.

23 The individualized factors Oracle references are
24 individual, quote: "differences in experience, skills,
25 competencies and performance of candidates and incumbents,"

1 according to Oracle's position statement.

2 OFCCP has submitted evidence that although Oracle
3 is a multi-national tech company, built on data management,
4 Oracle did not maintain data regarding any of the
5 individualized employee characteristics it now seeks -- it
6 now claims it considered in setting compensation. Of
7 specific note, given that Oracle represents -- in that same
8 position statement -- that it considers the profitability and
9 complexity of the products to which employees are assigned in
10 setting compensation, Oracle's sworn interrogatory answers --
11 Plaintiff's Exhibit 207 -- admits that Oracle has, quote: "no
12 centralized data repository or source," end quote, from which
13 an employee's product line assignment can be extracted.

14 Oracle's expert, Dr. Ali Saad, confirms in his
15 report that Oracle does not maintain data as to product
16 assignment.

17 Supplementing evidence already in the record OFCCP
18 will provide employee testimony confirming that Oracle did
19 not, in fact, consider product line assignment or any of the
20 other individualized factors Oracle claims it considered.
21 OFCCP has presented evidence and will present evidence that
22 when an employee transfers positions or changes products, or
23 even when the employee is promoted, there is no impact on
24 pay. Oracle employees will testify that Oracle sets
25 compensation on the basis of precisely the factors identified

1 in Oracle's training slides regarding its compensation
2 programs, which are all factors as to which Oracle maintained
3 data and which were used by Dr. Madden in her analysis.

4 OFCCP's evidentiary presentation will focus on
5 identifying both the data Oracle maintains and the data
6 Oracle does not maintain regarding its compensation
7 decisions.

8 In Oracle's position statement, Oracle admits that
9 for purposes of complying with its regulatory obligations,
10 Oracle did not conduct and, thus, has no records of, quote:
11 "discrete pay equity analysis." OFCCP has presented evidence
12 that Oracle did not even conduct studies applying its own
13 internal measure of pay equity called a "COMPA Ratio," by
14 race or gender, to attempt to identify race or gender pay
15 disparities to satisfy its regulatory obligations.

16 OFCCP submitted voluminous evidence and testimony
17 demonstrating that Oracle's compensation decisions were
18 dictated and controlled by Oracle's top management and Human
19 Resources team, rebutting Oracle's claim -- in its position
20 statement at pages 1 and 2 -- that it utilizes a, quote:
21 "decentralized process" for decision making.

22 OFCCP's evidence illustrates that Oracle's longtime
23 executive chairman, Larry Ellison, has a strong top-down
24 management style in decision structure. So much so that
25 every single decision, compensation decision, goes to

1 Ellison's office or the office of Oracle's CEOs for approval,
2 which is not a rubberstamp exercise. OFCCP will present
3 testimony from managers who will explain the detailed
4 instructions and restrictions imposed by Oracle's top
5 management as to compensation decisions, and provide examples
6 of Oracle's top leadership regularly overruling or
7 supplanting their compensation recommendations.

8 OFCCP also submitted Oracle's sworn testimony that
9 in 2011 Oracle established a detailed compensation program,
10 which provides that Oracle's global compensation team sets
11 the salary ranges in every locality for every job code. A
12 job code refers to a specific job paired with a specific
13 global career level, and instructs its managers to set
14 compensation within those ranges on the basis of education,
15 experience and skills.

16 OFCCP has submitted extensive documentary evidence
17 and will present employee testimony explaining that until
18 November 2017, when California passed a law prohibiting
19 consideration of prior pay in setting compensation, Oracle
20 dictated that regardless of an employee's education,
21 experience in hire, compensation at hire was set on the basis
22 of an employee's prior pay. It is this policy that is the
23 backbone of OFCCP's disparate impact claim.

24 Supplementing Oracle's approval forms, which are
25 already in the record, which show mandatory fields for

1 managers to complete, identifying the employee's prior pay,
2 Oracle's current and former employees will testify that they
3 were required to provide detailed pay stubs and tax records,
4 proving their prior pay, because that is how Oracle set their
5 starting pay.

6 OFCCP, also, will offer Professor Madden, who
7 analyzed Oracle's data regarding starting pay and prior pay,
8 who will testify that her findings are, quote: "consistent
9 with Oracle's setting salary at hire based on prior pay,"
10 showing between a 96 and 100 percent correlation and,
11 specifically, a 99 to 100 percent correlation for women
12 between the salary Oracle set at hire and an employee's prior
13 pay.

14 OFCCP, also, will offer testimony, in addition to
15 the testimony in the record, from Oracle's executives, which
16 will explain the limitations its top leadership placed on
17 Oracle's compensation budget, which left lower level managers
18 powerless to correct pay in racial pay equities after hire.
19 Oracle's sworn testimony details that its top executives set
20 Oracle's compensation budget and over and over, in the
21 testimony already admitted, Oracle's managers, at all levels,
22 admit that Oracle's executives kept their compensation
23 budgets extremely lean.

24 Indeed, in the testimony of Oracle's Executive Vice
25 President Juan Loaiza, already admitted into evidence, Mr.

1 Loaiza testified that due to the budget restraints set by
2 Oracle's executive team, he estimated that nearly half of his
3 staff was receiving pay under market. In the words of Mr.
4 Loaiza on the limited budget he was given he only had
5 resources to reward his top performers, adding in his
6 testimony, quote: "Notice I did not say COMPA Ratio or
7 anything else," end quote.

8 OFCCP has already submitted evidence that Oracle
9 did not require its managers to have affirmative action
10 training of any kind until 2015 and the training mandated by
11 Oracle, beginning in 2015, did not provide any training
12 regarding compensation discrimination.

13 In the sworn testimony of Oracle's chief of its
14 Global Compensation Team, Ms. Waggoner, she admitted that she
15 never received any training regarding race or gender
16 discrimination in compensation. Indeed, to corroborate
17 Oracle's discriminatory intent, proven by OFCCP's statistical
18 evidence, OFCCP will focus its evidentiary presentation here
19 on the actions Oracle did not take, despite being required by
20 federal regulations, specifically: analyzing its compensation
21 data to detect discriminatory practices or outcomes, keeping
22 complete data regarding how it made its compensation
23 decisions, training its managers regarding Oracle's
24 affirmative action obligations and how to ensure the
25 compensation decisions are not influenced by racial or gender

1 discrimination, providing a budget to guarantee that any and
2 all pay equity adjustments necessary are promptly made and,
3 finally, providing a well-trained team to investigate
4 internal employee complaints of discrimination, ensuring that
5 Oracle's regulatory compliance efforts are infused with
6 information regarding discrimination, learned and detected
7 from these complaint investigations.

8 As I noted before, federal regulations required
9 Oracle to be watchful and proactive as to discrimination,
10 both in detection and correction. The testimony from
11 Oracle's executives in the record and witness testimony,
12 OFCCP will offer in the days ahead, illustrates Oracle's
13 purposeful thrusting of its head in the sand to avoid
14 admitting what performance of its regulatory obligations
15 compelled Oracle to know, which is that its compensation
16 system tightly controlled and directed by Oracle's top
17 leadership discriminates against women, Asians and
18 African-Americans working in Oracle's headquarters.

19 OFCCP will present, over the next five days,
20 testimony from current and former employees explaining the
21 real life consequences of Oracle's compensation practices.
22 These employees will explain that Oracle rebuffed their
23 efforts to seek equitable pay at every turn. They will
24 testify they had to fight to get Oracle to disclose
25 information about how their pay was set and then, regardless

1 of how hard they worked or how spectacular their performance
2 was, Oracle would not correct their pay. They will testify
3 that they were told by their front-line managers that their
4 managers knew they were under paid, but their managers had no
5 authority to make the adjustments due to budgetary
6 limitations imposed by Oracle's top management. These
7 current and former employees will testify that well-meaning
8 managers repeatedly advised them that if they wanted fair
9 pay, their best option was to leave Oracle.

10 OFCCP has cited for the Court specific federal
11 regulations which dictate that federal contractors must not
12 just sign their contracts, but they must also have the
13 commitment, including the promise of full resources from the
14 contractor's chief executives.

15 OFCCP has submitted into evidence Oracle's AAP,
16 which specifies, by name, Oracle's top three chief
17 executives, as proof of Oracle's commitment to its regulatory
18 obligation to assure equal opportunity. Oracle's AAP
19 evidences that Oracle's top leadership chose to secure
20 government contracts, which is a business decision, as no
21 company is compelled to do business with the U.S. Government,
22 and confirmed their commitment to taking any and all steps
23 necessary to ensure that Oracle never engages in prohibited
24 discrimination.

25 It is OFCCP's mission to enforce federal

1 contractors' promises to taxpayers as the Executive Order
2 protects taxpayers from having their money used to deny equal
3 opportunity and for taxpayers so unfortunate to be employed
4 by a federal contractor engaged in unlawful discrimination,
5 the Executive Order protects them from having their own money
6 used to subsidize the employer denying them equal
7 opportunity.

8 OFCCP's evidence will show that from the top Oracle
9 violated the Executive Order by directing, overseeing and
10 failing to correct pay discrimination. As OFCCP's evidence
11 will show, it is long past time for Oracle to come into
12 compliance with its regulatory obligations by correcting its
13 compensation practices and providing appropriate redress for
14 these continuing discriminatory compensation practices.

15 Thank you, Your Honor.

16 JUDGE CLARK: Thank you, Ms. Herold.

17 Okay. Ms. Connell, are you doing the opening?

18 MS. CONNELL: I am, Your Honor.

19 JUDGE CLARK: So, just before we get started there,
20 I noticed we have a few, maybe three or four, people that are
21 still standing. I know it's pretty crowded in the galley
22 there, but if people could just slide over, just a little
23 bit, we might be able to get a few more people to sit down,
24 or if there's any chairs in the hallway that can be brought
25 in. And there's actually a chair up front here that we can

1 put in the galley, if need be.

2 Thank you, Mr. Garcia.

3 Okay. Ms. Connell?

4 OPENING STATEMENT

5 BY MS. CONNELL:

6 Good morning, Your Honor. Thank you for the
7 opportunity to present this opening statement. My name is
8 Erin Connell and I'm here with my partner, Warrington Parker
9 and my colleague, Kathryn Mantoan. We represent Oracle, one
10 of the world's great tech companies.

11 Oracle does not discriminate. Oracle is a diverse
12 and inclusive company run by a woman, Ms. Safra Catz, who is
13 here in the courtroom today. Oracle does not underpay its
14 employees or steer them into lower paying jobs because of
15 their race or gender. And it most certainly does not do this
16 intentionally as a matter of corporate practice or policy.
17 OFCCP cannot prove that it does.

18 The claims OFCCP has made against Oracle are
19 serious. The agency alleges Oracle has engaged in a pattern
20 or practice of intentional systemic compensation
21 discrimination against thousands of its current and former
22 employees, at its headquarters location in Redwood Shores,
23 California. According to OFCCP, discrimination is Oracle's
24 standard operating procedure, the regular rather than unusual
25 practice.

1 The evidence, however, does not come close to
2 supporting the charges OFCCP has brought. After a two and a
3 half year compliance review and nearly three years of
4 contentious litigation, there will be no evidence of
5 intentional widespread systemic discrimination by Oracle.
6 Instead, OFCCP's claims rise and fall on overly aggregated
7 and unreliable statistical models that assume the very
8 conclusions they purport to prove and are entirely divorced
9 from the complex technical jobs they purport to analyze.

10 At the outset, it is important to keep in mind the
11 employees who are issue here. These are not assembly line
12 workers with fungible skills, who operate under a locked step
13 pay and promotion system. Instead, during the relevant time
14 period, the three job functions at issue: product
15 development, support and IT, include Oracle's most technical
16 jobs. These include software developers, architects,
17 programmers, analysts and engineers who develop, support and
18 maintain the hundreds of high tech products and services
19 Oracle offers to its worldwide customer base, as well as
20 product and project managers who oversee incredibly huge
21 teams of employees and complex high tech projects.

22 This litigation includes, approximately, six
23 thousand purported class members, with more than two thousand
24 purported comparitors. They include individual contributors
25 with global career levels ranging from IC0 up to IC6, and

1 managers spanning M1 all the way to M7, senior vice
2 presidents. They encompass at least 142 different system job
3 titles, work across more than one thousand organizations
4 within Oracle and their pay ranges from \$45,000.00 to over
5 \$17 million in a given year. And the evidence will confirm
6 that product does matter when it comes to the work that
7 Oracle employees perform and the way in which the external
8 job market and, therefore, Oracle values that work.

9 OFCCP would have you ignore this fact. OFCCP says
10 product does not matter. But the evidence confirms that it
11 does, not only are Oracle's hundreds of products and services
12 reflected in the vastly different organizations across which
13 the employees at issue work, but they are emphasized in the
14 specific job requisitions to which employees apply,
15 confirming that Oracle hires and pays employees based on
16 their product specific skills and expertise.

17 To give an easy example: A software developer,
18 skilled in PeopleTools, who work solely on Oracle's legacy
19 PeopleSoft applications, performs different work than a
20 software developer who is skilled in artificial intelligence
21 or machine learning, or who works on Oracle's Cloud based
22 platforms. And Oracle does not pay these individuals the
23 same, because their work differs and because the market does
24 not value their different skill sets in the same way. This
25 is not discrimination, it is basic economics.

1 As we will see, over the next several days, the
2 primary problem with OFCCP's statistical evidence is that it
3 does not compare employees who are similarly situated in
4 terms of the work that they perform at Oracle. In simple
5 terms, OFCCP's statistical models do not compare apples to
6 apples.

7 OFCCP's expert, Dr. Janice Madden, boldly proclaims
8 this is not even an inquiry she attempts to answer. Instead,
9 the comparator standard that she uses, for purposes of
10 analyzing compensation discrimination at Oracle, is whether
11 employees were comparably qualified at the time Oracle hired
12 them, even if that time was five, 10 or 20 years ago and
13 without regard to the work employees actually performed at
14 Oracle. She admits that she did not study that work and has
15 next to no idea what it entails.

16 OFCCP may argue, contrary to its own experts'
17 views, that employees, instead, should be compared for
18 purposes of assessing compensation discrimination based on
19 sharing some broad labels, according to Oracle's Global Job
20 Table, namely, job, family and global career level, the
21 combination of which results in a system job title and
22 corresponding job code. But the evidence confirms that
23 sharing these broad labels, under Oracle's Global Job Table,
24 a document that applies to all of Oracle's 137,000 employees
25 worldwide, does not define the work that individual employees

1 perform, nor the skills, duties and responsibilities required
2 to perform that work. Instead, a far more nuanced inquiry is
3 needed, one that considers the specific type of high tech
4 product or service on which the employees work, the specific
5 skill set and expertise those products and services demand,
6 as well as the competition that Oracle faces or does not face
7 to attract and retain the particular skill set that each
8 employee holds. This evidence will take the form of
9 testimony from Oracle's manager and individual contributors,
10 testimony and analysis from Oracle's expert, Dr. Ali Saad,
11 and contemporaneous documentation explaining the rationale
12 for starting pay and pay increase decisions, all of which
13 confirm that distinctions among the work performed by
14 employees, who share a job code, are both real and meaningful
15 and explain the pay differences that OFCCP claims are due to
16 discrimination.

17 In its second amended complaint, OFCCP also brings
18 an alternative claim for discriminatory job assignments.
19 OFCCP bases this claim on the notion that instead of paying
20 people who perform similar work differently, because of their
21 race or gender, Oracle, instead, steers or channels women,
22 Asians and African-Americans into different lower paying
23 roles, because of their race or gender. But once again, the
24 evidence does not sustain OFCCP's allegation.

25 First, there is no evidence of Oracle steering or

1 channeling women, Asians and African-Americans into lower
2 paying jobs. To the contrary, Oracle posts its jobs on its
3 website and candidates are free to apply to any job they
4 believe they are qualified to obtain. The evidence further
5 confirms the potential employees do not simply show up on
6 Oracle's doorstep and ask to be assigned a job. Instead, the
7 majority of Oracle employees at issue in this case applied to
8 specific detailed job requisitions and are hired into the
9 specific jobs for which they applied. And yes, hiring
10 managers have discretion to adjust the global career level on
11 a posted job requisition up or down one level, depending on
12 the candidate selected -- that is undisputed. But as Dr.
13 Saad's analyses demonstrate, even in the minority of cases,
14 when that happens, woman, Asians and African-Americans are
15 not systematically disadvantaged through this process.

16 OFCCP may suggest that women, Asians and
17 African-Americans do not simply apply to the jobs that
18 they're choosing, but instead may be steered to apply to
19 lower paying jobs by employees in Oracle's recruiting
20 organization. OFCCP also may argue that woman, Asians and
21 African-American employees may be disadvantaged due to their
22 race or gender, through Oracle's college recruiting process
23 or employee referral process. But there will be no evidence
24 to support these last minute theories by OFCCP, we will hear
25 no testimony from Oracle recruiters, nor from members of

1 Oracle's college recruiting team. OFCCP did not even attempt
2 to depose these individuals during discovery in this case.
3 And OFCCP's expert did not analyze these practices. Rather,
4 once again, OFCCP's primary evidence in support of its
5 assignments claim, will be aggregated statistical analysis of
6 Oracle's pay data. But as with OFCCP's compensation
7 discrimination, the statistics on which OFCCP relies do not
8 support the inferences it asks this Court to make and they
9 otherwise are not supported by the evidence that both parties
10 will present.

11 Even if OFCCP's statistical models were reliable
12 and relevant under the factual circumstances here -- and they
13 are not -- the evidence will show that OFCCP's pattern or
14 practice claims of compensation and assignments
15 discrimination still fail, because there is no evidence of a
16 common purpose or intent to discriminate that could serve as
17 the glue holding together all of the compensation and job
18 placement decisions at issue.

19 The evidence will show that senior executives and
20 high level HR managers are not controlling lower level
21 managers or recruiters according to some scheme to
22 discriminate in just three of 16 job functions that exist at
23 Oracle's headquarters location. Oracle does not even
24 organize its business by job function. Instead, budgetary
25 and other compensation and hiring decisions are made within

1 lines of business that roll up to a particular business
2 leader. To state it simply, Oracle is organized from a
3 business standpoint according to vertical cuts of its
4 workforce, while OFCCP has defined the class according to
5 horizontal cuts that roll up to nobody.

6 Setting aside the lack of evidentiary support,
7 OFCCP's theory of centralized decision making by job function
8 makes no sense. Instead, the evidence demonstrates that at
9 Oracle decision making is decentralized and compensation and
10 job placement decisions are made by thousands of individual
11 managers, ironically, many of whom are included in the class
12 of people that OFCCP claims are discrimination victims
13 themselves. And OFCCP has already confirmed, in its own
14 position statement, that it is not accusing any of these
15 managers of wrongdoing, including discrimination or bias
16 decision making.

17 And yes, Oracle has in place an approval process to
18 ensure that mistakes are not made and hiring managers do not
19 blow through their budgets in order to obtain the best talent
20 for their teams. But the evidence will confirm that the
21 scope of review this approval process entails is minimal, it
22 consists either of a sanity check for reasonableness or
23 simple math. As a whole, did the organization stay within
24 the compensation budget set for pay increases, bonuses or
25 equity. And contrary to OFCCP's assertions, senior

1 executives, such as Larry Ellison, Safra Catz, and Thomas
2 Kurian before he left Oracle, were not and are not sitting in
3 their offices in Redwood Shores pouring over the details of
4 hundreds of individual hiring and compensation decisions that
5 Oracle makes on a weekly basis, nor are they conspiring to
6 allocate compensation budgets in a manner that intentionally
7 discriminates against women, Asians and African-Americans.
8 To state the premise of these assertions demonstrates their
9 absurdity and the evidence does not support them.

10 Finally, the evidence does not sustain OFCCP's
11 third claim for disparate impact discrimination for at least
12 two simple reasons:

13 First, the evidence will show that Oracle does not
14 and did not have in place a policy or practice of basing
15 starting pay on prior pay, which this Court has confirmed is
16 the only potential employment practice that could form the
17 basis of OFCCP's disparate impact claim. Rather, the
18 evidence will show that before October of 2017, when Oracle
19 implemented a nationwide ban on any inquiries into or
20 reliance upon prior pay in setting starting pay, it was up to
21 individual managers whether and to what extent to consider an
22 applicant's prior pay in determining the individual's
23 starting pay at Oracle.

24 The evidence will further show that even though
25 Oracle's internal new hire form used to include a field for

1 prior pay, many managers never considered it, at all, in
2 formulating their starting pay offer. And for those who did
3 consider it, in some way, it was not consistent from manager
4 to manager, let alone consistent among the three job
5 functions at issue. For some managers it was used as a
6 reference point, only. For others, it may have been one
7 factor considered among many, primarily the skills, duties
8 and particular experience and expertise that the candidate
9 holds.

10 Second, even if Oracle did have such a practice,
11 the evidence does not show that it caused any pay disparity
12 adversely impacting women, Asians and African-Americans at
13 Oracle. To the contrary, the most that the evidence might
14 show is a correlation between prior pay and starting pay.
15 But both experts agree that correlation does not prove
16 causation. Both experts also agree that even in
17 circumstances where an employer does not consider prior pay
18 in setting starting pay, a correlation still exists because
19 both employers are valuing the same skill set.

20 In the end, the evidence does not support OFCCP's
21 remaining three claims. Instead, the evidence confirms that
22 OFCCP's statistical models are fundamentally flawed, divorced
23 from the facts and based on inaccurate and unsupported
24 assumptions. And while OFCCP may present witnesses to
25 testify that they personally were unsatisfied with their pay

1 at Oracle and may subjectively believe it might have been due
2 to their race or gender, or that they personally feel that
3 they were treated unfairly, this anecdotal evidence, some of
4 which will have nothing to do with the pay decisions at issue
5 in this case, does not support the huge leap that OFCCP asks
6 this Court to make. This case is and always has been about
7 whether or not OFCCP's statistics are sufficient to prove the
8 specific discrimination claims that the agency has brought
9 against Oracle. The evidence will confirm that they are not.
10 They're divorced from the facts, they do not compare apples
11 to apples. They do not prove discriminatory intent by
12 Oracle's senior executives or HR managers. They do not prove
13 discriminatory job steering. And they do not demonstrate
14 discriminatory use of prior pay in setting starting pay. In
15 short, they do not prove unlawful discrimination by Oracle
16 and OFCCP's claims should be dismissed.

17 Thank you.

18 JUDGE CLARK: Thank you, Ms. Connell.

19 So, let's take a quick 10-minute break, we'll start
20 again at 10:15 o'clock a.m., according to the court clock,
21 and we'll start with our first witness at that time.

22 Thank you. We're off the record.

23 (Off the record at 10:06 o'clock a.m.)

24 JUDGE CLARK: I didn't make this announcement
25 earlier, but I just wanted to put this on the record now.

1 The Rules of Procedure for this particular courtroom and this
2 courthouse, there's no recording permitted, no audio or
3 videotape recording permitted in the Federal Building. So,
4 please, do not record any of these proceedings, the official
5 transcript will be recorded by our court reporter.

6 Okay. Ms. Bremer, you may call your first witness.

7 MS. BREMER: Plaintiff calls Kirsten Hanson Garcia,
8 Dr. Kirsten Hanson Garcia. And Ana Hermosillo will be
9 conducting the examination.

10 JUDGE CLARK: Okay. And would you state your name,
11 again, please?

12 MS. HERMOSILLO: Sure. It's Hermosillo. The H is
13 silent.

14 JUDGE CLARK: Okay.

15 MS. HERMOSILLO: Let me spell it for you.

16 JUDGE CLARK: Thank you.

17 MS. HERMOSILLO: H-e-r-m-o-s-i-l-l-o, the H is
18 silent and the L make a Y sound.

19 JUDGE CLARK: Okay. Hermosillo. Thank you.

20 Ms. Hermosillo, correct. And who is your witness?

21 MS. HERMOSILLO: Dr. Hanson Garcia.

22 JUDGE CLARK: Hanson Garcia.

23 Dr. Hanson Garcia, go ahead and come forward.

24 You're going to step right over here. And before you have a
25 seat, if you'd raise your right hand.

1 Whereupon,

2 KIRSTEN HANSON GARCIA

3 having been first duly sworn by the Administrative Law Judge,
4 was examined and testified as follows:

5 JUDGE CLARK: Have a seat, please. And then if you
6 could just state your name and spell it for our record,
7 please?

8 THE WITNESS: Sure. Can you hear me?

9 JUDGE CLARK: I can.

10 THE WITNESS: Okay. Dr. Kirsten Susanne Hanson
11 Garcia.

12 JUDGE CLARK: Okay. And spell your last name for
13 us?

14 THE WITNESS: I go by two last names, Hanson,
15 H-a-n-s-o-n, Garcia, G-a-r-c-i-a.

16 JUDGE CLARK: Okay. Thank you.

17 And Ms. Hanson Garcia, have you testified before?

18 THE WITNESS: Never.

19 JUDGE CLARK: Okay. So, this is much like what you
20 see on TV. So, we're recording everything that's said here.

21 THE WITNESS: Okay.

22 JUDGE CLARK: And we can't record two people
23 talking at once.

24 THE WITNESS: Okay.

25 JUDGE CLARK: So, I need you to keep your voice up,

1 so everybody in the courtroom can hear you.

2 THE WITNESS: Okay.

3 JUDGE CLARK: And also our court reporter can hear
4 you and take it down.

5 THE WITNESS: Okay.

6 JUDGE CLARK: Like I said, two people can't talk at
7 once, so let the lawyer ask the complete question and they'll
8 let you give a complete answer, that way we're not recording
9 at the same time, all right?

10 THE WITNESS: Okay. Thank you.

11 JUDGE CLARK: No uh-uhs or huh-huhs, because it's
12 hard to take that down in a transcript, you understand?

13 THE WITNESS: Sure, yeah.

14 JUDGE CLARK: And nods don't really work either, we
15 have to have something verbally.

16 THE WITNESS: Okay.

17 JUDGE CLARK: If one of the lawyers makes an
18 objection, you just stop talking and I'll let you know
19 whether you can answer the question.

20 THE WITNESS: Okay.

21 JUDGE CLARK: If you don't understand something,
22 let me know and I'll have the lawyer rephrase it for you.

23 THE WITNESS: Thank you.

24 JUDGE CLARK: All right. Thank you very much.

25 Ms. Hermosillo.

1 MS. HERMOSILLO: Thank you, Your Honor.

2 DIRECT EXAMINATION

3 BY MS. HERMOSILLO:

4 Q Dr. Hanson Garcia, do you identify as a particular
5 gender and race?

6 A Yes. Female and Caucasian.

7 Q Okay. And can you please briefly describe your
8 educational background?

9 A Yes. I have my bachelor's from Indiana University.
10 My master's degree from Northwestern University and my
11 doctorate from the University of San Diego and San Diego
12 State University, it's a joint doctoral program.

13 Q What is your doctoral degree in?

14 A It's through the School of Leadership and Education
15 Sciences, specifically the Leadership Department with a focus
16 in Educational Technology.

17 Q Okay. So, do you teach?

18 A I do.

19 Q Okay. And at what academic level do you teach?

20 A At college and graduate school, somewhat.

21 Q Okay. And where do you teach?

22 A I teach at the University of San Diego.

23 Q Okay. And what is it, exactly, that you teach?

24 A I teach -- currently, I'm teaching in the Business
25 School. I teach Organizational Behavior, which is a required

1 course for business students, for undergraduates. And I've
2 also taught in the School of Peace and Justice at the
3 University of San Diego, a course Leadership Organizations
4 and Change at the master's level.

5 Q Okay. Now, do any of the areas in which you teach
6 cover work culture?

7 A Yes, definitely.

8 Q What is your understanding of work culture?

9 A Well, all organizations, work places, have a
10 culture and culture is really a way of being and acting in a
11 particular organization, and it's something that's unspoken.

12 It's something that actually -- there's kind of an
13 indication of ways of behaving and ways that you don't
14 behave, but it's usually not something that's stated.

15 Q And have you ever worked for Oracle America, Inc.?

16 A I have, yes.

17 Q And do you currently work for Oracle?

18 A I do not.

19 Q So, how long, approximately, did you work for
20 Oracle?

21 A I worked for Oracle for a little over 16 years.

22 Q Okay. And when did you first begin working for
23 Oracle?

24 A It was in 1998. I worked there, I believe it was
25 around March of 1998 that I started.

1 Q And when did you leave Oracle?

2 A I left Oracle in 2014, it was the end of July.

3 Q And what was your last position at Oracle, if any?

4 A Yes. My last position was senior director of the
5 Global Organization and Talent Development Department.

6 Q And can you describe your career history at Oracle?

7 A Yeah. I started as an individual contributor when
8 I was hired on, and working in the Oracle Education
9 Certification area, and then continued to just grow in my
10 career, gaining more responsibilities, management
11 responsibilities, moving into what was called, at the time,
12 the Management Professional Development Department, and then
13 it became renamed to incorporate all the different regions,
14 so not only North America, but what we would call EMEA, so
15 Europe, Middle East, Africa, JAPAC, so Japan, Asia, Asia
16 Pacific and the Latin America -- so it was named Organization
17 and Talent Development. And that's where I continued to work
18 for the rest of my tenure at Oracle.

19 Q And you mentioned a term: "individual contributor."

20 A Yeah.

21 Q What does that refer to?

22 A That means just a person that works there, but
23 doesn't have any direct reports or like a management
24 responsibility at the time.

25 Q Okay. And so when you were senior director of

1 Global Organization and Talent Development, did you work in a
2 particular part of Oracle's organization?

3 A Within the Human Resources organization.

4 Q Okay. And does Human Resources have a particular
5 role at Oracle?

6 A I think probably pretty typical to most
7 corporations, most companies, to, you know, look for the
8 employees as far as the benefits, the compensation, the
9 employee, I guess employee practices, all of that. I,
10 though, if I could add, I didn't work specifically on that
11 side so much, so I guess maybe you would call that more of
12 the technical or technical side of things, somewhat. I was
13 considered, I think you would -- the term I would use is
14 maybe a little bit more of a strategic HR is what the, you
15 know, what the textbooks would call it. So, I was focused on
16 developing the human capital, meaning the employees, the
17 leaders, team development, all of that, to help our employees
18 really be the best they could be and perform as well as
19 possible.

20 Q And who was your supervisor, if anyone, while you
21 were senior director of Global Organization and Talent
22 Development?

23 A Anje Dodson, and she reported in to Joyce
24 Westerdahl.

25 Q And do you know if Anje Dodson had a particular

1 title?

2 A HR vice president.

3 Q And you had mentioned that Ms. Dodson reports in to
4 Joyce Westerdahl?

5 A Yes.

6 Q What is her title?

7 A At the time Joyce Westerdahl's title was senior
8 vice president of HR, I believe.

9 Q And at the time period we're talking about here,
10 was that the highest level authority in Human Resources?

11 A Yes, as far as I knew, yes.

12 Q Okay. And so generally speaking, as the senior
13 director of Global Organization and Talent Development, what
14 were your responsibilities?

15 A So, we were focused on the leadership development
16 of managers and executives, and employee development, more
17 professional development. If a leader wanted to bring us in,
18 I had several people on my team, and so we would come in and
19 maybe do a team building session with them. We also would do
20 -- if it was conflict management or something like that,
21 those types of helpful skills. I also did oversee, for a
22 certain period of time, the Oracle Women's Leadership
23 Initiative.

24 Q Okay. Now, you sort of touched on this earlier in
25 your testimony, but I just want to make sure it's clear for

1 the record. Was there a particular territory you were
2 responsible for covering?

3 A It was global. So, basically North America --
4 which I had initially started in the earlier years with North
5 America focus, but then as my responsibilities expanded it
6 was all the different regions. So, as I mentioned earlier,
7 EMEA, JAPAC, Latin America. Should I define those terms,
8 again -- Europe, Middle East, Africa --

9 Q No. I just want to make it clear, does that
10 include all of Oracle's offices?

11 A Yes.

12 Q So, does it also include Redwood Shores?

13 A Yes, it does.

14 Q And is Redwood Shores, the Redwood Shores facility,
15 sometimes referred to as headquarters?

16 A Yes.

17 Q Now, in your capacity as senior director of Global
18 Organization and Talent Development, did you have any
19 employees reporting to you?

20 A I did, yes.

21 Q And approximately how many?

22 A About 70-ish, give or take as far as, you know,
23 sometimes some left or some were there type of thing, so.

24 Q And did you have any managers reporting to you?

25 A I did, yeah.

1 Q And approximately how many levels of management?

2 A I had my direct reports, which would be anywhere, I
3 think, from like four to six probably, depending on the years
4 you're looking at. And then they had managers and then some
5 of them had, you know, managers or they had people below
6 them. So, maybe about three levels or so, somewhere in
7 there. It may have been more, but I don't want to overstate
8 it.

9 Q Just testify to what you know.

10 A Yeah.

11 Q So, are you familiar with the Workbench
12 Compensation Tool?

13 A Yes, I am.

14 Q Okay. Was that something that you used at Oracle?

15 A Yes, it is.

16 Q And what is it?

17 A It was the tool we used to allocate our -- the
18 salaries, salary increases and bonuses.

19 Q Okay. And do you know if that tool was used
20 throughout Oracle's organization?

21 A As far as I know, yes.

22 Q Okay. And did you receive any guidance as to how
23 to use this tool, based on non-discriminatory criteria?

24 A I don't recall receiving that.

25 Q Okay. And what information, if any, was available

1 to you through the use of that tool?

2 A Well, what I recall is being able to see the
3 employee's name, obviously, probably I think it was the
4 employee number, their title -- excuse me -- their job code,
5 shall I say, as far as the level they were at, current salary
6 and then I think it may have indicated like your past -- the
7 past increase or what the past percentage was you got from
8 like a previous salary or bonus. That's about all that I
9 remember.

10 Q And do you -- did you have access to the pay
11 information of HR employees who did not report to you?

12 A I did not.

13 Q Would it have been helpful to have that
14 information?

15 A Yes, it would have.

16 Q How so?

17 A Well, because that would help you to calibrate with
18 what was going on with a similar type of job responsibility.

19 So, for someone in your team, and if you're able to look at
20 another team of someone who is doing a comparable type of
21 job, it would be nice to be able to calibrate what that
22 salary would be and what that salary range would be.

23 Q Now, did you contact any compensation analyses for
24 your reporting employees?

25 A I did not, no.

1 Q And did you, in your capacity as senior director of
2 Organization and Talent Management receive guidance as to
3 how to ensure that men and women were paid equally?

4 A I do not remember receiving that, at all.

5 THE WITNESS: Would it be okay if I take off my
6 jacket here?

7 JUDGE CLARK: Yes, make yourself comfortable.

8 THE WITNESS: Okay. Thanks.

9 MS. HERMOSILLO: It's warm in here.

10 THE WITNESS: I don't know, it's probably just me.
11 Okay. Thank you.

12 BY MS. HERMOSILLO:

13 Q Okay. So, a similar question, did you, in your
14 capacity as director of Organization and Talent Management
15 receive guidance as to how to ensure that employees of
16 different races are paid equitably?

17 A I do not remember receiving that either.

18 Q Were you aware of Oracle having an Affirmative
19 Action Plan?

20 A I was not aware.

21 Q Okay. And were you aware as to how much other
22 senior directors within HR were paid?

23 A No, I wasn't, not until other senior directors
24 started reporting into me.

25 Q So, were any of your reports -- well, let me just

1 ask you this, were any of the employees who reported into
2 you, did they get paid more than you?

3 A Yes.

4 Q And how did this come about?

5 A Well, so I had been leading the organization,
6 Talent Development Team, globally, and it had been a dotted
7 line structure, you probably know in large corporations
8 sometimes you have matrix to things, and so with the regions,
9 with EMEA, JAPAC and Latin America, they had been reporting
10 into the straight line to the HR VPs that were located there.

11 However, they were dotted line reporting into me for a
12 couple of years, I believe it was. Then when the change --
13 there was a change made and Joyce Westerdahl and Anje Dodson,
14 you know, decided, along with the other HR VPs, that they
15 would start directly reporting into me. And that was about
16 November-ish of 2011. So, then, of course, given that that
17 change happened, I was able to see, in Compensation
18 Workbench, the tool, all the salaries of those people,
19 because they brought their people along with them as well as
20 those reports. And in coming in that, there were a couple of
21 other senior directors who were coming to report into me
22 directly, even though I had been working with them already
23 for several years.

24 Q And when you noticed that they were paid more than
25 you, approximately, what kind of numbers are we talking about

1 here?

2 A Well, it was about -- it was around seven or eight
3 people paid more, and the combination of -- I think there,
4 maybe, were one or two men and then women, certainly, and the
5 highest two paid more than me were \$35,000.00 and \$60,000.00
6 more than what I was paid.

7 Q Just so we're clear, you were their manager?

8 A I was their manager, yes.

9 Q Okay. Did you think that was fair?

10 A Well, no, I didn't, but I didn't say anything about
11 it at first, though.

12 Q Did you bring it up at any point?

13 A I did. So, I mean that was around November of
14 2011, it was in the spring. I believe it was March or April
15 of 2012 I kind of finally got the courage up to say
16 something, when I had been at other conferences and you hear
17 other data. And certainly, that's my field and my whole
18 background is there, so you hear about how women, you know,
19 can't retire -- women, on average, retire seven to eight
20 years after men do, because of the salary gap that exists
21 across all industries. And so, you know, I had gotten the
22 courage up to ask Anje Dodson why was there this discrepancy,
23 and this pretty reasonable difference between my salary and
24 some others.

25 Q And did you get a response?

1 A I did. She did talk to Joyce Westerdahl about it
2 and I was -- they did decide to increase my salary to the
3 second highest that was being paid. So, they didn't raise me
4 to the highest level of the person that was reporting into
5 me, what she was being paid, but they did bump me to the
6 second highest.

7 Q And were you given a reason for that?

8 A No. The only reason that Anje Dodson said was that
9 she made similar to what the highest person in my
10 organization made and so she wasn't comfortable with me
11 making the same amount, essentially, that she was.

12 Q Now --

13 A Even though -- it was kind of interesting, because
14 somehow it was okay that I had someone --

15 MS. CONNELL: Objection, non-responsive.

16 THE WITNESS: Okay.

17 JUDGE CLARK: Overruled -- I'm sorry -- sustained.

18 You're volunteering information. Just answer the
19 question and she can follow up with you, if she wants to.

20 THE WITNESS: Okay. So, I'll stop then.

21 JUDGE CLARK: Ms. Hermosillo, ask another question.

22 MS. HERMOSILLO: Of course.

23 BY MS. HERMOSILLO:

24 Q So, do you know if Oracle's HR had a particular
25 work culture?

1 A Oracle's HR had a particular work culture?

2 Q Yeah.

3 MS. CONNELL: Objection. Calls for an opinion from
4 a lay witness. She's not here as an expert.

5 MS. HERMOSILLO: She can testify to what her
6 experience was at Oracle. She worked in HR.

7 JUDGE CLARK: Overruled.

8 You can answer the question.

9 THE WITNESS: Yes. It was -- should I speak just
10 to HR or the butter (sic) culture?

11 MS. HERMOSILLO: I would say let's just do HR.

12 THE WITNESS: HR. At first I want to say I think
13 there's a lot of good people and smart people at Oracle,
14 right. So, I'm not one that, you know, just goes to total
15 extremes. I think that in HR there wasn't a lot of
16 transparency or a lot of reasons given for why certain things
17 were done at certain times. And it could be an aggressive
18 environment, intense. I know a lot of organizations are
19 intense, so I get that. But it wasn't something that was
20 necessarily as supportive of your growth. I will say --
21 again, this is my personal experience, although I do teach
22 this stuff and I have studied this and I do have my
23 doctorate, so I kind of look at it through both lenses, more
24 from a systems view, an organizational view and myself
25 personally -- so I just happened to be a person who worked

1 there, but I look at things in a bigger way. But I will say
2 both my husband and my parents, who, you know, knew me --

3 MS. HERMOSILLO: Excuse me, Dr. Hanson Garcia, the
4 question was just what was your experience --

5 THE WITNESS: Sorry.

6 MS. HERMOSILLO: -- with respect to Oracle's HR
7 culture.

8 THE WITNESS: Just that -- that I was going to say
9 that others observed me -- it's somewhat -- it can be
10 stifling.

11 BY MS. HERMOSILLO:

12 Q So, you mentioned this transparency and maybe, I
13 think you might have used the word "lack of transparency."
14 Can you explain what, if anything, you mean by that?

15 A Well, I think one point would be around the
16 compensation, as far as not being able to see other
17 calibrating points, so as far as what people were being paid
18 in other organizations for similar type of work. That would
19 have been helpful. You know, decisions that are made, not
20 necessarily getting full explanations or reasons for why
21 they're being made.

22 Q Okay. And were you ever told that fairness should
23 be a priority at Oracle?

24 A Not explicitly, no.

25 Q And while working for Oracle, did you make any

1 recommendations with respect to the HR organization, itself?

2 A Yes, I did.

3 Q And around when was this?

4 A Well, a lot throughout my -- obviously, throughout
5 my job responsibilities, I would, you know, offer
6 suggestions and ideas, because they would ask me, but in my
7 later time there, before my departure, kind of two things
8 specifically. There were definitely some intimidating,
9 bullying type of behaviors that were happening, and I was
10 giving voice to some of those, because it was impacting
11 others, some on my team, myself, somewhat, others that I had
12 observed this happening. But they were not really interested
13 in hearing about that. So, I won't go into more detail
14 there, but that was definitely one area that I did raise, as
15 far as the intimidating behaviors that existed within HR.

16 The other piece, though, is I was asked to be on a
17 team, selected to be on a team of six to represent all of HR.

18 And we went to a two-week development offsite, actually in
19 Park City, Utah, and it was in -- let's see here, it was in
20 September of 2013, and so I left the following year, you
21 know, 2014, so not too long before I departed. And it was
22 basically -- it was called: "Results Based Leadership," and
23 it was other companies went, too, they sent other
24 representatives from other companies. And so I was there
25 with our team of six from HR, representing all of HR.

1 Because we were asked to look at HR, to be looking at the
2 future and what's the strategic direction of HR, and how
3 could we better serve the business.

4 And so at the end of the two week, after we had all
5 these learning sessions with these gurus, I guess you would
6 say -- Dave Ulrich is one of the professors, gurus, in
7 management, who led this program. And so, basically, we
8 presented our -- kind of our ideas about how we wanted to go
9 forward with our special project.

10 So, Joyce Westerdahl flew into Park City and the
11 six of us, HR employees, presented some of the ideas that we
12 had. And so then over the proceeding nine months or so, we
13 -- from September until just before Memorial Day of 2014 --
14 we worked together, virtually, because we were, the six of us
15 were -- several of us were in different locations globally --
16 so we had virtual meetings and we would meet together
17 face-to-face a couple of times. We did interviews with the
18 business executives, we looked at different data throughout
19 the organization. We also had a consultant from this
20 program, just part time, who was able to give us perspective
21 and kind of some benchmarking, because he works with many
22 multi-nationals, many other companies throughout the globe,
23 and so we had him as kind of a say -- yeah, that sounds like
24 a, you know, reasonable way, this is what other companies do,
25 this is what other HR organizations do.

1 So, our team, this special team, we put together
2 our proposals and we presented them. It was a virtual
3 presentation, conference call/webcast, like I mentioned, just
4 before Memorial Day of 2014, and presented it to Joyce. And
5 there were kind of two options, one was a little bit more,
6 I'll say forward thinking type of approach, looking at
7 organizational structure of HR, looking at ways we could help
8 the business, help the Cloud computing message, all of that,
9 ways we would be more effective. So, it was really, you
10 know, I think a constructive project. So, that was more
11 forward thinking.

12 And then we had a more incremental type of solution
13 that we presented, because we knew that we wanted to give
14 options. Well, and then --

15 MS. CONNELL: Your Honor, there's no question
16 pending, non-responsive.

17 JUDGE CLARK: Let's go ahead and wait for another
18 question.

19 THE WITNESS: Sure.

20 JUDGE CLARK: Ms. Hermosillo, go ahead.

21 BY MS. HERMOSILLO:

22 Q So, did you receive any response to those
23 recommendations that you had made?

24 A Yes, we did. So, Joyce, obviously, listened to
25 them. And one of the first comments she made, after we had

1 presented, the six of us, was that it was too radical. So,
2 that was the main comment that I remember, as far as how the
3 conversation went and the dialogue after that.

4 And then it was actually about a week and a half or
5 so, a week and a half to two weeks later that Anje Dodson,
6 who was my direct manager, had -- we were having a phone
7 conversation and she said: "You know, I think it's time to
8 part ways and go our separate ways."

9 Q Now, just so I understand here. Did any of the
10 recommendations that had been presented, as part of this
11 group of six, involve Anje Dodson's role at Oracle?

12 A Yes, definitely. I mean it involved really
13 everyone's roles. We didn't put specific names on it, but we
14 put functions on it, so people knew where those functions
15 currently were and then what, in a new approach, where they
16 could be.

17 Q So, what was the recommended affect on that role?

18 A That it would be organized in more logical ways.
19 So, meaning that the functions would be organized more
20 logically throughout HR.

21 Q Did that have any impact on who she would be
22 managing?

23 A Yes, definitely, and her span of control.

24 Q And how did that impact --

25 A It lessened -- it would lessen the span of control.

1 Q Allow me to draw your attention to in or around the
2 mid-2000s, did you participate at a meeting at which Joyce
3 Westerdahl was present?

4 A Yes, I did.

5 Q And where did this meeting occur?

6 A Yeah, it was at Redwood Shores in headquarters.

7 Q And who was present for this meeting?

8 A Yeah, it was Greg Maffei. He was -- I believe he
9 was the CFO at the time. There for a very short period of
10 time, a few months. And Joyce Westerdahl, as you mentioned.

11 And then Patricia Cureton, who was another HR person --
12 sadly, she has passed away -- but it was the four of us in
13 that room.

14 Q Now, how did you learn of this meeting?

15 A I was invited to it. The topic was about "Talent
16 Management," so that's stuff that my team did, we helped to
17 roll out our talent management programs, and so we were
18 discussing that.

19 Q So, was there a particular reason why this meeting
20 was being held?

21 A Well, at the time it was -- what I remember is
22 Jennifer Minton, I believe is her name, worked there, I think
23 she was VP of Finance or something like that, so I think she
24 would have been either reporting in or connected somehow to
25 Greg Maffei, because of what his role was for that short

1 period of time. But we were going to do an off-site talent
2 management workshop in Las Vegas, so we were talking about
3 that and preparing for that.

4 Q Now, is there a particular reason why you recall
5 this meeting?

6 A Yes.

7 Q What is that?

8 A Well, you know, there's like chitchat that goes on
9 in meetings at times, right, and so at one point they were
10 talking about hiring and just interviewing, like interviewing
11 someone for some positions, and I remember Joyce saying:
12 "Well, if you hire a woman, she'll work harder for less
13 money." And so --

14 Q Did that comment make an impression on you?

15 A Yes. I was shocked.

16 Q And why were you shocked?

17 A Well, I was shocked because this was the senior
18 person in charge of HR talking to another senior executive
19 about, you know, hiring and mentioning that about women, and
20 I just was pretty stunned. Although, at the time I was, you
21 know, a little bit more junior in my role, so I mean I didn't
22 feel like I had any place to say anything and that's not why
23 I was there.

24 Q How did you learn of this lawsuit?

25 A I saw it in the press.

1 Q And, approximately, when did you see it in the
2 press?

3 A In January of 2017.

4 Q And is it important for you to be here?

5 A Yes.

6 Q Why?

7 A Well, I really feel it's a sense of I'm doing it
8 out of responsibility. I do have the sense that -- that's
9 maybe an overused statement, but to those who have given
10 much, much is expected, and I have thought about and
11 discerned about this, and I'm a person of faith, so I prayed
12 about it a lot, and I'm really here because I think about my
13 family. I would prefer not to be here, I have an 11-month
14 old baby twins at home, a daughter and a son, and yet that's
15 why, for my daughter's sake, for my step-daughter, for my
16 nieces, my young nieces, for my grandmothers who worked and
17 raised their families, and sacrificed a lot and gave us the
18 values that I feel our family has, and my parents, who raised
19 me in a way that was always -- they always said: "Do what you
20 think is right," and always about giving voice to those who
21 maybe don't have a voice that's always going to be heard.
22 And honestly, with the courage and support of my husband, who
23 is a recently retired Naval officer, who always has talked
24 about service above yourself. That is why I'm here, although
25 I'd rather be back home.

1 MS. HERMOSILLO: No further questions, Your Honor.

2 JUDGE CLARK: Okay. Thank you, Ms. Hermosillo.

3 Who is going to handle the cross?

4 MS. CONNELL: I am, Your Honor.

5 JUDGE CLARK: Okay, Ms. Connell.

6 So, before we start, do you need a moment?

7 THE WITNESS: I'm just going to get a drink here,
8 yeah.

9 JUDGE CLARK: There's some paper towels there. So,
10 go ahead and take a moment. But there were a few names that
11 were spelled there, that we're probably going to have to get
12 some spellings from you or from the attorneys.

13 THE WITNESS: Sure.

14 JUDGE CLARK: Let me know when you're ready. Are
15 you ready to go?

16 THE WITNESS: Yeah.

17 JUDGE CLARK: Okay. So, we'll get that one when
18 we're done with the testimony.

19 THE WITNESS: Thanks.

20 Ms. Connell.

21 CROSS-EXAMINATION

22 BY MS. CONNELL:

23 Q Good morning, Ms. Garcia, Ms. Hanson Garcia, my
24 name is Erin Connell and I represent Oracle. I'm going to
25 ask you a few follow up questions.

1 MS. HERMOSILLO: Objection, Your Honor. Her name
2 is Dr. Hanson Garcia.

3 JUDGE CLARK: So, is there any problem calling her
4 Doctor.

5 MS. CONNELL: There is no problem calling her
6 Doctor. My apologies.

7 JUDGE CLARK: Thank you, Ms. Connell.

8 MS. CONNELL: I did not -- I meant no disrespect.

9 THE WITNESS: No problem.

10 BY MS. CONNELL:

11 Q First, prior to coming here -- prior to coming to
12 testify here today, you had more than one telephone call with
13 OFCCP's counsel, correct?

14 MS. HERMOSILLO: Objection, Your Honor. This is --
15 that would lead to work product privilege that the government
16 still has, as well as common interest privilege with this
17 witness. I mean she can --

18 JUDGE CLARK: Ms. Connell?

19 MS. HERMOSILLO: -- and as well as relevance. It's
20 not relevant that she talked to us. It's relevant what she
21 experienced.

22 JUDGE CLARK: Ms. Connell?

23 MS. CONNELL: Your Honor, I didn't ask the content
24 of any of the discussions. And the government has produced
25 to us the contents of the interview memos.

1 JUDGE CLARK: The objection is overruled.

2 In a general way you can talk about -- you can
3 answer that question.

4 THE WITNESS: If --

5 JUDGE CLARK: Do you need it repeated, again?

6 THE WITNESS: Please, yes.

7 JUDGE CLARK: Ms. Connell.

8 BY MS. CONNELL:

9 Q I asked if prior to coming here today you had a
10 telephone conversation with OFCCP's counsel, correct?

11 A Yes. And this is OFCCP -- yeah -- yes.

12 Q And that was with Ms. Bremer, who is in the
13 courtroom today?

14 A Yes.

15 Q And that was on or around February 15th of 2017,
16 correct?

17 A Yes, it was in the spring.

18 Q And you're aware that Ms. Bremer took notes during
19 her telephone call with you, correct?

20 A I would believe so or guess so, but I didn't know
21 for a fact.

22 Q Okay. And you would have no reason to believe that
23 Ms. Bremer's notes from that telephone call are inaccurate,
24 correct?

25 A I don't think so. I don't know, you know, who

1 knows if she heard me. Sometimes there's, you know, people
2 can confuse things, but yes.

3 Q You have no reason to believe that they would be
4 incorrect, right?

5 A No.

6 Q And you also spoke with Ms. Bremer again on or
7 around April 23rd of this year, correct?

8 A Yes.

9 Q And again, you're aware that Ms. Bremer took notes
10 during that call, correct?

11 A I would assume so, yeah.

12 Q And again, you have no reason to believe that the
13 notes from that telephone call are inaccurate, correct?

14 A I don't think so, but I don't know.

15 Q And you also signed a declaration for OFCCP,
16 correct?

17 A Yes, this fall -- right.

18 Q It was on or around September 20th of this year,
19 correct?

20 A Yes.

21 MS. CONNELL: And just so we're clear, I'd just
22 like to mark the declaration for identification.

23 JUDGE CLARK: Okay. So, you want to mark that as
24 your next in order?

25 MS. CONNELL: Correct, Your Honor. May I approach?

1 JUDGE CLARK: Yes. I've got to find your most
2 recent list and figure out what your last number was.

3 MR. PARKER: I can help you, Your Honor, if you
4 don't mind.

5 MS. CONNELL: Thanks.

6 JUDGE CLARK: Thank you.

7 MR. PARKER: 446.

8 JUDGE CLARK: So, this will be marked as 446, okay,
9 Defense 446.

10 (Defendant Exhibit No.
11 446 was marked for
12 identification.)

13 BY MS. CONNELL:

14 Q Dr. Hanson Garcia, is this the declaration that you
15 signed?

16 A Yes.

17 Q And you did not draft the declaration yourself,
18 correct?

19 A I was present while it was being drafted.

20 Q You reviewed it before you signed it?

21 A Oh, absolutely.

22 Q And you believe its contents are accurate, correct?

23 A Yes.

24 Q You began working for Oracle in or around 1998,
25 correct?

1 A Yes.

2 Q And you worked there until July 31st, 2014,
3 correct?

4 A Yes.

5 Q And you worked in San Diego, correct?

6 A Yes. I started at headquarters for the first two,
7 two and a half years, and then moved down, as I was pursuing
8 my doctorate, yes.

9 Q Okay. So, roughly, around 2000 you moved down to
10 San Diego, is that correct?

11 A Yes.

12 Q And then in or around 2004, you began working in
13 the Human Resources organization, correct?

14 A Yeah, that sounds right.

15 Q Okay. And as you testified, more specifically you
16 worked in Global Organization and Talent Development or OTD,
17 correct?

18 A Yes.

19 Q And when you began working in OTD, in 2004, you
20 were a director, correct?

21 A Yes.

22 Q With a global career level of M4, correct?

23 A I believe that's what it was, yeah.

24 Q And then in 2006 you were promoted to senior
25 director, correct?

1 A Yes.

2 Q And your global career level increased to M5,
3 correct?

4 A Yes.

5 MS. HERMOSILLO: Your Honor, there's nothing, I
6 think, that has been established with this witness or
7 defining "global career level." So, I think before she
8 answers those questions, I think it should just be made clear
9 what she's referring to.

10 JUDGE CLARK: Overruled. The answers will stand.

11 Ms. Connell, ask another question.

12 BY MS. CONNELL:

13 Q And you worked in OTD within Human Resources until
14 you left Oracle in 2014, correct?

15 A I did, yes.

16 Q And you gave a general overview of your job
17 responsibilities in OTD, correct?

18 A Um-hum.

19 Q And when you left Oracle -- strike that.

20 And for most of the time that you worked at Oracle,
21 you worked from home, correct?

22 A Yes. I mean I traveled a fair amount, obviously,
23 because of going to headquarters quite a bit, or the people I
24 worked with were global.

25 Q And for part of the time that you were at Oracle,

1 you also worked part time, correct?

2 A Only when I was doing my dissertation, and that's
3 where I had asked, because they increased my responsibility
4 areas, you know, which was great, but I really wanted to
5 finish my dissertation. So, I needed time to write.

6 Q You anticipated my next question. You went part
7 time and that was something Oracle allowed you to do, so that
8 you could obtain -- finish your dissertation, correct?

9 A Yeah. For about six weeks, I think it was, in the
10 fall of 2006. And then maybe six or eight weeks, I don't
11 remember the exact time, in the spring of 2007. And I
12 certainly was not paid during those times. So, I mean I knew
13 that I was taking no salary, but I wanted to have the
14 flexibility, obviously, to be able to write my dissertation.

15 Q Okay. So, just so we're clear, you took some
16 personal -- unpaid personal leaves of absence in order to
17 allow you to --

18 A Yes.

19 Q -- complete your dissertation, correct?

20 A Yes.

21 Q And that was something that you wanted and that
22 Oracle allowed you to do, correct?

23 A Yes.

24 Q And then in addition to that, you also had some
25 periods of employment where you were working reduced hours,

1 to finish your dissertation?

2 MS. HERMOSILLO: Objection, relevance, Your Honor.

3 I mean I can understand some of the questions about what her
4 contact was with HQ, but at this point I think we have
5 exceeded --

6 JUDGE CLARK: So, the objection is overruled.

7 You can answer the question.

8 THE WITNESS: Okay, sure. Yeah, just during a
9 short period of time, from when I defended my proposal in the
10 fall of 2006, to collecting my data. So, collecting data, I
11 needed to do some analysis, and then be able to do the final
12 writing in the spring. But many -- you know, I wasn't
13 married at the time or didn't have kids, so many people had
14 taken maternity leaves and all of that, this was just
15 something that I was doing for my growth.

16 MS. CONNELL: Okay. Thank you, Dr. Garcia.

17 BY MS. CONNELL:

18 Q You always -- you never worked in Oracle's Product
19 Development Support or IT job functions, correct?

20 A I did not, no. We had people in OTD who were like
21 consultants, who would be aligned to try to help support, if
22 they wanted to do something in their organization.

23 Q Okay. But to confirm, you never worked in those
24 job functions, correct?

25 A I never did, no.

1 Q And you never had responsibility for overseeing or
2 supporting compensation decisions regarding employees who
3 worked in Oracle's Product Development, IT or Support job
4 functions, correct?

5 A No, I did not.

6 Q So, even when you were still with Oracle, prior to
7 2014, you did not have any personal knowledge regarding how
8 those decisions were made, correct?

9 A No, not -- no.

10 Q Just so the record is clear -- that's correct?

11 A Yes.

12 Q And you don't know who made those decisions,
13 correct?

14 A No.

15 Q Again, just so we're clear, you don't know who made
16 those decisions?

17 A For those particular lines of business that you're
18 referring to?

19 Q Those particular job functions, yes?

20 A Yeah -- no, I do not know.

21 Q Okay. And you don't have personal knowledge
22 regarding how compensation budgets were allocated within the
23 lines of business within which employees in Product
24 Development and Support work, correct?

25 A No. I only know how it worked with my team.

1 Q And the same is true of IT, correct?

2 A Yes.

3 Q And although you mentioned that you -- strike that.
4 You testified about your own compensation, correct?

5 A Um-hum.

6 Q And you testified that in -- I think you said
7 around November of 2011, you made a request for a
8 compensation increase, correct?

9 A No, I didn't say that. In November of 2011 is when
10 they decided to have the direct line reports come into me
11 from the regions, so that's when I was able to see, in
12 Compensation Workbench, that the salaries, that some of the
13 salaries were higher than my salary. But it took me awhile
14 to get up the courage to ask why that was. So, it wasn't
15 until the spring -- and again, I don't know if it was March
16 or April, when it was in there -- it wasn't until later when
17 I asked Anje Dodson why was there this difference.

18 Q And after you asked Anje Dodson for the increase,
19 you received it, correct?

20 A I received it to the second highest paid. I still
21 did not get paid what the highest person, who was working for
22 me, was being paid.

23 Q The highest -- and that individual that you're
24 referring to was a female, correct?

25 A Correct, yes.

1 Q And as you testified, the individuals who were paid
2 higher than you included both men and women, correct?

3 A Correct, yes.

4 Q And even though they were reporting to you, they
5 had the same -- they were senior directors and you were a
6 senior director, correct?

7 A The same title, yes. It was just the
8 inconsistencies. So, if you look at --

9 Q With all due respect, Dr. Hanson Garcia, there's no
10 question pending.

11 A Okay.

12 Q The increase that you received was a \$33,000.00
13 increase, correct?

14 A That sounds about right, yeah.

15 Q And that was nearly a 20 percent raise for you at
16 the time, correct?

17 A At the time. But can I please explain something?

18 JUDGE CLARK: So, just answer the question the best
19 you can.

20 THE WITNESS: Sure.

21 JUDGE CLARK: If that requires you to explain it,
22 you can explain it, but if you can answer the question,
23 she'll ask you another question. Ms. Hermosillo can ask you
24 follow-up questions, as well.

25 THE WITNESS: Okay. No problem. Thank you.

1 BY MS. CONNELL:

2 Q And the year prior, in 2011, you also had received
3 a \$20,000.00 raise, correct?

4 A Yes, that could be. I was very underpaid.

5 Q Well, in 2010 you also received a \$12,000.00 raise,
6 correct?

7 A That's probably right, sure.

8 Q And you didn't ask for those two prior raises,
9 correct?

10 A No. I'm very intrinsically motivated and not as
11 extrinsically motivated. And just in defining that --
12 because I teach this, too -- I guess you would say I find
13 meaning --

14 MS. CONNELL: With all due respect, move to strike.

15 THE WITNESS: Okay.

16 JUDGE CLARK: It's non-responsive at this point.

17 THE WITNESS: Okay.

18 JUDGE CLARK: So, the objection is sustained.

19 THE WITNESS: Okay.

20 JUDGE CLARK: Just ask another question, Ms.
21 Connell.

22 MS. CONNELL: I don't think she asked (sic) the
23 question that I asked.

24 JUDGE CLARK: Ask your question again.

25 MS. CONNELL: Okay.

1 BY MS. CONNELL:

2 Q You didn't ask for those earlier raises, correct?

3 A No, I don't remember asking.

4 Q You testified that your doctorate is in Education,
5 is that correct?

6 A Um-hum.

7 Q So, you do not have a technical background,
8 correct?

9 A No. I did in my master's program at Northwestern
10 University, it was in Learning Sciences. So, we did have
11 some Computer Science courses, as well as the Educational
12 Psychology and Cognitive Science of the Brain, and how things
13 work. So, I did have some CS at that point, but it's not
14 something that I used anything actively at Oracle.

15 Q For example, you never did any coding --

16 A No, I did not.

17 Q -- or anything like that at Oracle?

18 A No.

19 Q You gave some testimony today regarding your views
20 of Oracle's culture, correct?

21 A Yes.

22 Q And you gave some testimony regarding a comment by
23 Joyce Westerdahl, correct?

24 A Um-hum.

25 Q You never made any complaints to Oracle about its

1 culture or that comment by Joyce Westerdahl, correct?

2 A Not about that specific comment, but I did about
3 some intimidating and bullying behaviors that I was the
4 recipient of.

5 MS. CONNELL: Move to strike as non-responsive.

6 BY MS. CONNELL:

7 Q My question was, you never made any complaints at
8 Oracle about that comment by Joyce Westerdahl, correct?

9 A Not that specific comment.

10 JUDGE CLARK: So, did you want a ruling on the
11 objection? You just made your objection, move to strike, but
12 I didn't rule on it, so.

13 MS. CONNELL: I would like a ruling, Your Honor.

14 JUDGE CLARK: At this point I'm going to let the
15 answer stand.

16 MS. CONNELL: Okay.

17 JUDGE CLARK: So, Ms. Connell, you need to let me
18 step in and rule if you make an objection.

19 MS. CONNELL: Okay.

20 BY MS. CONNELL:

21 Q You gave some testimony about Compensation
22 Workbench, the tool, correct?

23 A Yes.

24 Q And just to confirm, using that tool the only
25 compensation information that you had was of your reports and

1 the reports below you, correct?

2 A Yes.

3 Q So, you don't have knowledge as to what other
4 individuals outside of your reporting structure made at
5 Oracle, correct?

6 A Yes.

7 Q You just gave some testimony about complaining
8 about intimidating conduct, but none of that conduct was by
9 anyone within the Product Development, IT or Support job
10 functions, correct?

11 A No, I did not work within that department,
12 directly, it was my department or my division.

13 MS. CONNELL: I don't have any further questions at
14 this time, Your Honor.

15 JUDGE CLARK: Thank you, Ms. Connell.

16 Ms. Hermosillo, anything else?

17 MS. HERMOSILLO: I think so, but can I just have a
18 moment to confer with co-counsel?

19 JUDGE CLARK: Yes. We'll go off the record,
20 briefly.

21 (Off the record at 11:00 o'clock a.m.)

22 JUDGE CLARK: Ms. Hermosillo, anything further?

23 MS. HERMOSILLO: Yeah, just a couple of questions,
24 Your Honor. Thank you.

25 JUDGE CLARK: Okay. We're back on the record.

1 Ms. Hermosillo, go ahead.

2 REDIRECT EXAMINATION

3 BY MS. HERMOSILLO:

4 Q Dr. Hanson Garcia, you had mentioned that you
5 needed to get courage in order to ask for a raise. Was there
6 a particular reason why you needed courage to do that?

7 MS. CONNELL: Objection, beyond the scope of cross.

8 JUDGE CLARK: Overruled.

9 You can answer the question.

10 THE WITNESS: Well, I think it's a fairly scary
11 thing for a lot of people to ask for a raise, in general.
12 But it was not something that necessarily -- it was just more
13 intimidating to ask, because -- especially when you're given
14 a better, you know, let's say a broader span of control as
15 far as responsibility, or a title, it wouldn't necessarily
16 mean that your salary was being increased at the same time.

17 So, I don't know, I guess I just, for me, it was something
18 that I just felt it was a risk.

19 BY MS. HERMOSILLO:

20 Q And --

21 A Can I add to that, though, too?

22 Q Well, why did you think it was a risk?

23 A Well, just because it's a culture that's not easily
24 rewarding in certain ways. I think it tends to reward a
25 little bit more self-focused behavior, as I'll call it that.

1 And I always tend to -- I always would tell me team -- and I
2 think I tried to hire really smart --

3 MS. CONNELL: Objection, non-responsive.

4 JUDGE CLARK: So, it does seem a little off-target
5 to me, so I'm going to sustain that.

6 Ms. Hermosillo, go ahead and ask your question
7 again or rephrase it for us.

8 MS. HERMOSILLO: Yeah, I'll rephrase it.

9 BY MS. HERMOSILLO:

10 Q Were you concerned as to how that request would be
11 perceived?

12 A Sure. I thought it was fair, a fair request, but I
13 was concerned.

14 Q Okay. And you had mentioned some intimidating
15 conduct that you had experienced?

16 A Yes.

17 Q Okay. Do you remember that? And you said that you
18 had raised complaints about that?

19 A Yes.

20 Q And you raised those complaints to HR management?

21 A Yes. I wrote like a complaint letter and sent it
22 directly to Joyce Westerdahl and Anje Dodson.

23 Q And were your complaints resolved?

24 A No. So --

25 Q No --

1 A Yeah.

2 JUDGE CLARK: So, Ms. Hermosillo, no further
3 questions is that what I'm understanding?

4 MS. HERMOSILLO: Let me just double-check with
5 co-counsel, but I don't think so.

6 Nothing further.

7 JUDGE CLARK: Ms. Connell?

8 MS. CONNELL: Nothing further, Your Honor.

9 JUDGE CLARK: Nothing further.

10 Dr. Hanson Garcia, thank you so much for your time.
11 You are free to go.

12 THE WITNESS: Thank you.

13 JUDGE CLARK: Step down, take your water with you.

14 THE WITNESS: Thanks.

15 (Witness excused.)

16 JUDGE CLARK: Okay. Next witness?

17 MS. HERMOSILLO: I think I have to go downstairs
18 and get her if she's not in the hallway. Is she in the
19 hallway? All right.

20 Are we off the record?

21 JUDGE CLARK: We'll go ahead and go off record
22 while we bring the next witness in.

23 (Off the record at 11:06 o'clock a.m.)

24 JUDGE CLARK: Okay. We're back on the record.

25 MS. HERMOSILLO: Wait -- could I just have one

1 moment to get the questions, Your Honor?

2 JUDGE CLARK: Yes, I'm sorry. Go ahead.

3 You can go ahead and come forward. I'm sorry, I
4 missed your last name.

5 MS. KLAGENBERG: Klagenberg.

6 JUDGE CLARK: Klagenberg, okay. You can have a
7 seat, but I'm going to stand you up and swear you in, in just
8 a minute. You can have a seat for a moment.

9 MS. KLAGENBERG: Okay. Thank you.

10 JUDGE CLARK: Are You ready?

11 MS. HERMOSILLO: I hope so.

12 JUDGE CLARK: Okay. We're back on the record. We
13 have a new witness on the stand.

14 If you'd stand and raise your right hand, please?

15 Whereupon,

16 KIRSTEN KLAGENBERG

17 having been first duly sworn by the Administrative Law Judge,
18 was examined and testified as follows:

19 JUDGE CLARK: Have a seat, please. And if you'd
20 state your name and then spell it for our record, please?

21 THE WITNESS: My name is Kirsten Klagenberg, it's
22 K-i-r-s-t-e-n, Klagenberg is K-l-a-g-e-n-b-e-r-g.

23 JUDGE CLARK: B-e-r-g, okay.

24 So, Ms. Klagenberg, the lawyers are going to ask
25 you questions.

1 THE WITNESS: Yes.

2 JUDGE CLARK: We are recording everything that's
3 said here, so I need you to keep your voice up so that
4 everybody in the courtroom can hear you --

5 THE WITNESS: All right.

6 JUDGE CLARK: -- and our court reporter can hear
7 you, also. He's recording, but he's listening, also, so he
8 needs to hear you very clearly.

9 Because we're recording, I need you to speak out
10 loud and use words, not head nods or uh-huh, uh-uh, okay?

11 THE WITNESS: Okay.

12 JUDGE CLARK: If the lawyers make an objection,
13 just stop talking and I'll tell you whether you can answer
14 the question.

15 THE WITNESS: Okay.

16 JUDGE CLARK: If you don't understand something,
17 let me know, I'll have them rephrase it for you.

18 THE WITNESS: Okay.

19 JUDGE CLARK: And the most important thing really
20 is because we are recording, we can't record two people at
21 once, so you need to let the lawyer ask the complete question
22 and they will let you give a complete answer, so that we're
23 not trying to do two, all right?

24 THE WITNESS: I understand.

25 JUDGE CLARK: Thank you.

1 Ms. Hermosillo.

2 MS. HERMOSILLO: Thank you.

3 Just one small housekeeping matter. Is it okay if
4 I take my coat off, it's a little stuffy in here.

5 JUDGE CLARK: Absolutely, not a problem.

6 MS. HERMOSILLO: All right.

7 DIRECT EXAMINATION

8 BY MS. HERMOSILLO:

9 Q Good morning, Ms. Klagenberg. Are you testifying
10 here, today, pursuant to a request from the Department of
11 Labor, Office of the Solicitor?

12 A Yes, I am.

13 Q And do you identify as a particular race and
14 gender?

15 A I'm half Caucasian and half Asian.

16 Q And what gender, if any, do you identify as?

17 A I'm female.

18 Q And what is your educational background?

19 A I have a degree in Computer Science, from the
20 University of California at Berkeley.

21 Q And your voice is very light, if you could just
22 speak up?

23 A Okay. Sorry.

24 JUDGE CLARK: And it might help, maybe, move the
25 microphone a little closer, because it's doing some

1 amplification a little bit, not enough.

2 THE WITNESS: Okay.

3 JUDGE CLARK: Okay.

4 BY MS. HERMOSILLO:

5 Q And then are you currently employed?

6 A Yes, I am.

7 Q And who is your current employer?

8 A Oracle.

9 Q And how long have you worked for Oracle?

10 A Twenty-three and a half years.

11 Q And prior to working for Oracle, did you have any
12 experience working in the tech industry?

13 A Yes, I did.

14 Q And how long did you work in the tech industry
15 prior to coming to Oracle?

16 A Probably close to 10 years.

17 Q And does Oracle have an organization hierarchy?

18 A Yes, they do.

19 Q And currently, where do you fit within that
20 hierarchy?

21 A I'm a VP in the EBS group, reporting to Cliff
22 Godwin. Cliff Godwin reports to Rick Jewell. Rick Jewell
23 reports to Steve Miranda. Steve Miranda reports to Larry
24 Ellison.

25 Q So, let's just go over a couple of things first.

1 You mentioned "EBS," what, if anything, does that stand for?

2 A E Business Suite.

3 Q Okay. And you mentioned that you report to Cliff
4 Godwin, what is his position?

5 A He is SVP for EBS Development.

6 Q And you had mentioned a Rick Jewell, what is his
7 position?

8 A Rick is an SVP for Manufacturing Development in the
9 Fusion Organization.

10 Q And I'm sorry, does SVP stand for senior vice
11 president?

12 A Yes, it does.

13 Q Okay. And Steve Miranda, what is his position?

14 A He is the executive vice president for
15 Applications, primarily Cloud.

16 Q And you might have even said this, but just in
17 case, you had mentioned Larry Ellison, what is his title, if
18 you know?

19 A My belief is he's currently chairman of the board
20 and CTO.

21 Q And does CTO stand for Chief --

22 A Chief Technology Officer.

23 Q Okay. And how long have you been in this current
24 position?

25 A Maybe five months.

1 Q And prior to becoming the VP in EBS, did you hold
2 any other positions?

3 A Yes. I was vice president of Customer Programs.

4 Q And how long did you hold the position of vice
5 president of Customer Programs?

6 A Twenty-three years -- oh -- sorry -- 17 years.
7 Twenty-three is how long I've been at Oracle. Sorry.

8 Q And so could you just take us through, just
9 briefly, what your career progression was at Oracle?

10 A Sure. I was hired as a senior manager in the
11 Applications Development Division. I was actually hired to
12 run Manufacturing Maintenance, I never actually got a chance
13 to do that job. I started doing customer escalation work and
14 created, from scratch, a new program for managing escalations
15 from customers. And that included things like executive
16 escalations and making sure the bugs were progressing
17 correctly, working with support to make sure that the service
18 requests that customers called in were progressing correctly.

19 And I created the process for this from scratch. I also
20 impacted things like bug severity, so they were more
21 reflective of what the customer needs were and, you know,
22 just general process, things like that.

23 After I did that for a couple of years, because I
24 was doing this globally I hired a person and he took on Asia.
25 Within a few more years I progressed to director, then senior

1 director, handled things like Y2K escalations around Euro
2 conversions. Then I went from that to VP and by that time I
3 had around 20 people working for me. And I've been doing
4 that, you know, as I said, up until about five months ago.

5 Q And was your chain of command different when you
6 were VP of Customer Programs?

7 A Yeah. I reported to different people. Oracle
8 tends to re-org senior management periodically and for the
9 most part I was a skip level report to either an SVP or an
10 EVP.

11 Q Okay.

12 JUDGE CLARK: You said SVP or a?

13 THE WITNESS: EVP.

14 JUDGE CLARK: EVP. Okay.

15 BY MS. HERMOSILLO:

16 Q And just so it's clear on the record, what is an
17 EVP?

18 A Executive vice president.

19 Q Okay. And so who -- and you mentioned skip level
20 report, what, if anything, does that refer to?

21 A Well, a VP typically would report to a GVP, which
22 is a group vice president or a senior vice president. My
23 reporting, especially to the executive vice president, meant
24 that I was skipping over other levels. When customers
25 complain to an executive vice president, they want to have a

1 group that they can go to immediately who will resolve things
2 and run things, but it's generally a really small group, so
3 you don't get SVP opportunities.

4 Q So, just so I can understand, during the 16 --
5 excuse me -- I think you said 17-year period, who were you
6 directly reporting to?

7 A I started reporting to Ron Wall, he's the person
8 who reported to me. After Ron Wohl, I reported to John
9 Wookey. After John Wookey, I reported to Rick Jewell. After
10 Rick Jewell, I reported to Steve Miranda. And then when I
11 transferred, recently, I reported to Cliff Godwin.

12 Q Are you familiar with an individual named Jennifer
13 Briscoe?

14 A Yes, I am.

15 Q Did you ever report to her?

16 A Yes, I did, for about maybe five months before I
17 transferred over to Cliff Godwin.

18 Q Okay. And are you familiar with an individual
19 named Thomas Kurian?

20 A Yes, I am.

21 Q And who is he?

22 A Thomas Kurian used to run Product Development at
23 Oracle, which was, you know, the major projects, not the
24 GBUs.

25 Q And were you ever under his chain of command?

1 A Yes.

2 Q And how long -- for how long?

3 A Seven, eight years, maybe.

4 Q And you started to get into this a little bit, but
5 let's just make sure we're clear with what you were
6 responsible for. As VP of Customer Programs what were your
7 responsibilities?

8 A My main responsibilities, my group's
9 responsibilities, were to respond to customer escalations
10 that came in at a very senior level. Then beyond that, for
11 major customers who were doing large implementations, it
12 might be many years, we would also manage that customer's
13 experience so that the bugs and the SRs that they needed to
14 get done, to meet milestones in their Project Implementation
15 Plan were met.

16 Oracle is this huge company with hundreds of
17 products, and if you're implementing, you know, 20 products,
18 and you need a bug fixed from everyone for those 20 products
19 and no one at corporate is managing that, it's going to be
20 really hard to make your dates. So, that's kind of the role
21 that we filled, sort of a program management role or project
22 management role. But that was, you know, the other thing is
23 if a customer was screaming because something was killing
24 their business, we would be the people who would dig into the
25 SRs, talk to Support, talk to Development, come up with a

1 plan. I mean we didn't come up with the plan ourselves, we
2 made sure the plan was developed and we made sure that people
3 executed to plan.

4 Q Okay. So, you mentioned a bunch of terms and I
5 just want to make sure that the record is clear as to what
6 those terms are referring to. So, you mentioned customer
7 escalations, what does that refer to?

8 A Normally that's when a customer has sent an e-mail
9 or a letter, or called one of the executives because they
10 have a problem and they've been trying to get it resolved and
11 it just isn't being resolved, either because it's stuck in
12 some place or because it's really complex and that
13 coordination across divisions isn't happening.

14 Q And you mentioned implementation, what, if
15 anything, does that refer to?

16 A When you buy large enterprise software it takes
17 awhile to actually set it up. It sounds like it should be
18 really easy, but it's really not. Every customer, especially
19 in some areas like manufacturing, has different requirements.

20 In areas like HR, you have different requirements if you're
21 in different countries. So, having this stuff set up takes a
22 long time, it needs to be very -- the software needs to be
23 very flexible to meet these needs, which means there's lots
24 of options and you have to pick the right ones.

25 Normally, implementations are actually headed by

1 people who are in consulting firms that the company has
2 contracted with.

3 Q Okay. So, just a couple more terms. Bugs?

4 A Bugs, a bug is an error in the software, basically.

5 Q And what is an SR?

6 A It stands for service request, when a customer
7 calls Oracle's support, what is logged and what is tracked is
8 a service request.

9 Q And I think you sort of touched on this, but let's
10 just make sure we're clear. So, you had mentioned Product
11 Development, I believe in your testimony?

12 A Yes.

13 Q What does that consist of, if anything?

14 A Product Development is developers, QA, tech
15 writers, product managers. In the SAS area it's also Center
16 of Excellence, but it's a group of people who manage and
17 release the software and at Oracle that's what we call the
18 developers.

19 Q Okay. And who, if anyone, heads Product
20 Development, currently?

21 A Primarily, that would be Larry Ellison, but there's
22 also GBUs, and they used to report up to Mark Hurd, and I
23 can't say that I know for sure where those people report at
24 this point.

25 Q Do you know if Steve Miranda had any role with

1 respect to Product Development?

2 A Yes. Steve Miranda heads Product Development for
3 Applications Development, and that's primarily SAS, but many
4 of the legacy products also report up to him.

5 Q Okay. And what about are you familiar with an
6 individual named Don Johnson?

7 A Yes. He's in charge of Development for OCI.

8 Q And OCI, what does that stand for, if anything?

9 A Oracle Cloud Infrastructure.

10 Q And I'm sorry, I think -- is there an individual --
11 are you familiar with an individual named Edward -- and I
12 don't have his last name?

13 A Oh, Edward Screven, he's a corporate architect, so
14 he also has some developers under him, as well. And also,
15 Andy Mendelsohn heads up the Database Division.

16 Q Okay. And then you mentioned this term "GBU,"
17 what, if anything, does that refer to?

18 A They call it Global Business Unit. Usually what's
19 happened is we've acquired a company and instead of deciding
20 to put it into one of the major development teams, they've
21 decided it's more profitable to keep them separate and whole.

22 So, you'll have developers, QA, tech writers, even sometimes
23 sales that are assigned to specific GBUs, that are not part
24 of the core development team.

25 Q Was there ever a time -- strike that.

1 You had mentioned earlier that you had worked with
2 an individual named Thomas Kurian. Did he have a role with
3 respect to Product Development?

4 A When he was at Oracle, he headed up all of those
5 groups that Larry now heads up, and he reported to Larry.

6 Q Okay. As VP of Customer Programs, did you have any
7 employees reporting to you?

8 A Yes, I did.

9 Q Okay. And did you have the same amount of
10 employees reporting to you the entire time you were VP of
11 Customer Programs?

12 A No, I did not.

13 Q Okay. And so what was the largest number of
14 employees you had reporting to you?

15 A Maybe 21, 22.

16 Q Okay. And what was the least amount of employees
17 you had reporting to you?

18 A I think at one time it got down to 14.

19 Q Okay. And are you familiar with the term:
20 "headcount"?

21 A Yes, I am.

22 Q And what does that refer to, if anything?

23 A Oh, headcount, a single headcount is the number of
24 employees that you're allowed to hire in places such as the
25 United States, Western Europe, Japan, Australia. If you have

1 a headcount and you decide to hire in a place like India,
2 that actually turns out to be five people, but it is a unit
3 of how we measure the number of people in an org.

4 Q Okay. Now, do you determine the headcount for your
5 team?

6 A No, I do not.

7 Q And who, if anyone, makes that determination?

8 A In general, if I want more headcount, I have to
9 talk to my boss about it. And sometimes he can give me
10 headcount, sometimes he can't.

11 Q Okay. And just so we're clear here, do all the VPs
12 at your level -- because we talked about a lot of VPs -- are
13 their teams the same size?

14 A No, they're not.

15 Q Okay. Now, are you familiar with the term: "Req"?

16 A Yes.

17 Q Okay. And what is that?

18 A Well, a "Req" is what we call an opening, when you
19 post an opening for a job, you post a Req.

20 JUDGE CLARK: So, R-e-c, Rec?

21 THE WITNESS: R-e-q.

22 JUDGE CLARK: R-e-q, okay.

23 THE WITNESS: Yeah.

24 BY MS. HERMOSILLO:

25 Q And do you know if HR plays any role with respect

1 to Reqs?

2 A Oh, definitely. They generally have to approve
3 what you're posting. So, normally I would work closely with
4 my HR person if I had an open req.

5 Q Okay. Did you ever have a communication with
6 Thomas Kurian regarding headcount?

7 A Yes, I did.

8 Q Just let me establish a little bit more foundation.
9 Around when did this conversation occur?

10 A It occurred at the end of -- it occurred in May of
11 2018.

12 Q And how did this conversation come about?

13 A I was working on this project that Steve had asked
14 us to work on, which was unusual because it was very
15 different from our normal work. And I was helping sales with
16 something they called: "SAS, at customer." So, Thomas was
17 calling me in May of 2018, because that's the end of our
18 fiscal year, and he was very, very unhappy with the
19 performance of the team. However, I didn't actually have a
20 team. I hadn't been given headcount. So, I explained that
21 to him and he yelled at me that I need to ask Steve Miranda
22 for headcount.

23 Q And had you done that?

24 A Yes, I did. And Steve yelled at me for having
25 asked him for headcount.

1 Q Were you ever told why you didn't get the
2 headcount?

3 A Not really, no.

4 Q Okay. And are you familiar with something called:
5 "Individual Contributor"?

6 A Yes, I am.

7 Q And what is that?

8 A An individual contributor is someone at Oracle who
9 is a line employee. In other words, they're doing the actual
10 line day-to-day work.

11 Q Okay. And is there a position that's not a line
12 employee?

13 A Yes, they're manager positions.

14 Q Okay. And is there a designation for somebody who
15 is on -- who is a manager?

16 A Yeah. They're an M level, so there's M1, M2, M3,
17 like that.

18 Q And do you have an M level?

19 A Yes. I'm an M6.

20 Q Okay. And do you know what the six indicates, if
21 anything?

22 A Well, it just goes with VP, like an M5 would be a
23 senior director, an M4 would be a director, an M3 would be a
24 senior manager, like that.

25 Q Okay. And just so we're clear, how long have you

1 been at the VP level?

2 A Sixteen, 17 years.

3 Q Okay. And now did any of the employees on you're
4 team come to you as an internal transfer?

5 A Yes.

6 Q Okay. Do you know of an example -- without saying
7 the name of the individual?

8 A Yes. I recently -- the last person I transferred
9 came from Oracle Support.

10 Q Okay. So, what was the gender of this individual?

11 A Female.

12 Q Okay. And what was the race of this individual?

13 A Caucasian.

14 Q And then I'm just going to call this individual
15 Jane Doe, okay?

16 A Okay.

17 Q That's not her name, for the sake of the record.

18 So, you had mentioned that she was a transfer.

19 Where was she transferring from, again?

20 A Oracle Support.

21 Q Okay. And just so we can have an understanding in
22 the record, what is Oracle Support?

23 A Oracle Support is a group where their primary job
24 is dealing with service requests that customers log. There's
25 also branches of support that do special services for an

1 additional fee, and there's renewals, but the core part of
2 Support is resolving customer reported problems.

3 Q Okay. And what position did Jane Doe hold in
4 Support?

5 A Most of the time she had been a critical accounts
6 manager.

7 Q And do you know if she had an individual
8 contributor level associated with that position?

9 A Yes. She was an IC5.

10 Q Okay. And do you know how long Jane Doe worked for
11 Oracle?

12 A Oh, over 20 years, for sure. I had worked with her
13 on and off the entire time.

14 Q Okay. And what position did Jane Doe transfer into
15 on your team?

16 A She was a principal customer manager, which is IC4.

17 Q Okay. And was there a particular reason she was
18 transferred in as an IC4?

19 A I was not allowed to transfer her as an IC5. As a
20 matter of fact, Oracle HR told me that I had to transfer her
21 as an IC3, because she was in Support, and they considered
22 Support to be a lesser job. However, I spent some time
23 talking to my HR manager and sort of put together some
24 convincing arguments which allowed me to bring her in as an
25 IC4, but that really didn't make me very happy.

1 Q All right. So, let's --

2 JUDGE CLARK: Did I hear an approximate date when
3 this was?

4 THE WITNESS: It would have been in 2017.

5 JUDGE CLARK: 2017, okay. Thank you.

6 BY MS. HERMOSILLO:

7 Q And you mentioned an HR manager, what was the name
8 of that individual, do you know?

9 A Lisa Hanson.

10 Q Okay. And do you happen to know her title? It's
11 okay if you don't.

12 A I don't remember her title?

13 Q Okay. But does she have a particular role with
14 respect to your work?

15 A At that time she was the HR manager supporting me
16 and the HR manager for all of my U.S. employees.

17 Q Okay. Now, we sort of touched on this, but had you
18 had worked with Jane Doe before?

19 A Yes, I had.

20 Q Okay. And how did that come about?

21 A When there are customer escalations and there are
22 issues that have a lot of service requests, that don't have
23 bugs associated with them, it's best if I can get someone in
24 support to handle and manage those, while someone on my team
25 is managing the bugs. And if I go far enough back, which I

1 do with Cindy, the person managing the bugs would often be
2 me. So, that's how we worked together.

3 Q We're talking about Jane here?

4 A Oh -- my apologies.

5 JUDGE CLARK: Is that right? That's okay. Jane
6 Doe.

7 THE WITNESS: Jane -- got it.

8 BY MS. HERMOSILLO:

9 Q So, what was your impression of her work
10 performance when you worked with her?

11 A Oh, she was excellent. She was one of the people I
12 really wanted to work with.

13 Q Okay. So, in your opinion, was the designation of
14 IC4 the correct designation, given the work that she was
15 doing on your team?

16 A No, it was not.

17 Q Why is that?

18 A For me an IC5 -- on the team an IC5 is the person
19 who can handle the technical issues, the organizational
20 issues and, most importantly, the communication at a high
21 level with the customers and within Oracle. And by a high
22 level what I mean is like the director of IT, the CIO, vice
23 presidents within Oracle, senior vice presidents, executive
24 vice presidents, if need be, without assistance from
25 management. And Cindy could clearly do all these things.

1 MS. CONNELL: Your Honor --

2 THE WITNESS: Jane could clearly do all these
3 things. I'm sorry.

4 MS. CONNELL: That's okay. Thank you.

5 JUDGE CLARK: Okay. We want to make sure we're
6 using the Jane Doe designation.

7 THE WITNESS: I really apologize.

8 JUDGE CLARK: That's okay. Thank you.

9 Ms. Hermosillo.

10 BY MS. HERMOSILLO:

11 Q So, you had mentioned what an IC5 does on your
12 team. What does an IC4 do on your team, typically?

13 A Typically, an IC4 would do all the things I
14 mentioned, except for senior executive conversations. For
15 those they may bring in their manager or their director, or
16 myself, depending on who the person is.

17 Q Okay. Now, did you ever raise this with Lisa
18 Hanson?

19 A I mentioned it to Lisa once, after Cindy (Jane Doe)
20 came and started working for me, but we didn't really go
21 anywhere with it initially.

22 Q Okay. So, let's just be clear, once Jane Doe had
23 transferred onto your team, was she performing at the IC
24 level?

25 A Within a couple of weeks we assigned Jane to

1 something that was pretty difficult and she was handling it
2 fine, so.

3 Q Now, what about Jane Does' pay upon transfer, were
4 there any changes to that?

5 A No, there were not.

6 Q Okay. And is there -- do you know if there was a
7 reason for that?

8 A I've been told by HR that it's company policy.

9 Q And what would that policy be?

10 A That there's no raises on transfers.

11 Q Okay. And do raises require any point of approval?

12 A Yes. There's an approval chain.

13 Q Okay. So -- actually, I'll bring that out later.

14 So, let's just switch courses here. During your
15 career at Oracle, how many products, if any, have you worked
16 with?

17 A We work across EBS, and EBS, by itself, is probably
18 over 300 products. Fusion is probably a similar number. We
19 have to deal with tech stack products, as well. So, we
20 worked with a lot of different parts of the company.

21 Q I think you might have said the number, but I'm not
22 entirely sure, so you had mentioned EBS?

23 A Yes. In EBS there are probably 300 products.

24 Q And then just so I can -- I think you had also
25 mentioned Fusion?

1 A Yes. Fusion has a similar number of products.

2 Q Okay. Were you ever told that the products someone
3 works on should affect how much that person is paid?

4 A No, I was not.

5 Q Okay. Are you familiar with the Cost Center?

6 A Yes, I am.

7 Q And what's a Cost Center?

8 A A Cost Center is kind of where your budget is
9 designed. There's a few different components, but the main
10 component is it's a headcount that you have.

11 Q Okay. And have you ever had to work with more than
12 one Cost Center?

13 A Yes. There's a different Cost Center for every
14 geographical region. So, I have people in India, I have an
15 India Cost Center, the U.S. Cost Center, et cetera.

16 Q Now, what about within the U.S., have you ever had
17 to work with more than one Cost Center?

18 A Yes, I have.

19 Q Okay. And approximately when was this?

20 A It was probably like 2012, 2013.

21 Q Okay. And so how many Cost Centers did you have at
22 that time?

23 A Oh, I can't remember all of them.

24 Q Sorry. How many within the U.S. did you have at
25 that time?

1 A Two.

2 Q Okay. And how did it come about that you ended up
3 with two Cost Centers?

4 A I got an e-mail from Financial, and they basically
5 said that I needed to have two fewer people in my
6 organization --

7 Q I'm sorry, Ms. Klagenberg, my question to you was
8 how did it come about that you ended up with two Cost
9 Centers?

10 A I had one for EBS and one for Fusion.

11 Q Okay. Now, I think you anticipated my next
12 question. Were you ever asked to make any changes to the
13 Cost Centers your employees were in?

14 A Yes. Someone from Finance had sent me an e-mail
15 saying that I needed to have two fewer people in my EBS Cost
16 Center. At the time I didn't know I had a second Cost
17 Center, but apparently one had been created for Fusion. So,
18 there was a little bit of confusion, because I'm like, are
19 you telling me I have to RIF two people by the end of the
20 year? And it was like -- no, no, no, no -- they have to be
21 working on Fusion. So, then I explained to him that my
22 people work more than one customer at a time and it's based
23 on availability and skill set, and a few other things. But
24 many of them are working Fusion and EBS at the same time.
25 So, he told me that I should move people over once they're

1 working on Fusion more than 50 percent. So, if you worked on
2 Fusion say 60 percent and EBS 40 percent, I put you in the
3 Fusion Cost Center. Likewise, if you were doing 60 percent
4 EBS work and 40 percent Fusion work, you would be in the EBS
5 Cost Center. Since Fusion was new at that time, we were
6 slowly getting more and more Fusion accounts and eventually
7 everyone was working Fusion more than 50 percent, so they
8 were all in the Fusion Cost Center, and that's kind of at
9 that point they closed out the EBS Cost Center.

10 Q So, just backing up here, did you happen to know
11 the name of the individual with whom -- from Finance -- with
12 whom you communicated?

13 A No, I don't remember.

14 Q Then how did you know he worked in Finance?

15 A Well, my boss was on sabbatical, so I couldn't ask
16 him. So, I just looked him up in Aria, that's where he
17 appeared, in Aria.

18 Q And what is Aria?

19 A Aria is the internal -- it's like the directory,
20 but it also shows hierarchy, not just who you are and what
21 you're working, but also hierarchy as to who you report to
22 and that kind of thing.

23 Q Okay. Just one more definition to that term, but I
24 think we all know what it is. What is a RIF?

25 A Reduction in force.

1 Q Is that a layoff?

2 A Yes.

3 Q So, let me ask you this, do the employees in the
4 EBS and Fusion Cost Centers, do they have comparable skills?

5 A They kind of have exactly the same skills. It
6 wasn't a question of what their skills was, it was a question
7 of which products that they were working with the most.

8 Q Okay. Now, before taking a transfer onto your
9 team, did you review what Cost Center an employee was working
10 in?

11 A No, I did not.

12 Q Okay. Were you ever told to consider that before
13 making a hiring decision?

14 A No, I was not.

15 Q Okay.

16 JUDGE CLARK: If you need water or anything there?
17 If you have a bottle, feel free.

18 THE WITNESS: Okay. Thanks.

19 BY MS. HERMOSILLO:

20 Q Thank you. So, I was -- just to follow up here --
21 you had mentioned that the employees in the EBS and Fusion
22 Cost Centers had the same skills. What about the type of
23 work that they were performing, was that comparable?

24 A It was pretty much identical. I mean it was
25 management of bugs, dealing with customer problems, working

1 with developers to try and find resolution, making sure
2 people were making their commitments.

3 Q Okay. Now, let's switch gears here, again, do you
4 know what an Affirmative Action Plan is?

5 A Yes.

6 Q What is it?

7 A It's a way of allowing people who are in certain --
8 who are not in the majority, to be treated equally as people
9 who are in the majority, basically.

10 Q Okay. Now, do you know if Oracle has an
11 Affirmative Action Plan?

12 A I have seen e-mails that say they do.

13 Q Okay. Now, did you receive any training with
14 respect to how to comply to Oracle's Affirmative Action Plan,
15 as it pertains to compensation?

16 A I don't recall ever having received training like
17 that.

18 Q Okay. And were you ever given any training related
19 to employment discrimination?

20 A Yes.

21 Q And what was that training?

22 A It was primarily around not considering race or
23 gender as part of the employment criteria. We also, you
24 know, we had to like identify, when we're hiring people, what
25 race and gender they were.

1 Q Okay. So, let me just -- so with respect to -- did
2 you receive any compensation discrimination training, while
3 working as a manager for Oracle?

4 A No.

5 Q And were you ever told that if two employees are
6 doing the similar work, but are paid very differently, that
7 you should adjust their pay?

8 A No.

9 Q Okay. Are you aware of any budget to adjust pay,
10 where two employees are doing similar work, but paid
11 differently?

12 A Nothing specific to that.

13 Q Okay. And let's talk a little bit about something
14 else. So, while you were VP of Customer Programs, did you
15 have any role with the distribution of raises on your team?

16 A Yes, I did.

17 Q Okay. Now, did you receive any training related to
18 the distribution of raises?

19 A Not specifically training, just instruction.

20 Q Okay. Let me just back up here. Was there a
21 particular product that you used for implementing those
22 pay --

23 A Yes. We would use Comp Workbench in EBS, and then
24 eventually we switched to the Fusion version. And if you
25 wanted to, you could take the online training.

1 Q Okay. But was the training that you received, was
2 that limited to just how the system worked?

3 A Yeah.

4 Q Okay. And do you know -- well, we talked a little
5 bit earlier about Jennifer Briscoe, you remember that?

6 A Yeah.

7 Q And how long, again, was Jennifer Briscoe your
8 boss?

9 A About five months.

10 Q Okay. And around when was that?

11 A It was from January through May.

12 Q Okay. And what position did -- January through May
13 of what year?

14 A This year, 2019.

15 Q And what position did Jennifer Briscoe hold?

16 A She's VP of the A Team.

17 Q Now, did Jennifer Briscoe play any role with
18 respect to the allocation of raises for the employees on your
19 team?

20 A Yes. She sent very detailed instructions about how
21 she wanted the distribution to be, including who she thought
22 should get it, how much they should get, why she felt that
23 person should get it, which was primarily merit based. And
24 then she told me that I could go -- that I couldn't
25 distribute more -- the raises to more than 60 percent of the

1 people. And I think after she was finished telling me all
2 the people she wanted to have raises, I had two people left
3 to choose, and everything. Jennifer pretty much defined
4 everything else.

5 Q Okay. So, you had mentioned that she gave you this
6 instruction. How did that instruction take place?

7 A She sent it in an e-mail and it was very clearly a
8 directive.

9 Q Okay. And just so I'm clear, did you have any
10 managers reporting to you at this time?

11 A Yes, I did.

12 Q And how many levels of management did you have
13 reporting to you?

14 A Two levels.

15 Q So, there were two levels under you?

16 A Yes. There's a director level and a manager level.

17 Q Okay. And are you familiar with an individual
18 named Sid Deckah (phonetic)?

19 A Yes, I am.

20 Q Who is Sid Deckah (phonetic)?

21 A Sid is the HR director who reported -- he supported
22 Steve Miranda at that time.

23 Q Okay. What is the time we're talking about here?

24 A Well, actually for many years. I'm not sure. At
25 the time that I was reporting to Jennifer Briscoe,

1 absolutely, but it was several years before that, as well.

2 Q Okay. Okay. Now, did Sid Deckah ever provide you
3 any guidance with respect to raise distributions?

4 A Yes.

5 Q Okay. And how was that guidance provided?

6 A Well, we would have a staff meeting -- this would
7 be when I was reporting to Steve Miranda, and Steve would
8 have a staff meeting to talk about compensation. And he
9 would tell us, you know, it's coming out, here are the dates,
10 and then Sid would follow that up later on with an e-mail
11 that would talk about distribution, how far down in the org
12 you could give it, who should get -- who we should consider
13 for increases, really strongly focused on merit and, you
14 know, potential, employees who we thought were going to, you
15 know, were rising stars in the organization, it would tell
16 you how much should go into the U.S., how much should go into
17 India, how much should go -- different countries where we had
18 big centers, plus rest of world. He would also send out very
19 detailed instructions about who was not eligible for raises
20 that year.

21 Q Is there an approval structure for raises?

22 A Yes, there is.

23 Q Okay. And what is that structure?

24 A HR looks at all the raises and they'll talk to you
25 about it if they don't feel like you've come into alignment

1 with what they feel you should -- the instructions were. And
2 you know, you kind of have to satisfy them before you put
3 things in, and then it will be approved by Steve Miranda, and
4 then after that whoever Steve was reporting, whether it was
5 Thomas or Larry, or whatever.

6 Q Okay. Now, was what you described, was that part
7 of the focal review?

8 A Yes.

9 Q Okay. And you had mentioned that some reasons had
10 to be provided to HR?

11 A Yes.

12 Q Could you give some examples?

13 A Probably the one before working for Jennifer
14 Briscoe, the one that I violated the most often is I would
15 give raises to more than 60 percent of the people, and the
16 way I did this is because someone like Steve Miranda would be
17 working -- when he was my boss -- would be working with
18 someone on my group, and I had a lot of seniority in my
19 group. So, he's be working with someone on my group and he'd
20 tell me that he really appreciated the job they were doing,
21 and I would point out to him that in a stack ranking that
22 person would probably be closer to the bottom than to the
23 top. And then it's really difficult if you can't give a
24 person like that a raise, just because he's not in the top 60
25 percent.

1 So, Steve would usually say it would be okay if I
2 wanted to go beyond that. And then when the raises came
3 around and I was submitting things in the Workbench, before I
4 submitted it, I would discuss, in detail, with HR that Steve
5 Miranda said that it's okay. And then they would be okay and
6 approve it.

7 Q Okay. And are you familiar with something called:
8 "Salary Bands"?

9 A Yes.

10 Q What are salary bands?

11 A A salary band is the information that HR gives you
12 that says employees should be paid within the salary band
13 based on competitive information.

14 Q Okay. Now, was the budget that you were allocated
15 sufficient to keep your employees within band?

16 A Not every year.

17 Q And do you know if salary bands overlap?

18 A Yes, they do.

19 Q Okay. And in your experience, does the placement
20 -- an employee's placement within a salary band have any
21 affect on promotion?

22 A Yes.

23 Q How so?

24 A They would -- at Oracle, when they promote someone,
25 they don't usually promote them with a raise. Therefore,

1 they would prefer that you have someone in the next salary
2 band, since they overlap, or at least close to the next
3 salary band, since they overlap, and that's usually their
4 preference.

5 Q Okay. Now, did you ever raise any concerns with
6 respect to the pay of your entire team to HR?

7 A I did, at one time, yes.

8 Q And who did you raise those concerns to?

9 A Lisa Hanson.

10 Q Okay. And around when did this occur?

11 A This occurred in 2018, in the fall. At that point
12 in time I contacted her because Jane -- who had come over the
13 previous year -- was very low paid and I was really concerned
14 about how I would ever get her into band, because of how low
15 the salary pools were. So, she recommended, when we were
16 discussing that, that we do a "dive and save," what they call
17 a "dive and save," for Cindy (Jane Doe), and that she would
18 have the whole group reviewed to see if they warranted some
19 kind of a group raise.

20 Q Okay. So, we're talking about Jane here?

21 A Yes.

22 Q Okay. And so when she -- when Lisa suggested that,
23 did she ask you for any information?

24 A Yeah. She asked me if I could help them figure out
25 who some peer groups might be, so I did give her a couple of

1 different groups to look up.

2 Q Okay. Now, did you see what Lisa Hanson reviewed?

3 A No, I did not.

4 Q And did you -- do you even know if Lisa Hanson did
5 a review?

6 A I believe she did, yes.

7 Q Okay. Do you see the results of that review?

8 A I was told by Lisa to expect to have extra funds
9 allocated the next time a raise round came about.

10 Q Okay. Now, did the raise pool -- was there an
11 extra allocation?

12 A There was an extra allocation, however, that was
13 when I worked for Jennifer Briscoe, and Jennifer Briscoe did
14 not treat the extra allocation any differently than the rest
15 of the raise. In other words, I was not allowed to allocate
16 it to employees who were low paid. You know, as I mentioned,
17 I only actually got to allocate raises to two people, had to
18 keep within the 60 percent band.

19 Q Now, within -- we sort of touched on this -- but
20 within Oracle's business, were there other VPs, at your
21 level?

22 A Yes.

23 Q Okay. And do you know what those other VPs are
24 paid?

25 A No idea.

1 Q I'm sorry, what did you say?

2 A No, I do not.

3 Q Okay. And was there any way for you to find out?

4 A Short of asking them, no.

5 Q Do you think Oracle's compensation system is fair?

6 A No, I do not.

7 MS. CONNELL: Objection, opinion testimony.

8 JUDGE CLARK: I'm sorry, what was your objection?

9 MS. CONNELL: Opinion testimony.

10 JUDGE CLARK: Overruled.

11 You can answer the question.

12 THE WITNESS: No, I do not.

13 BY MS. HERMOSILLO:

14 Q And why not?

15 A If you stay at Oracle, the raise pools are so low
16 that you will not be compensated at market rate after you've
17 been there a few years. People coming in from the outside,
18 it seems to be easier for them to get higher incoming
19 salaries, because like transfers you can't give them more
20 money when they transfer, so it's way easier to give a new
21 hire from external more money than someone who transfers
22 internally.

23 Q Okay. So, do you think that Oracle's HR is aware
24 that employees -- or aware of the perception that their
25 compensation system is unfair?

1 MS. CONNELL: Objection, lacks foundation.

2 JUDGE CLARK: Sustained.

3 Lay some more foundation on how she might know
4 that.

5 MS. HERMOSILLO: Sure.

6 BY MS. HERMOSILLO:

7 Q Were You ever -- did you ever find out about any
8 complaints with respect to Oracle's compensation system?

9 A Yes, I have.

10 Q Okay. And how did you become aware of those
11 complaints?

12 A There was another VP who worked in Database
13 Division, and I talked to her, we had lunch before she
14 retired. She had made a complaint about -- specifically
15 about female salaries at Oracle, to Anje Dodson, on her exit
16 interview.

17 Q And what was the nature of her complaint?

18 MS. CONNELL: Objection, lacks foundation and
19 hearsay.

20 JUDGE CLARK: I'm sorry, what was the last part?

21 MS. CONNELL: Hearsay.

22 JUDGE CLARK: So, Ms. Hermosillo, why would that
23 not be hearsay?

24 MS. HERMOSILLO: It goes to her state of mind as to
25 how HR would treat problems with respect to sex based

1 discrimination with respect to compensation.

2 JUDGE CLARK: Ms. Connell?

3 MS. CONNELL: State of mind is not at issue. Her
4 state of mind is not at issue.

5 JUDGE CLARK: Overruled. I'm going to allow the
6 question.

7 Go ahead, you can answer the question.

8 BY MS. HERMOSILLO:

9 Q Do you want me to repeat the question?

10 A Please.

11 Q So -- now I have to remember what the question was.
12 So, what was the nature of the complaint that was made?

13 A Nancy -- excuse me -- the woman involved had
14 complained specifically about female salaries within Oracle
15 being lower than the male salaries. And she made this
16 complaint specifically to Anje Dodson. And it was on her
17 exit interview.

18 Q And just so -- because I don't know if it's coming
19 out -- what was the issue with compensation of women?

20 MS. CONNELL: Objection, lacks foundation.

21 JUDGE CLARK: Overruled.

22 You can answer the question.

23 THE WITNESS: She just felt that -- she had felt
24 that her salary -- she had felt her salary was lower than the
25 male salaries in the Database Division. When she had worked

1 there her boss had accidentally sent out a spreadsheet that
2 showed all his direct reports -- and her -- and their
3 salaries, and hers was considerably lower than everyone
4 else's.

5 Q Okay. And are you aware of HR taking any actions
6 as a result of receiving this complaint?

7 MS. CONNELL: Objection, calls for speculation.

8 MS. HERMOSILLO: I just asked if she was aware.

9 JUDGE CLARK: Overruled.

10 You can answer the question, if you're aware.

11 THE WITNESS: I'm not aware of any changes.

12 BY MS. HERMOSILLO:

13 Q And then just so we're clear, around when -- what
14 is the approximate time period we're talking about?

15 A Probably 10 years ago.

16 Q Okay. And --

17 JUDGE CLARK: Ten years ago you had this
18 conversation with this person who was retiring, about
19 compensation?

20 THE WITNESS: That is correct.

21 JUDGE CLARK: Okay.

22 BY MS. HERMOSILLO:

23 Q And are you familiar with the term: "stock
24 options"?

25 A Yes, I am.

1 Q Okay. And what are stock options?

2 A Stock options are the ability to buy Oracle or any
3 stock at a specific price when you're granted the options,
4 but you don't actually have to sell them right away, so you
5 hold onto them and hope the company stock goes up, and vest
6 the stock so that you can then sell -- then you can buy the
7 stock and sell it in the same day, but you're buying it at
8 the lower price, so you make up the difference between the
9 option price and the market price.

10 Q Okay. So, is there a particular vesting period for
11 stock options?

12 A Yeah. You vest stock over four years, a quarter
13 every year after you're granted the stock.

14 Q And is there a particular period of time in which
15 you have to exercise your options?

16 A You have about, I believe it's 10 years to exercise
17 the options.

18 Q Okay. Now, have you exercised all the options that
19 you received from Oracle?

20 A No, I have not.

21 Q And is there a particular reason?

22 A Well, there's one very small option which I just
23 haven't sold yet, and then there is options that we were
24 granted -- I mean everyone was granted back just before the
25 dot com bubble burst, so the stock price tanked. And you

1 only have 10 years to exercise the options, and Oracle never
2 hit that price again. So, everybody lost the stock.

3 Q Okay. So, are you familiar with something called:
4 "RSUs"?

5 A Yes, I am.

6 Q What's an RSU?

7 A It's a restricted stock unit.

8 Q Okay. Now, do RSUs have a particular vesting
9 period?

10 A Yes. It's similar, you get RSUs, you get a quarter
11 of them every year for four years.

12 Q And have all your RSUs vested?

13 A No, they have not.

14 Q Okay. And are you aware of any reason that an
15 employee, who receives RSUs, may not be able to receive
16 compensation from those RSUs?

17 A Yeah. If you leave before they vest.

18 Q So, just so I understand, do you have to be
19 employed by Oracle in order to -- in order for your RSUs to
20 vest?

21 A That's correct.

22 Q Okay. Does it matter if the employee's departure
23 is voluntary?

24 A No, it does not.

25 Q Okay. And did you ever complain about a stock

1 allocation?

2 A Yes, I did.

3 Q And around when did this occur?

4 A This was in 2008.

5 Q Okay. And what position did you hold at the time?

6 A I was VP Customer Programs.

7 Q And who were you reporting to?

8 A Rick Jewell.

9 Q Okay. And just so we're clear here, what was Mr.
10 Jewell's position?

11 A At that time he was VP of Edge Products.

12 Q And what, if anything, prompted your complaint?

13 A Well, I had an employee, he was a rising star,
14 everybody liked him, he did really good work. But one year
15 he screwed up pretty badly. I talked to Rick about it to see
16 if I could get help from Rick, but Rick really couldn't come
17 up with anything. I eventually had to take away some
18 responsibility, which I also ran by Rick. So, when it came
19 time to give him stock options I realized, well, I need to
20 send a message and I need to be able to really have a candid
21 talk with him about this, so I gave him 1,000 shares less
22 than he normally gets. So, put it in the system, everything
23 is fine, and then Rick calls me, options have been approved.
24 And he explains to me that I'm getting 2,000 shares less.
25 So, I asked him is this for performance -- and it's like --

1 oh, no, no, it's not for performance, he says, there's some
2 corporate reason we're getting less shares this year,
3 whatever. It's nothing I can check, so I'm not going to
4 argue with him, there's no point in arguing at that point.
5 And I'm kind of depressed about it, and then he says: "Oh,
6 but I managed to find an extra 1,000 shares for your
7 employee." And I was just floored. I mean I was floored.
8 And I pointed out to him that he took 2,000 shares from me
9 and there was no performance reason for that, and gave 1,000
10 of those shares to my employee who had performance problems
11 that year. And it took a minute for him to understand what I
12 was saying, and then he got off the phone really quickly. I
13 figured we'd discuss it at my next one-on-one. He canceled
14 my next one-on-one, so I sent him an e-mail, which he never
15 responded to. And then my whole group went through a re-org
16 and I was re-org'd under a new person.

17 Q Now the employee -- and we're not going to say his
18 name -- that you're referring to, what was his race?

19 A I don't recall his raise.

20 Q Okay. And then what was his gender?

21 A Oh, I'm sorry, I misheard. I thought you said
22 raise.

23 Q No, no, no -- race.

24 A Race -- he was white.

25 Q Okay. And then we've been making some assumptions

1 here, but was he male?

2 A Yes, he was.

3 Q Okay.

4 JUDGE CLARK: Anything further, Ms. Hermosillo?

5 MS. HERMOSILLO: I don't think so. Can I just have
6 a moment to confer with counsel?

7 JUDGE CLARK: Yes.

8 MS. HERMOSILLO: Nothing further at this time, Your
9 Honor.

10 JUDGE CLARK: Thank you.

11 For Oracle?

12 MS. CONNELL: Your Honor, I actually have a
13 request. I'm wondering if at sidebar we might be able to
14 know the names of Jane Doe and the other employees that we're
15 speaking about?

16 JUDGE CLARK: Ms. Hermosillo?

17 MS. HERMOSILLO: A moment to confer. I don't think
18 it's a problem, but let me just double-check.

19 JUDGE CLARK: Okay.

20 MS. HERMOSILLO: Your Honor, would it be possible
21 to put the names under seal, that we're referring to?

22 JUDGE CLARK: So, we're going to do it at sidebar,
23 so it won't be on the record. You can actually just give it
24 to Ms. Connell without even telling me.

25 MS. HERMOSILLO: I know. I'm just wondering if we

1 could then use it later on in the briefs.

2 JUDGE CLARK: If you could do what? I'm sorry.

3 MS. HERMOSILLO: Well, just because there's data
4 that's gone into the record, and so we could link up who we
5 were talking about, if we were giving names. We decided that
6 we weren't going to give names, pursuant to your order, but
7 if we're going to give them the names, I'm just wondering.

8 JUDGE CLARK: I'm not quite understanding the
9 objection. So, you've talked about two people, at least.

10 MS. HERMOSILLO: Yes.

11 JUDGE CLARK: Jane Doe and another individual, I
12 think they had lunch with. And in order for them to examine,
13 they need to know the names of those people, and that's all I
14 think they're asking, at this point.

15 Ms. Connell, am I misunderstanding? You're not
16 asking to put anything in the record?

17 MS. CONNELL: I am not asking to put anything in
18 the record.

19 MS. HERMOSILLO: I apologize. I wasn't clear with
20 my request. I'm happy to provide the names to them. I was
21 wondering if we could, OFCCP could put the names in the
22 record under seal?

23 JUDGE CLARK: Okay. We can take that up later.

24 MS. HERMOSILLO: Okay.

25 JUDGE CLARK: For now, go ahead, you can write them

1 down and give them to her or you can tell her orally. You
2 don't have to tell me, I don't need to know the names.

3 MS. HERMOSILLO: Okay.

4 JUDGE CLARK: Would it be faster for Ms. Klagenberg
5 just to tell us?

6 MS. HERMOSILLO: It might be, because there was
7 just the second -- I know what one of them is, I just don't
8 remember the other.

9 JUDGE CLARK: Okay.

10 So, we're off the record. We'll go off the record.

11 (Off the record at 12:08 o'clock p.m.)

12 JUDGE CLARK: Back on the record.

13 CROSS-EXAMINATION

14 BY MS. CONNELL:

15 Q (Question posed while still off the record.)

16 A Something in May, yeah.

17 Q And you spoke with an attorney named Chris Santos,
18 is that correct?

19 A Yes.

20 Q And you knew that Mr. Santos took notes during that
21 interview, correct?

22 MS. HERMOSILLO: Objection, Your Honor. There's
23 nothing in the record to say that she's seen these notes or
24 can testify about them.

25 JUDGE CLARK: Overruled. You can ask the general

1 questions.

2 Go ahead.

3 THE WITNESS: I assumed he was taking notes.

4 BY MS. CONNELL:

5 Q And you have no reason to believe those notes are
6 inaccurate, correct?

7 MS. HERMOSILLO: Objection, that calls for
8 speculation. She can't testify as to notes that she's never
9 seen.

10 JUDGE CLARK: Overruled.

11 You can answer the general question.

12 THE WITNESS: I don't know.

13 BY MS. CONNELL:

14 Q You have no reason to believe they're inaccurate,
15 correct?

16 A Correct.

17 Q And you spoke with Mr. Santos again on or around
18 June 6th of this year, correct?

19 A I believe so.

20 Q And again, you knew that Mr. Santos took notes
21 during that interview, correct?

22 A I assumed he took notes.

23 Q And you have no reason to believe that those notes
24 are inaccurate, correct?

25 A Correct.

1 Q Do you have any reason to believe it's not?

2 A No.

3 MS. HERMOSILLO: Your Honor, I understand that
4 you've been giving a lot of leeway, but what is the relevance
5 of this?

6 JUDGE CLARK: So, the objection is not timely, so
7 it's overruled at this point.

8 MS. HERMOSILLO: I agree.

9 JUDGE CLARK: And I don't know that she's asking
10 anymore questions about it, so overruled.

11 MS. HERMOSILLO: Okay.

12 BY MS. CONNELL:

13 Q Ms. Klagenberg, you gave some testimony about a
14 Jane Doe, correct?

15 A Correct.

16 Q She did not work in Oracle's headquarters location
17 in Redwood Shores, correct?

18 A Correct.

19 Q And you also gave some testimony about an
20 individual you didn't identify, but it was a male who you
21 said had performance issues and received an increased stock
22 allocation. Do you recall that testimony?

23 A Yes.

24 Q He did not work at Redwood Shores, correct?

25 A That's incorrect.

1 Q He did work at Redwood Shores?

2 A He worked in Redwood Shores, but he did leave at
3 some point and work remotely.

4 Q Okay. You also testified that your position was VP
5 of Customer Programs, is that correct?

6 A That's correct.

7 Q And is that your discretionary job title?

8 A I think so.

9 Q Do you know what your system job title is?

10 A I believe it's VP Product Development, but I
11 haven't checked it recently. I don't think they've changed
12 it, but --

13 Q And you testified that during the time that you
14 were VP of Customer Programs, your responsibility generally
15 was customer escalations, correct?

16 A And implementation.

17 Q And implementation, correct.

18 A For the most part, yes.

19 Q And you testified that when you would receive a
20 customer escalation, you would put together a plan to address
21 it, correct?

22 A Someone in my group would do that, yes. It might
23 be me, it might be someone else.

24 Q Okay. But you, personally, weren't responsible for
25 fixing the problem itself, correct?

1 A It depends on the problem. You have a lot of
2 different problems. You might have a problem that they're
3 just angry with their sales rep and you need to call his boss
4 and get it smoothed over. You could have a problem that is a
5 bug in the kernel of the database, which no, at Oracle, I did
6 not do any coding like that. It really just depends on the
7 problem.

8 Q Okay. You anticipated my next question. When it
9 came to things like coding, you, personally, were not
10 responsible for doing the coding, correct?

11 A That is correct.

12 Q And as a VP of Customer Programs, you did not have
13 responsibility for a particular product, correct?

14 A That's correct.

15 Q You testified a little bit about compensation
16 budgets, you made reference to that, correct?

17 A Correct.

18 Q You do not have responsibility for setting
19 compensation budgets, correct?

20 A I do not usually set them for my people, no.

21 Q You don't set them for, for example, for your line
22 of business, correct?

23 A That's correct. We usually do that -- when I had
24 people reporting to me, we did that in a team session.

25 Q And you, personally, don't consider race and gender

1 in making compensation decisions, correct?

2 A Correct.

3 Q You testified that you did not take any training
4 regarding making non-discriminatory decisions when it comes
5 to compensation, correct?

6 A Not that I recall.

7 Q But you are aware that that training is available
8 to you, correct?

9 A No.

10 Q Did you ever ask?

11 MS. HERMOSILLO: Objection, Your Honor. I mean she
12 already just testified that she wasn't aware that this
13 training existed, so why would there be any --

14 JUDGE CLARK: Actually, that's well taken. I'll
15 sustain the objection. You can lay a little more foundation
16 or you can ask the question differently.

17 BY MS. CONNELL:

18 Q Did you ever express to anyone an interest in
19 taking any compensation training with regards to
20 non-discrimination?

21 MS. HERMOSILLO: (Coughing) Can we go off the
22 record for a minute. Sorry.

23 JUDGE CLARK: Yes. So, the question is pending.
24 We'll be off the record.

25 (Off the record at 12:17 o'clock p.m.)

1 JUDGE CLARK: Okay. We're back on the record.

2 The question was pending, did you ever express any
3 interest in taking that type of training?

4 THE WITNESS: No, but can I explain why?

5 JUDGE CLARK: I'm going to let Ms. Connell ask you
6 another question.

7 THE WITNESS: Okay.

8 MS. CONNELL: I don't have any follow-up questions
9 on that topic.

10 BY MS. CONNELL:

11 Q You testified that -- strike that. You testified
12 that during the brief time that you were reporting to Ms.
13 Briscoe, she gave you some instructions regarding allocations
14 of compensation, correct?

15 A That's correct.

16 Q And I believe your testimony that her instructions
17 were that they should be merit based, is that correct?

18 A Her instructions were much more detailed than that.

19 Q But you did testify that they included that they
20 should be merit based, correct?

21 A That's correct.

22 Q And you don't know -- you don't know if managers on
23 other teams, on which you have not worked, give similar types
24 of instructions, correct?

25 A That's correct.

1

2 Q The team who works -- strike that.

3 You testimony that at one point you made a
4 complaint that you felt that your team was being paid under
5 market, correct?

6 A Correct.

7 Q You never made any complaints that you felt that
8 anyone was being paid in a discriminatory way, correct?

9 A That's correct.

10 Q You testified that both Mr. Kurian and Mr. Miranda
11 yelled at you on one occasion, correct?

12 A Yes, at least one.

13 MS. HERMOSILLO: Objection, Your Honor. I think
14 she testified that it was on two separate occasions.

15 JUDGE CLARK: Overruled.

16 THE WITNESS: One each, correct.

17 JUDGE CLARK: I understand the answer. Just ask
18 another question. Overruled.

19 She said at least once, I think.

20 BY MS. CONNELL:

21 Q You have no reason to believe that they yelled at
22 you because of your gender, correct?

23 A Correct.

24 Q And you have no reason to believe that they yelled
25 at you because of your race, correct?

1 A Correct.

2 Q You also testified regarding instructions from Sid
3 Deckah, regarding compensation allocations, correct?

4 A Correct.

5 Q And you testified that that included allocating
6 based on merit, correct?

7 A Correct.

8 Q You testified that any compensation decisions you
9 made would then need to be reviewed by Mr. Miranda and the
10 people to whom he reports, correct?

11 A Among others, yes.

12 Q You don't know what the scope of Mr. Miranda's
13 review was, correct?

14 A That's correct.

15 Q And you don't know the scope of the review of the
16 people above Mr. Miranda, correct?

17 A That's correct.

18 Q You also gave testimony regarding instructions from
19 Mr. Miranda that allocations should not go beyond 60 percent,
20 correct?

21 A That's correct.

22 Q But when you asked Mr. Miranda if you could go
23 beyond 60 percent, you were permitted to do so, correct?

24 A Yes. But he did have reason for that, that he
25 explained to me.

1 Q But he did allow you to go beyond?

2 A He did allow.

3 Q You also testified regarding your own personal RSUs
4 and stock options, correct?

5 A Correct.

6 Q Isn't it true, Ms. Klagenberg, that you,
7 personally, through exercising and selling stock options and
8 selling shares of stock, you've taken home more than \$4.6
9 million?

10 MS. HERMOSILLO: Objection, Your Honor. I think
11 this was already covered in your motions in limine.

12 JUDGE CLARK: So, I'm going to sustain that or we
13 can approach at sidebar and talk about this, but I thought
14 individual pay wasn't going to be discussed unless they
15 specifically waived it.

16 MS. CONNELL: Okay, Your Honor.

17 MS. HERMOSILLO: And moreover, Your Honor -- if we
18 could have a sidebar?

19 JUDGE CLARK: So, I've indicated that I'm
20 sustaining the objection and if there's more argument we can
21 do it at sidebar. So, do you need to approach?

22 MS. CONNELL: I would like to address the issue.

23 JUDGE CLARK: Then come forward.

24 (Sidebar.)

25 JUDGE CLARK: Okay. So, we've had a brief sidebar.

1 I have sustained the objection.

2 Ms. Connell, you're going to rephrase your
3 question.

4 BY MS. CONNELL:

5 Q Without discussing the amount, Ms. Klagenberg, you
6 have taken home income from Oracle based on exercising and
7 selling stock options and selling shares of stock, correct?

8 A That is correct.

9 Q And you don't know how that amount, whatever it is,
10 compares to other vice presidents, correct?

11 A That is correct.

12 Q You testified that when you were the vice president
13 of Customer Programs, you had two Cost Centers under you, is
14 that correct?

15 A At one point in time I had two U.S. Cost Centers.

16 Q Okay. You believe know how many Cost Centers other
17 vice presidents had under them, correct?

18 A That's correct.

19 Q You talked about the compensation allocation
20 process for you and for your managers, correct?

21 A Correct.

22 Q But you don't know how the allocation process
23 worked for other vice presidents, correct?

24 A Correct.

25 Q You talked about your specific job duties as a vice

1 president, correct?

2 A Correct.

3 Q But you don't have personal knowledge regarding the
4 specific job duties of other vice presidents, correct?

5 A Can you repeat the question?

6 Q You don't have personal knowledge regarding the
7 specific job duties of other vice presidents, correct?

8 MS. HERMOSILLO: Objection, vague. Which vice
9 presidents is she referring to?

10 JUDGE CLARK: Overruled.

11 Can you answer the question?

12 THE WITNESS: I don't understand the question.

13 JUDGE CLARK: Okay.

14 Rephrase your question.

15 BY MS. CONNELL:

16 Q You work within Product Development, correct?

17 A That's correct.

18 Q And there's other vice presidents within Product
19 Development, correct?

20 A That's correct.

21 Q And you talked about the work that you do as the
22 vice president of Customer Programs, correct?

23 A Correct.

24 Q And other vice presidents have different
25 discretionary job titles than you do, correct?

1 A That is correct.

2 Q But you don't have specific knowledge regarding the
3 job duties of other vice presidents with different
4 discretionary titles, correct?

5 MS. HERMOSILLO: Objection, Your Honor, this is
6 vague. If she wants to like name a couple vice presidents
7 and see if she knows what their job duties are, that's fine,
8 but this is just --

9 JUDGE CLARK: Overruled.

10 You can answer the question.

11 THE WITNESS: There are a lot of vice presidents at
12 Oracle. My job required that I worked with other vice
13 presidents in many different capacities. Some of them had
14 job responsibilities over the years I understood very well,
15 others did not.

16 BY MS. CONNELL:

17 Q And those with whom you did not work, you don't
18 have personal knowledge of their job responsibilities,
19 correct?

20 A This is correct.

21 MS. CONNELL: I don't have any further questions.

22 JUDGE CLARK: Ms. Hermosillo?

23 MS. HERMOSILLO: Just a quick housekeeping matter,
24 before I begin with redirect. Since you did sustain the
25 objection to the questions regarding specific stock

1 allocations, could we strike from the record that question
2 regarding amounts?

3 JUDGE CLARK: No, the request is denied. The
4 question will stand.

5 MS. HERMOSILLO: Okay. Thank you, Your Honor.

6 JUDGE CLARK: So, Ms. Hermosillo, it's time for you
7 to do redirect of this witness, so go ahead and do your
8 redirect.

9 MS. HERMOSILLO: Thank you, Your Honor.

10 JUDGE CLARK: If you've got something else you want
11 to bring up, please do so, but I need you to finish up with
12 the witness.

13 MS. HERMOSILLO: I appreciate that. Thank you.

14 REDIRECT EXAMINATION

15 BY MS. HERMOSILLO:

16 Q So, there were some questions about the fact that
17 you don't work on a particular product. Do you recall that
18 testimony?

19 A Yes.

20 Q And in fact, do you work on lots of products?

21 A Yes.

22 Q How many products are we talking about?

23 A Hundreds of products.

24 Q Okay. And you -- there was some questions earlier,
25 also, about some notes -- about the accuracy of some notes

1 taken by an attorney. Did you ever review any notes taken by
2 an attorney for the Department of Labor?

3 A No, I did not.

4 Q Okay. Did you ever get a copy of those notes?

5 A No, I did not.

6 Q Now, there was also -- you were also asked about
7 going beyond the 60 percent for allocations of raises, do you
8 recall that?

9 A Yes.

10 Q Okay. Were you -- actually, I strike that.

11 MS. HERMOSILLO: I think that's all that I have,
12 Your Honor, let me just double-check with counsel.

13 Oh, yes. Sorry.

14 BY MS. HERMOSILLO:

15 Q So, there was a question earlier about a request
16 for discrimination training or EEO training. Why did you not
17 request to receive that training?

18 A Because in a previous firm, every year I was there
19 we were trained on EEOC, whether we were hiring or not, by
20 in-house counsel. So, every year, for five years, I got
21 training on it.

22 Q Okay.

23 MS. HERMOSILLO: Nothing further, Your Honor.

24 JUDGE CLARK: Thank you.

25 Ms. Connell, anything further?

1 MS. CONNELL: No, Your Honor.

2 JUDGE CLARK: Ms. Klagenberg, thank you so much for
3 your time. I need you to hang tight, because I need to get
4 some spellings for some of the names you said for our record,
5 but we're going to do that off the record.

6 THE WITNESS: Okay.

7 JUDGE CLARK: Anything further for this witness,
8 Ms. Hermosillo?

9 MS. HERMOSILLO: Nothing further, Your Honor.

10 JUDGE CLARK: Ms. Connell?

11 MS. CONNELL: No, Your Honor.

12 JUDGE CLARK: You are excused as a witness. Thank
13 you very much. Just hang tight for a second.

14 (Witness excused.)

15 JUDGE CLARK: It's just a little after 12:30
16 o'clock a.m., we'll take our hour lunch. We'll start back
17 about 1:30 o'clock p.m.

18 We'll be off the record.

19 (Whereupon, at 12:30 o'clock p.m., the hearing was
20 recessed for lunch.)

21 --o0o--

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1 AFTERNOON SESSION

1:30 O'CLOCK P.M.

2 JUDGE CLARK: Okay. We are back on the record.
3 Good afternoon. All parties are present. We're back on the
4 record.

5 Do we have our next witness, Ms. Bremer?

6 MS. BREMER: Yes, Your Honor. David Edeli will be
7 presenting our next witness, Donna NG.

8 JUDGE CLARK: Okay.

9 Mr. Edeli, why don't you go ahead and state your
10 appearance for the record.

11 MR. EDELI: Yes, thank you, Your Honor. David
12 Edeli for the Plaintiff, OFCCP.

13 JUDGE CLARK: Thank you.

14 So, go ahead and call your next witness. Is she or
15 he in the courtroom?

16 MR. EDELI: She's right outside.

17 JUDGE CLARK: Okay. You're going to step right
18 around here. Watch the steps there. And before you have a
19 seat, if you'd turn and face me, raise your right hand.
20 Whereupon,

21 DONNA KEA NG

22 having been first duly sworn by the Administrative Law Judge,
23 was examined and testified as follows:

24 JUDGE CLARK: Okay. Have a seat. And if you would
25 state your name and then spell it for our record, please?

1 THE WITNESS: My name is Donna K-e-a, the last name
2 is spelled N-g.

3 MS. CONNELL: And how do you say it?

4 THE WITNESS: Eng (Phonetic).

5 JUDGE CLARK: Eng (NG) okay.

6 THE WITNESS: Yeah.

7 So, Ms. Ng, just a couple of things. We're
8 recording everything that's said here, so you need to keep
9 your voice up so that everybody in the courtroom can hear you
10 and our court reporter can take it down, as well. There's
11 some amplification here, but I want to make sure you're
12 keeping your voice up for all of us, all right?

13 THE WITNESS: Okay.

14 JUDGE CLARK: Because we're recording everything
15 that's said, you need to let the lawyers ask the complete
16 question and then they'll let you give a complete answer,
17 that way we're not talking at the same time, because we can't
18 record that -- understand?

19 THE WITNESS: Yes.

20 JUDGE CLARK: And also, because we're recording,
21 head nods, uh-huh, uh-uh, those don't really work as well as
22 yes or no, that sort of thing. Okay?

23 THE WITNESS: Yes.

24 JUDGE CLARK: If a lawyer makes an objection, you
25 just stop talking and I'll let you know whether you can

1 answer the question. Understand?

2 THE WITNESS: Yes.

3 JUDGE CLARK: And I think I'm missing something --
4 oh -- if you don't understand something, let me know and I'll
5 have them rephrase it for you.

6 THE WITNESS: Okay.

7 JUDGE CLARK: All right. Thank you very much.

8 Mr. Edeli.

9 MR. EDELI: Thank you, Your Honor.

10 DIRECT EXAMINATION

11 BY MR. EDELI:

12 Q Ms. Ng, what is your race and gender?

13 A My race is Asian, gender is female.

14 Q And are you testifying here today because of a
15 request from the U.S. Department of Labor?

16 A Yes.

17 Q Ms. Ng, did you work at Oracle America,
18 Incorporated?

19 A Yes.

20 Q Are you still employed by Oracle?

21 A No.

22 Q So, what is the time period, approximately, in
23 which you worked at Oracle?

24 A I worked from January 8th, 2001, to May 21st, 2019.

25 Q And when you worked at Oracle, did you work out of

1 the Redwood Shores office?

2 A Yes.

3 Q During the 18 years that you worked at Oracle, did
4 you work out of any other offices?

5 A No.

6 Q Ms. Ng, did you work anywhere else before you
7 worked at Oracle?

8 A Yes, I did.

9 Q And where was that?

10 A Right before Oracle I was actually working for the
11 Federal Reserve Bank of San Francisco.

12 Q And did you have a job title there?

13 A Yes. I was their statistic technician 3.

14 Q And can you tell us the type of work that you did
15 while you worked at the Federal Reserve?

16 A So, based on the Bank Regulation D, the banks have
17 to report their reserve and to meet their reserve guidelines.
18 So, I was one of the testers, the QA, that ensured that the
19 reporting is going to work. And because there was the timing
20 of Y2K, so the calendar went from 1999 to 2000, so there was
21 a lot of emphasis on that. But generally, I was responsible
22 for all of the banks that report to SF Federal Reserve are
23 reporting correctly and that the requirements are all met.

24 Q What is QA?

25 A Quality Assurance.

1 Q And did that involve software or technology?

2 A Yes. So, Federal Reserve has its own system.
3 Oracle has its own system. A lot of the enterprise companies
4 use Oracle. And so the Federal Reserve Bank has their own
5 system that's built in-house.

6 Q And about how long did you work at the Federal
7 Reserve?

8 A About a year and a half.

9 Q Did you work at any other technology jobs, prior to
10 coming to Oracle?

11 A Yes. Prior to the Federal Reserve Bank, I was
12 actually working in Redwood Shores running a small company
13 called Raw Systems.

14 Q And how did you first find out about an opportunity
15 to work at Oracle?

16 A It was from an ex-co-worker that I used to work
17 with from Raw Systems. It was her old job that she was
18 moving out of in Oracle.

19 Q And so did you apply for a position?

20 A Yes, I did.

21 Q And what position did you apply for?

22 A It was a Quality Assurance for the EBS XML Group.

23 Q And is that the position that you were hired for?

24 A Yes.

25 Q And what year was that?

1 A 2001.

2 Q What was your starting salary?

3 A Seventy-three thousand.

4 Q When you were hired, were you familiar with
5 something called: "Global Career Level"?

6 A No.

7 Q At the time that you were hired, were you familiar
8 with something called: "IC"?

9 A No.

10 Q At the time that you were hired, did you know
11 whether the QA position, that you were applying for, did it
12 have a number associated with it, like Level 1 or 2?

13 A No.

14 Q When you were hired, were you aware of any option
15 to apply for a higher level position in QA?

16 A Can you repeat the question?

17 Q When you were hired, were you aware of any options
18 to apply to be a QA at a higher level, at Oracle, than the
19 one that you were applying for?

20 A No.

21 Q Did you ever learn what IC level meant?

22 A Not at the time that I applied for the job, no.

23 Q When did you learn what an IC level was?

24 A It was some years later, when internally they
25 brought up this web page called: "Aria," A-r-i-a. And it's

1 an internal website, it's for everyone that works in Oracle,
2 with their contact information, e-mail, the department that
3 they work for.

4 Q And do you recall what IC level you had when you
5 found out by looking on Area?

6 A I was an IC3.

7 Q When you started working at Oracle, were you
8 assigned to work on a particular product?

9 A Can you repeat the question? Sorry.

10 Q When you started working at Oracle in 2001, were
11 you assigned to work on a particular product?

12 A Oh, yes, yes. It's called: "EBS XML," which stands
13 for Extendable Markup Language Group.

14 Q Do you know whether there was a part of the company
15 of Oracle that EBS XML product was a part of?

16 A It's a tool product that works in the back end, the
17 applications that people buy, or the company buys, will get
18 the package along whenever they purchase the software.

19 Q And about how long did you work on EBS XML?

20 A I worked there from 2001 to 2004.

21 Q What did you do next?

22 A I applied for a transfer to Financial Application,
23 as a QA.

24 Q And --

25 JUDGE CLARK: I'm sorry -- as a what?

1 THE WITNESS: As a QA.

2 JUDGE CLARK: QA.

3 THE WITNESS: Yeah.

4 JUDGE CLARK: QA -- got it.

5 BY MR. EDELI:

6 Q And that was the same job title that you had had
7 before?

8 A Yes.

9 Q And so at the time that you transferred to
10 Financials Applications, did you remain a QA?

11 A Yes.

12 Q And is Financials Applications a different product
13 from EBS XML?

14 A Yes.

15 Q And when you changed products from EBS XML to
16 Financials, did your pay -- did your salary change?

17 A No.

18 Q Did you remain working on Financials until you left
19 Oracle?

20 A Yes.

21 Q And that was in 2019?

22 A Right.

23 Q So, after you moved to Financials, did you ever
24 receive a promotion from your position as QA?

25 A After -- sorry -- can you repeat the question?

1 Q Yes. After you moved to Financials, after you
2 transferred to Financials, did you ever receive a promotion
3 from your position?

4 A Yes, I did.

5 Q And what position were you promoted to?

6 A Senior QA.

7 Q And approximately when did that promotion occur?

8 A 2005.

9 Q I think you testified earlier that you worked at
10 Oracle from between 2001 to 2019. Did you ever take any
11 leaves of absence?

12 A I did. In 2006 to 2007, I took a leave of absence
13 because I was diagnosed with stage three cancer.

14 JUDGE CLARK: Are you okay? Do you need a little
15 break?

16 THE WITNESS: No, I'm okay. Thank you.

17 JUDGE CLARK: She's ready. She said she's ready to
18 proceed.

19 MR. EDELI: Okay. Thank you, Your Honor.

20 BY MR. EDELI:

21 Q So, when did you return to work at Oracle?

22 A So, my break was from August 2006 to 2007. I came
23 back in July 2007.

24 Q Okay. In the time between when you started at
25 Oracle in 2001 and when you took your leave, did you ever

1 receive any salary increases?

2 A Yes, I did.

3 Q Do you recall whether you received more than one?

4 A Yes.

5 Q About how many salary increases did you --

6 A Two.

7 Q Two. Do you recall, roughly, what your salary
8 increased to?

9 A It went up to \$82,000.00.

10 Q Okay. And when you came back to work from your
11 leave in 2007, did you state what month -- do you know what
12 month you came back?

13 A 2007 -- it was July.

14 Q Okay. Were you still a senior QA at that point?

15 A Yes.

16 Q And was there ever a point in which you got a
17 promotion from senior QA?

18 A Yes. I got a promotion from a senior QA to project
19 lead in December 2007.

20 Q And when you received that promotion to project
21 lead, did you receive a change in your IC level?

22 A No.

23 Q And so you testified that previously you were an
24 IC3?

25 A Yes.

1 Q And so you remained an IC3?

2 A Right.

3 Q And how did you know that?

4 A From Aria.

5 Q Okay. And did you receive a salary increase when
6 you got the promotion to project lead?

7 A No.

8 Q How did that make you feel?

9 A I didn't know why. I was frustrated. Normally, a
10 raise would go hand in hand with a promotion, but that didn't
11 happen.

12 Q Did you do anything about this?

13 A Yes. I talked to my manager.

14 Q What was his name?

15 A Mark Shintani.

16 Q And what did you talk to Mr. Shintani about?

17 A I basically asked him what does it take to get a
18 raise from this promotion.

19 Q And did he give you any advice?

20 A Yes. He said for any promotion that comes with a
21 raise it needs to go from an IC3 to an IC4 for me.

22 Q And what, if anything, happened after that
23 conversation?

24 A Before he left, he told me that he gave me a
25 recommendation for a promotion to become the principal QA,

1 and that it was -- he submitted the recommendation to his
2 manager and then it was refused by his manager.

3 Q And prior to that time had you received any
4 feedback from Mr. Shintani about your performance?

5 A Yes. All of my annual appraisals from him was a 4,
6 because I have what they call: "exceeded expectation," on the
7 overall rating. And also the feedback say he has received,
8 from the Product Team, which consists of the developers, the
9 management of the product that I was working on, were all
10 positive and they were so happy that he put me on their
11 product as a QA person for them.

12 Q What is the rating scale that you just mentioned?

13 A Rating scale?

14 Q I believe you said that you were rated a 4?

15 A Oh, yes. So, a 4 is "exceed expectation." A 3 is
16 "met expectation."

17 Q Okay. I believe you said that this was before --
18 when you had the subsequent conversation with Mr. Shintani,
19 this was before he left Oracle. Do you know about when he
20 left Oracle?

21 A 2010.

22 Q Okay. And did he tell you why the recommendation
23 had been rejected?

24 A Yes. He said that it was refused -- the comments
25 that he received back from his management was "not now."

1 Q Did he say that he had received those comments from
2 a specific person?

3 A Yes, his manager named Ritu.

4 JUDGE CLARK: Can you spell that for us?

5 THE WITNESS: R-i-t-u.

6 JUDGE CLARK: Thank you.

7 BY MR. EDELI:

8 Q Do you know if Ritu had a last name?

9 A Yeah. It's Bharra.

10 JUDGE CLARK: Can you spell that one?

11 THE WITNESS: I think it's B-h-a-r-r-a.

12 JUDGE CLARK: Thank you.

13 THE WITNESS: Maybe there's a "u" in there, but --
14 yeah.

15 JUDGE CLARK: Thank you.

16 BY MR. EDELI:

17 Q So, did Mr. Shintani tell you how he had tried to
18 get you the promotion?

19 A He submitted -- I guess there's paperwork involved
20 that he did his recommendation based on the feedback from the
21 product teams that I work with, or for, because I was on the
22 product for that Oracle payments product.

23 Q And did he tell you, specifically, what Ritu had
24 told him?

25 A It was just that "not now."

1 Q When you came back from sick leave in 2007, what
2 product were you working on?

3 A It's the Fusion Global Financial.

4 Q Was that the same product that you had been working
5 on before you went out on sick leave?

6 A No.

7 Q Did you ever work on any other products?

8 A Yes. Then I was asked to take on Oracle payments.

9 Q What were your duties, if any, when you started
10 working on the payments module?

11 A My duty was to understand the features that comes
12 from product management. It's certain business requirements
13 that they put in the features for the modules. And we have
14 to do an analysis and meet with the product team to ensure
15 that we understand -- or as a QA, I understand what the
16 feature is supposed to do and what they expected outcome is.

17 So, I create the test plans, with the step-by-step test
18 scripts, so I can execute them and ensure that the result is
19 what is expected. And that, you know, it doesn't break the
20 system along the way. And also, to report any defects, you
21 know, when I go through this process from end to end.

22 Q Do you know if there was anyone else who worked on
23 the payments module before you?

24 A Yes.

25 Q Was this person a man or a woman?

1 A A man.

2 Q Did this -- was this person within the same group
3 as you?

4 A Yes. Both of us report to Mark Shintani.

5 Q Do you know what this male colleague's title was?

6 A Project lead.

7 Q And do you know what your colleague's duties were
8 when he worked for Mr. Shintani?

9 A It was the same as mine, which is to test the
10 Global Financial application.

11 Q And was there ever a time when you performed his
12 duties?

13 A Yes.

14 Q When was that?

15 A It was from the time that I came back and up to the
16 time that I got assigned to the Oracle payments module.

17 Q And when you took over the payments module, what,
18 if anything, did your male colleague do?

19 A Pardon?

20 Q Did he take on -- did his assignment change at that
21 time?

22 A No. He remained on the Global Financial.

23 Q So, do you know whether his duties on the Global
24 Financial project, product, were any different than your
25 duties were on the payments module?

1 A No. All of the QA, it doesn't matter which product
2 you will get assigned, the duties are all the same.

3 Q Did you ever know what your male colleague's IC
4 level was?

5 A Not at first.

6 Q Did you find out?

7 A Yes.

8 Q And how did you find out?

9 A From Aria.

10 Q Why did you look in Aria?

11 A Because I was curious to see if there was changes
12 for any of the QA that is in our group, basically, at that
13 time. There was over 20 of us, but only him and I reported
14 to Mark Shintani.

15 Q And do you -- sitting here now, do you remember
16 what his IC level was?

17 A He was a four.

18 Q Okay. And what was your IC level?

19 A Three.

20 Q Okay. And was that at the time in which you were
21 performing similar duties?

22 A Yes.

23 Q Did you continue working on the financial payments
24 module after you became project lead in 2007?

25 A Yes, I did.

1 Q Did anyone else, after that time, work on the
2 financial payments module?

3 A No, not until 2016.

4 Q What happened in 2016?

5 A There was a group of three QA staff that used to
6 work on the EBS side of payments, they got re-org'd and then
7 put onto Fusion payments.

8 Q And how did they learn how to do their job?

9 A I had to train them, because the modules for EBS
10 versus Fusion, the structure is different and what we call
11 the "UI," the "User Interface," is different, as well.

12 Q When you were training these employees, did you see
13 any increase in your salary?

14 A No.

15 Q So, as of that time in 2016, had you received any
16 salary increase at all, since when you had come back from
17 your sick leave in 2007?

18 A No.

19 Q Had you received any cost of living increase?

20 A No.

21 Q During that time in 2016, when you were working on
22 the payments module, did you think that your pay was fair?

23 A I didn't think it was fair.

24 Q Why did you think that?

25 A Because of all the feedbacks and my annual reviews

1 justified that the feedbacks are all positive and they were
2 rated at least a three or a four, which is the "meet" or
3 "exceeded expectation." And I was basically the lead that I
4 have to train whoever wants to know the Fusion payment
5 modules, that includes support people, different customer
6 service reps that needed to know in order to talk to the
7 customers, and management, anybody that needs to know Oracle
8 Fusion, they would come to me to get that cross-training.

9 Q Were there any other reasons why you thought your
10 pay wasn't fair?

11 A That I haven't gotten anything for over a decade.

12 Q Any other reasons?

13 A (No verbal response.)

14 JUDGE CLARK: I'm sorry, I didn't hear an answer.

15 Was there no other reason?

16 BY MR. EDELI:

17 Q That you can remember?

18 A I can't remember.

19 Q Okay. Did you ever talk to any colleagues who were
20 also in QA, about your pay at Oracle?

21 A Yes.

22 Q Who did you talk to, without naming names?

23 A It was my ex-co-worker now, that we've been friends
24 over 10 years. Basically, we only talk when -- we don't talk
25 numbers, we just say, okay, did you get a raise, you know,

1 around the focal time or whenever. And then she would say
2 yes or no.

3 Q And do you know what her duties were as a QA?

4 A Same title as me, project lead.

5 Q And what did you learn from her?

6 A That --

7 MR. PARKER: Objection, hearsay.

8 JUDGE CLARK: Mr. Edeli, what's your response?

9 MR. EDELI: Well, I think it goes to her state of
10 mind as to why she thought her pay was fair or not fair at
11 the time.

12 JUDGE CLARK: Anything further, Mr. Parker?

13 MR. PARKER: No.

14 JUDGE CLARK: I'm going to overrule the objection.

15 You can answer the question.

16 MR. PARKER: Then I would ask it's not for the
17 truth, correct, Your Honor?

18 JUDGE CLARK: So, ask your question again.

19 BY MR. EDELI:

20 Q I believe the question was did you learn anything
21 from her?

22 JUDGE CLARK: Okay. And her answer is yes, she
23 did.

24 THE WITNESS: Yes.

25 JUDGE CLARK: And your question is?

1 BY MR. EDELI:

2 Q What did you learn?

3 JUDGE CLARK: And you're saying it goes to her
4 state of mind.

5 MR. PARKER: If the Court overrules for state of
6 mind, as long as -- I will abide by that, of course, but I
7 would like to note that we hope that it's not for the truth.

8 JUDGE CLARK: It isn't necessarily for the truth of
9 what the woman -- the other employee, I don't even know if
10 it's a woman -- the other person said, it's to show why she
11 thinks what she thinks.

12 MR. PARKER: Okay. Thank you.

13 JUDGE CLARK: So, you can answer the question.

14 THE WITNESS: Okay. So, it was a woman and we
15 discussed and the fact that she doesn't understand why all
16 these years I had no promotion and she was getting them, and
17 she was also getting pay raises, as well.

18 BY MR. EDELI:

19 Q Do you know what race your friend identifies as?

20 A White, Caucasian.

21 Q And approximately when did you have these
22 conversations with her?

23 A Oh, it's been many years, because we became friends
24 2005, so over the years of from 2006 to 2019.

25 Q Can you tell on Aria what someone else's pay is?

1 A No.

2 Q Was there any other way to find out what a
3 co-worker earned?

4 A No.

5 Q Did anyone ever tell you not to discuss pay?

6 A Yes.

7 Q Who told you that?

8 A It was as the HR orientation, the first day I got
9 hired back in 2001.

10 Q And do you recall who the person was who told you
11 that?

12 A It was an HR rep that was doing the orientation
13 training.

14 Q Did you ever talk to colleagues about bonuses?

15 A Yes.

16 Q Did anyone ever tell you that should not talk to
17 colleagues about bonuses?

18 A Yes.

19 Q Who was that?

20 A My previous manager, Sholindra Aguerre (phonetic)
21 -- let's see, A-g -- I'm very bad with pronunciation.

22 JUDGE CLARK: That's okay. I appreciate your
23 trying.

24 BY MR. EDELI:

25 Q Do you recall about when in time this conversation

1 happened?

2 A When I got my bonus for \$1,000.00 around 2016, I
3 believe.

4 Q And where did you have the conversation?

5 A Over the phone.

6 Q Was there anyone else on the phone with you?

7 A No.

8 Q Did -- what did Sholindra tell you?

9 A That not to discuss the number, because not
10 everyone in our group got the bonus.

11 Q Ms. Ng, you testified that you received a salary
12 increase before your leave, which happened in 2006, but that
13 you didn't receive a raise between 2007, when you came back,
14 and 2016. So, after 2006, did you ever receive another
15 raise?

16 JUDGE CLARK: Do you mean after 2016?

17 MR. EDELI: No, pardon me. I was backing up all
18 the way to 2006.

19 JUDGE CLARK: Okay.

20 THE WITNESS: After 2006?

21 MR. EDELI: Yeah.

22 THE WITNESS: Did I get?

23 BY MR. EDELI:

24 Q Did you ever receive another raise?

25 A No. Oh, no -- it was 2007, I got promoted, no

1 raises -- sorry.

2 Q Well, I'm going to show you what's been marked as
3 Plaintiff's Exhibit P-488.

4 A Oh, okay. Oh, yes, this one, yes.

5 Q So, after 2006, did you ever receive another raise?

6 A Sorry, yes, I did. I'm sorry, yes. Yes, I did.

7 Q Do you recognize this document?

8 A Yes.

9 Q What is this document?

10 A It was a letter, an e-mail that I received from my
11 last boss, Rob Abe, that I was going to get an adjustment
12 effective January 1st, 2019.

13 Q And do you see the sentence that says: "Effective
14 January 1st, 2019, your base pay will be \$94,000.00"?

15 A Yes.

16 Q And is that more or is that less than what you were
17 making before?

18 A It was more.

19 Q Okay. And did you have any reaction to getting
20 this raise?

21 A Yes. I was thrilled. I was very happy and I
22 thanked Rob for getting me this raise.

23 Q So, you had a conversation with your manager, Rob,
24 about this?

25 A Yes. He called me, because he's based out of

1 Minneapolis.

2 Q And did Rob respond to your thanks?

3 A Yes. He said he wished he could take the credit
4 for it, but it's not from his doing, this is as a result of a
5 California Wage Audit.

6 Q Do you know what a California Wage Audit is?

7 A No.

8 Q Did you ever talk to Rob before about getting a
9 raise?

10 A Yes.

11 Q When was that?

12 A It was the first time I met him in person, when he
13 came to Redwood Shores, it would have been around 2017 when I
14 got transferred to his group -- or 2018, I can't remember --
15 2017 or 2018. And we met in one of those conference rooms
16 and then he said: "I will do whatever I can to promote you,
17 because it's long overdue."

18 Q You stated before that you stopped working at
19 Oracle in May of 2019?

20 A Yes.

21 Q Why did you leave?

22 A I didn't leave, I was laid off.

23 Q And how did you learn about your layoff?

24 A Rob called me on March 21st, in the morning, by the
25 phone, and said that I was part of this restructuring layoff.

1 Q Did Rob tell you why you were part of the
2 restructuring layoff?

3 A Yes. My skill didn't match the requirements and he
4 had to read the verbiage to me as part of that conversation.

5 Q When you say "verbiage," is that a word that he
6 used or that you're using?

7 A He used.

8 Q And so what was the verbiage that he said that he
9 had to read?

10 A It was basically the Redwood Shores -- I mean the
11 re-org that was taking place in Redwood City or Redwood
12 Shores.

13 Q And that was the extent of the verbiage that he had
14 to read to you?

15 A There was some more, but it was early in the
16 morning, like 7:30 o'clock a.m. PST time, and I think I was
17 more in shock than anything.

18 Q And prior to your layoff, had you received any
19 performance evaluations?

20 A Yes.

21 Q Do you remember what your last performance rating
22 was?

23 A It was a 4, which is "exceed expectations."

24 Q And in the months prior to your layoff, had you
25 been given any feedback about your performance?

1 A Yes. Actually, it was two days before the layoff
2 phone call, we would have our one-on-one every Tuesday, and
3 he called to tell me that he wished all his employees were
4 just like me, which is a model employee.

5 Q So, you got a pay increase in January 2019, and
6 then you were told you were a model employee?

7 A Yes.

8 Q And then shortly after that, you were told you were
9 being laid off?

10 A Yes.

11 MR. EDELI: No further questions.

12 JUDGE CLARK: Thank you, Mr. Edeli.

13 Is this your witness, Mr. Parker?

14 MR. PARKER: Thank you, Your Honor. And may I
15 approach the witness, Your Honor, with an exhibit?

16 JUDGE CLARK: Yes.

17 MR. PARKER: Thank you.

18 JUDGE CLARK: Thank you. I think you gave me too
19 many. There you go. Are you asking to mark this next in
20 order?

21 MR. PARKER: Yes, Judge, it's Exhibit 447.

22 JUDGE CLARK: It should be 448.

23 MR. PARKER: Then it's going to be that number,
24 too.

25 JUDGE CLARK: Okay.

1 MR. PARKER: Exhibit 448, Your Honor. Thank you.

2 JUDGE CLARK: Thank you.

3 (Defendant Exhibit No.

4 448 was marked for

5 identification.)

6 CROSS-EXAMINATION

7 BY MR. PARKER:

8 Q Ms. Ng, I've placed in front of you a document that
9 is dated April 4th, 2019, do you see that?

10 A Yes.

11 Q You're familiar with this document, aren't you?

12 MR. EDELI: Objection, relevance.

13 JUDGE CLARK: Overruled.

14 You can ask about this document.

15 Do you have the question in mind? Oh, you're
16 reading it. I'm sorry.

17 THE WITNESS: I'm reading it. Sorry.

18 Yes, I recognize this.

19 BY MR. PARKER:

20 Q And this document -- after you received this
21 document -- I'm sorry. This is a document you received from
22 OFCCP, correct?

23 A Yes.

24 Q And after you received this document, you wrote to
25 OFCCP an e-mail, correct?

1 A Yes.

2 Q And you provided information to OFCCP about your
3 particular circumstances, isn't that correct?

4 A Yes.

5 Q And then you've talked to OFCCP at least twice
6 since that letter that I just provided you, Exhibit 448, and
7 since your e-mail to OFCCP, correct?

8 A Yes.

9 Q And as I understand it, I'm just curious, how many
10 Quality Assurance engineers are there at Oracle when you
11 started in 2001?

12 A Quality Assurance in my group?

13 Q Yes.

14 A In the EBS group it was myself and two other males.

15 Q Great. And do you have an idea of how many -- you
16 said you worked at the Redwood Shores office, correct?

17 A Yes.

18 Q How many Quality Assurance people are there who
19 work, if you know, at Redwood Shores?

20 A I have no idea of the count.

21 Q It's a lot more than just two or three, isn't it?

22 A Yes.

23 Q A hundred?

24 A (No verbal response.)

25 Q You just don't know, it's a lot, though?

1 A It's a lot, because -- yeah. Basically, every
2 product needs a QA.

3 Q And you talked about your salary and the fact that
4 you haven't had a salary raise since 2006, except for in
5 2019, I saw that e-mail?

6 A Yes.

7 Q But between 2006 and 2019, you didn't have a raise,
8 did you?

9 A No.

10 Q And in 2007, you received a bonus, correct?

11 A 2007, yes.

12 Q 2008, you received a bonus, correct?

13 A I don't remember 2008.

14 Q Okay.

15 MR. PARKER: Your Honor, I believe that -- I would
16 submit that the witness has waived protection as to her
17 salary, given we were given her starting salary and then
18 we've been given her ending salary. And so I would like to
19 read out the amount of the bonus to see if that refreshes her
20 recollection.

21 JUDGE CLARK: Any objection, Mr. Edeli?

22 MR. EDELI: Well, I'm just curious where he's
23 reading the amount of the bonus from?

24 JUDGE CLARK: Are you referring to a particular
25 exhibit, Mr. Parker?

1 MR. PARKER: It is in evidence, it's in the
2 database. You can find this information -- I'll tell you
3 where you can find it -- so this is what my cheat sheet says:
4 "J-132 Column C to I, Tab Bonus, Columns C to F."

5 JUDGE CLARK: You ask her the question.

6 BY MR. PARKER:

7 Q You understand that -- let me say this. Isn't it
8 true that you received a bonus of \$7,000.00 in 2008?

9 A I don't remember. It's been so long ago.

10 Q All right. Let's try it this way. You don't think
11 I'm making up that number, do you -- you wouldn't dispute
12 that that's a bonus that you would have received, correct?

13 A It's possible. Like I said, I've been there for
14 18 years, so --

15 Q And do you recall receiving a bonus in 2009?

16 A No.

17 Q Do you recall receiving a bonus in 2010?

18 A No.

19 Q Do you recall receiving a bonus in 2011?

20 A No.

21 Q Do you OFCCP receiving a bonus in 2014?

22 A No.

23 Q Now, you also mentioned that you had discussions
24 with a woman who was also in Quality Assurance, and I think,
25 if I understand you correctly, your testimony correctly, she

1 -- while you were not getting raises, this woman was getting
2 raises, correct?

3 A Yes, and promotions.

4 Q Very good. And you mentioned that in QA the duties
5 are all the same. What does that mean, what does the
6 "duties" mean?

7 A So, every QA person needs to test the application
8 thoroughly, by writing test plans. Well, first of all, they
9 have to understand the feature, then they have to write the
10 test plan that's applicable, and go through the reviews by
11 their product team and make sure that both sides have the
12 full understanding. And then I write the test steps to
13 execute them and then report any defects along the way and
14 ensure that from end to another end that it's working as
15 expected.

16 Q And that's what you mean when you said the QA
17 duties are all the same, no matter what you're working on,
18 correct?

19 A Right.

20 Q All right. Now, just for clarification, I want to
21 make sure I'm correct. I heard you use the term "Oracle
22 Payment Module"?

23 A Yes.

24 Q I heard you use the term "Fusion Payment"?

25 A They're the same.

1 Q And I hope this is true, too, and I heard you use
2 the term "Financial Payments Module."

3 A Yes.

4 Q That's all the same thing?

5 A Yes.

6 Q It just goes by a different name?

7 A Yeah, because Fusion Development didn't come in
8 until around 2006, 2007. It was right around the time that I
9 returned. So, they were starting -- it was kind of going
10 from EBS to -- to stop development from EBS, and then they
11 thought that they would start the ground up, from the ground
12 up, to develop Fusion product.

13 Q And as I understand your testimony -- and I just
14 want to make sure I get the date correct -- there was some
15 period of time when QA people who came to work on -- do you
16 mind if I call it the Fusion payment product?

17 A Sure.

18 Q And is it true that -- what period of time did
19 these people come to work on the Fusion payment module?

20 A I wanted to say it's around 2014, 2015, 2016.

21 Q And they worked at Oracle, correct?

22 A Yes. From India Development Center.

23 Q And they were QA, they were QA people, just like
24 you were?

25 A Yes, yes.

1 Q They had the same duties as you've described them,
2 as you did, correct?

3 A Yes.

4 Q And when they got to begin working on it, you had
5 to train them on the Fusion payment module, didn't you?

6 A Yes.

7 Q That's because they didn't know how to so QA on
8 that particular product, correct?

9 A Yes. They don't know the Fusion application
10 structure.

11 Q Right. And then for -- as I understand it, you
12 also said the same thing about Support, if somebody from
13 Support came to work on the Fusion payment module, you had to
14 train them, as well, because they weren't familiar with it,
15 correct?

16 A Yes.

17 Q Same thing with Development managers, when they
18 came in to work on the Fusion payment module, you would have
19 to train them, as well, because they wouldn't be familiar
20 with it, correct?

21 A Well, Development managers --

22 Q I'm sorry -- let me rephrase it.

23 A Yes.

24 Q It's going to be the same question. But if
25 developers came to work on the Fusion payment module, you'd

1 have to train them, as well, because they wouldn't know it,
2 merely because they were developers at Oracle, correct?

3 MR. EDELI: Objection, calls for speculation.

4 JUDGE CLARK: Overruled. If she knows.

5 You can answer that question.

6 THE WITNESS: I can?

7 JUDGE CLARK: Yes.

8 THE WITNESS: Yes.

9 MR. PARKER: Okay.

10 BY MR. PARKER:

11 Q The same thing would be true of managers, correct?

12 A Yes.

13 MR. EDELI: Objection -- same objection.

14 JUDGE CLARK: Overruled. The answer will stand.

15 MR. PARKER: Your Honor, just give me a moment. I
16 think I may be done.

17 JUDGE CLARK: Thank you.

18 MR. PARKER: Oh, I'm sorry, I'm not done.

19 BY MR. PARKER:

20 Q But I think you can answer these fairly easily.
21 You weren't a manager when you were at Oracle, correct?

22 A No.

23 Q And as a result, you did not set compensation for
24 anyone, correct?

25 A That's correct.

1 Q You did not -- other than the talking that you did
2 with your -- with the woman -- you didn't have -- you didn't
3 know what other people's salaries were, correct?

4 A That's correct.

5 Q And you did not get give promotions -- I mean you
6 did not put other people up for promotion, correct?

7 A No.

8 Q You weren't involved in the raise process?

9 A No.

10 Q And similarly, you wouldn't have any idea what
11 someone's performance review was unless they told you,
12 correct?

13 A Correct.

14 Q And so the woman, for example, you spoke to about
15 your salaries, you know, in general terms I think, you didn't
16 know what her performance reviews were, did you?

17 A She told me she would get a 3, which is "met
18 expectations."

19 Q And she was still getting a raise and bonuses,
20 correct?

21 A That's correct.

22 MR. PARKER: No further questions.

23 JUDGE CLARK: Mr. Edeli, anything further?

24 MR. EDELI: Nothing further.

25 JUDGE CLARK: Ms. Ng, thank you so much for your

1 time, you are free to go.

2 THE WITNESS: Okay. Thank you.

3 JUDGE CLARK: Thank you.

4 THE WITNESS: Do I take this?

5 JUDGE CLARK: Why don't you just go ahead and leave
6 it right up there and we'll get somebody to grab it.

7 THE WITNESS: Okay.

8 (Witness excused.)

9 JUDGE CLARK: Okay. Who is your next witness?
10 Thanks, again, for your time today.

11 MS. BREMER: Mythily Shah, Your Honor.

12 JUDGE CLARK: Thank you. And whose witness is this
13 going to be?

14 MS. BREMER: This will be Paige Pulley.

15 JUDGE CLARK: Okay. We're sharing the wealth here.
16 Please, step around. Step up on the platform there
17 and then before you have a seat if you'd turn to me and
18 raised your right hand. You can set down whatever you need
19 to set down.

20 Raise your right hand.

21 Whereupon,

22 MYTHILY PARTHASARATHY SHAH

23 having been first duly sworn by the Administrative Law Judge,
24 was examined and testified as follows:

25 JUDGE CLARK: Go ahead and have a seat, please.

1 So, we're recording everything that's said here.
2 So, I need you to keep your voice up, so we can all hear you
3 and the court reporter can hear you, okay?

4 THE WITNESS: Okay.

5 JUDGE CLARK: Sounds good. If one of the lawyers
6 makes an objection, you just stop talking and I'll tell you
7 whether you can answer the question, all right.

8 THE WITNESS: Okay.

9 JUDGE CLARK: If you don't understand something,
10 that one of the lawyers says, let me know and we'll have them
11 rephrase it for you.

12 THE WITNESS: Okay. Thank you.

13 JUDGE CLARK: And the most important thing is,
14 because we're recording, only one person can talk at one
15 time, so let the lawyer ask the complete question and then
16 they'll let you give a complete answer, because we can't talk
17 and record at the same time. Got it?

18 THE WITNESS: Got it. Thank you.

19 JUDGE CLARK: All right. Thank you so much.

20 Can I have you state your name and spell it for our
21 record, please?

22 THE WITNESS: Mythily Parthasarathy Shah. You
23 would like me to spell it?

24 JUDGE CLARK: Yes, please?

25 THE WITNESS: M-y-t-h-i-l-y,

1 P-a-r-t-h-a-s-a-r-a-t-h-y, last name Shah, S-h-a-h.

2 JUDGE CLARK: Okay. Thank you.

3 And if you can go ahead and enter your appearance
4 for the record?

5 MS. PULLEY: Yes. My name is Paige Pulley and I'm
6 appearing on behalf of OFCCP.

7 JUDGE CLARK: Thank you, Ms. Pulley, you may
8 examine the witness.

9 MS. PULLEY: Thank you, Your Honor. Pulley,
10 P-u-l-l-e-y. Thank you.

11 DIRECT EXAMINATION

12 BY MS. PULLEY:

13 Q Ms. Shah, are you testifying here today pursuant to
14 a request from the Department of Labor, Office of the
15 Solicitor?

16 A Yes, I am.

17 Q What race and gender do you identify as?

18 A Asian, female.

19 Q Can you briefly take us through your educational
20 background, regarding degrees attained or colleges attended?

21 A I studied in (indiscernible, foreign language
22 words) University, (indiscernible) in India. And I completed
23 my undergrad in 1992 with a degree of Bachelor of Sciences,
24 majoring in Computer Science.

25 Q Have you ever worked for Oracle?

1 A Yes.

2 Q Prior to working at Oracle, did you work in the
3 technology industry?

4 A Yes, I did.

5 Q For how long?

6 A For five or six years.

7 Q And what years were those?

8 A From right after undergrad, I think from the year
9 '92 through '97 or '98, before I joined Oracle.

10 Q When did you join Oracle?

11 A Some time in 1999.

12 Q Have you been at Oracle since 1999?

13 A Yes, I have, with a few breaks.

14 Q Can you list those periods of employment for us?

15 A So, I started in 1999 and I continued to year 2008.

16 And I left in 2008 and re-joined back in 2011. I left in
17 2018, again, and re-joined back this April 2019.

18 Q What Oracle locations were you working at?

19 A I work mostly at the Redwood City HQ location.

20 Q Thank you, Ms. Shah. I'd like to ask you some
21 questions about the positions you held at Oracle, including
22 tenure, job duties and job performance. When you first began
23 working at Oracle in 1999, what position did you hold?

24 A I was a senior technical analyst.

25 Q And how long did you hold that position?

1 A About three to four years.

2 Q Was that position in any particular group?

3 A It was in the Bug Diagnostics and Escalations
4 Group.

5 Q Is that part of a support group?

6 A Yes.

7 Q Can you briefly summarize your job duties in that
8 position?

9 A Yes. So, I worked as a team member in the
10 Specialized Support Group. Part of my job responsibilities
11 were doing detailed diagnosis of escalated issues coming from
12 Customer Support, diagnosing the problem by going through the
13 code in detail. I had the code, source code reference. And
14 also attending frequent meetings, like every week, with the
15 Product Development Group in several technologies, to
16 understand which way the product was evolving. And also,
17 give my feedback, based on the problems I saw, to the Product
18 Development Team, so that they would take it into account to
19 see which way the product should evolve.

20 Q Thank you. Have you ever heard of the term
21 "individual contributor"?

22 A Yes, I have.

23 Q And do you know what that means?

24 A So, as an individual contributor I do not manage a
25 team, but I have been -- I can be a senior or a lead engineer

1 mentoring and guiding people, and working independently on my
2 own.

3 Q And are there levels of individual contributors?

4 A Yes, as far as I understand, at Oracle there are
5 six levels of individual contributors.

6 Q Were you an individual contributor as a senior
7 technical analyst?

8 A Yes, I was.

9 Q Do you know what level?

10 A I was, as a senior technical analyst, I was at
11 Level 3.

12 Q And how do you know this?

13 A I believe it was either through Aria, our internal
14 directory or through our yearly appraisal forms.

15 Q And did you hold a position after senior technical
16 analyst?

17 A Yes. I transferred to the Product Development
18 Group and at this time I got the title of senior member of
19 technical staff.

20 Q Do you know what year that was?

21 A This was somewhere around 2003 or 2004.

22 Q And what were your job duties as senior member of
23 technical staff?

24 A As senior member of technical staff, I worked on
25 moderately complex programming and projects, and I

1 specialized in certain areas of server technology products.
2 I fixed core defects and worked closely with the senior
3 product development team to work with the outside expert
4 communities and give them our feedback, and to influence the
5 specification evolution.

6 Q What products were you working on in your capacity
7 there?

8 A I was working on -- at that time I was working on
9 Java server pages and JDBC.

10 JUDGE CLARK: Can you say that last one again?

11 THE WITNESS: I was working on Java server pages
12 and JDBD, these are two server technology core products.

13 JUDGE CLARK: Thank you.

14 THE WITNESS: Which are the core infrastructure for
15 Cloud.

16 JUDGE CLARK: Great. Thank you.

17 BY MS. PULLEY:

18 Q Did you hold a position after senior member of
19 technical staff?

20 A Yes. I got promoted to principal member of
21 technical staff some time in 2007.

22 Q Why do you use the term "promoted"?

23 A Because along with the title came original
24 responsibilities and it was considered more senior position
25 to the previous one. The role and the responsibilities and

1 the complexity of the projects we worked on, everything
2 increased. So, it was considered a step up and basically a
3 promotion.

4 Q Did your IC level change?

5 A Yes. As PMTS or principal member of technical
6 staff, I was IC4.

7 Q Can you describe your general job duties as
8 principal member of technical staff?

9 A Yes. So, there were times when I focused on one
10 specific area which was still evolving and I worked actively
11 with my team and the external expert community, which was
12 writing the specifications for the products that we were
13 implementing or developing. And I was mentoring my team
14 members and working as a lead engineer, and involved in
15 design and also programming for primarily Java server pages
16 in 2008. And this was the time when we were -- it was
17 actively changing, the product was actively changing, so I
18 was focused on Java server pages.

19 Q Did you do any coding in this position?

20 A Yes, I did design and coding for this product and,
21 also, actively involved in giving my feedback on how the
22 specifications for the product should evolve.

23 Q And just to be clear, was this product a part of
24 the Cloud, I think you mentioned Cloud?

25 A Yes. Every product that I worked on, which is part

1 of Server Technologies, is the start of the code
2 infrastructure for Cloud on which the SAS applications are
3 based.

4 Q And earlier you mentioned you had breaks in your
5 employment. And your break was in 2008, is that right?

6 A Yes.

7 Q And why did you leave Oracle in 2008?

8 A So, this was -- okay -- from 1999 through 2009 I
9 had been working very hard on very critical products that
10 were evolving very, very fast. So, I was working every day,
11 like 10 to 14 hours, sometimes longer. And if there were
12 customer escalations escalated to Product Development, I
13 would be working almost 24/7. And this was even at the time
14 when I was going through even late term pregnancies. I was
15 expecting my child, even then I was working up to 2:00
16 o'clock a.m., in the morning, and sometimes very late, even
17 when my children were born, and I had a child on my lap, I
18 used to work late, until 3:00 o'clock a.m., in the morning.
19 So, I had to think back, at that time I had to look back and
20 think whether all the sacrifice on my family's part and my
21 part was justified for the pay I was getting. So, I decided
22 it was not really worth it and I decided to leave in 2008.

23 Q When you left in 2008, did you tell anybody at
24 Oracle?

25 A Just one moment.

1 Q Oh, please.

2 JUDGE CLARK: That's okay.

3 THE WITNESS: Yes, I did tell my manager at Oracle.

4 BY MS. PULLEY:

5 Q Did your manager say anything to you?

6 A She was very understanding. The work pressures
7 were a lot and everybody understood that I was working very
8 late, and she did offer me options.

9 Q And what kind of options?

10 A She offered to give me part-time role and she
11 offered to give me work from home all the time, without
12 having to commute. But I just want mention that although
13 given these options it didn't work much in my favor.

14 Q And why do you say it didn't work in your favor?

15 A Because the option of working from home, it would
16 have saved me half hour to one hour a day, which didn't
17 really make a big difference. And I would have, I'm sure,
18 filled it up the workload under the stress I had. And the
19 other option of working part-time would have meant I would
20 work for half the salary with no benefits and from my
21 experience my work of eight hours usually spilled to like 14
22 hours a day, and I felt strongly that my work of four hours
23 of part-time per day would have spilled over to more than
24 eight hours a day. So, I didn't want to continue in part-
25 time.

1 Q After leaving in 2008, when did you return to
2 Oracle again?

3 A I returned in 2011.

4 Q Do you recall the month?

5 A October, 2011.

6 Q And upon returning, what position did you hold?

7 A I was principal member of technical staff.

8 Q Was that the same position as you had when you
9 left?

10 A Yes.

11 Q Do you recall what the IC level was?

12 A It was IC4.

13 Q And was that still in Product Development?

14 A Yes, it was still in Product Development.

15 Q And when you returned in 2011, what products were
16 you working on?

17 A So, at this time JSB had already evolved and I took
18 on the role of a team lead to continue working with various
19 products. I took on ownership of multiple products, one was
20 JSB, which I had helped to build, the others were HTTP
21 Client, Web Services Infrastructure, and an open source
22 project sponsored by Oracle which is called Eclipse Link.
23 So, I was a team leader at Oracle and mentoring other senior
24 team members, and helping them with various other products,
25 as well, but these were the core four products I was working

1 on. And these are the Cloud infrastructure products, and I
2 did product coding for the product and more complex designs
3 at this time.

4 Q Thank you. And you mentioned HTTP Client, did I
5 hear that right?

6 A Yes.

7 Q Can you describe that for us?

8 A So, HTTP Client is a Cloud infrastructure tool
9 which is -- the purpose of which is to basically provide
10 connectivity between any Java client application, to any end
11 point. So, it could be connecting any Cloud service, one
12 from the other, one to the other, from any one end point to
13 another. So, it was a basic infrastructure service on the
14 Cloud to provide connectivity.

15 Q And at this point were you also involved in coding?

16 A Yes, I was.

17 Q And what year did your second period of employment
18 at Oracle come to an end?

19 A It ended around March 2018.

20 Q And after you left Oracle, did you begin work
21 somewhere else?

22 A Yes. I immediately began work at a company,
23 another high tech company.

24 Q And what position, if any, were you hired at, at
25 that company?

1 A I was a principal engineer or team lead.

2 Q Is there any comparison between the work you were
3 doing at the new company with the work you were doing at
4 Oracle before you left?

5 A It was a team lead role, so that was the
6 comparison, but the products were entirely different. We
7 were using non-Oracle products in the new company I joined,
8 like Amazon and Google Cloud products.

9 Q Were you still working on coding?

10 A Yes, I did coding and mentoring.

11 Q Even though the products were different, can you
12 give us a few examples of those products?

13 A Yes. I worked there in the new company primarily
14 with Amazon AWS, and Google's APG. These were two primary
15 Cloud applications that I worked on over there, yeah, among
16 other things.

17 Q And when did you begin working for Oracle the third
18 time?

19 A The third time was recently in April 2019.

20 Q And how did that come about?

21 A So, a colleague from a different group, who had
22 worked with me before, and the group had consumed a lot of my
23 programming products, approached and he said that they are
24 starting a new position in their group and they're looking
25 for somebody primarily with my experience in performance

1 tuning, which I had helped their group with awhile back. And
2 he asked if I would be interested in purely performance
3 tuning kind of role where I bring my expertise in
4 performance, and that is like the -- to me, as a technologist
5 and working on Cloud, performance is like the height of
6 things where I get to work with the entire Cloud fleet of
7 products, and see where I can make it most efficient. So, I
8 told him if there is a suitable role and pay, and you know,
9 the job description worked out, I liked the job description,
10 then I would definitely join.

11 Q And what happened next?

12 A So, he conveyed this to his manager and the group's
13 manager, who is my current manager, approached me to check if
14 I would like to join his team.

15 Q And in what process was this?

16 A So, first he invited me over to talk to him and he
17 gave me a demo of the products they were developing. And I
18 found it very exciting and he explained the role to me in
19 detail, and it was just perfect given my experience and the
20 Cloud infrastructure products that I would be working on
21 something to improve the Cloud resiliency and performance,
22 and I was really excited. So, he had me meet with one of his
23 team members, as well, a senior team member who interviewed
24 me. And after that he, if I remember right, he also gave me
25 a verbal quote of the salary. And then when we agreed, he

1 said HR will contact me. And once HR contacted me, they
2 asked me to fill out a formal application for the job and
3 that's what I did.

4 Q And to bring it back really quick, you mentioned
5 that he invited you to talk. Was this in a formal interview?

6 A You could say that, yes. He invited me to talk and
7 he actually gave me a demo of what all they're doing and I
8 was very happy to see what they're doing and I really enjoyed
9 meeting. So, it was more like -- it was maybe a formal call,
10 but the talk was more informal as he was trying to show me
11 what they can do and how they could use my help.

12 Q And do you recall what year this happened?

13 A It was 2018, sometime towards the end of 2018.

14 Q And did you receive a verbal offer of employment at
15 that time?

16 A Yes, I did.

17 Q And you testified that HR reached out to you?

18 A Yes.

19 Q Can you describe that process?

20 A So that HR sent me an e-mail and they sent me some
21 job requisition number and link, and asked me to fill out a
22 formal application and upload my resume at that time.

23 Q And did you apply?

24 A Yes, I did apply. And I also asked, at that time I
25 asked my hiring manager if he needed references, as well,

1 from me, and I was willing to provide. But he said he had
2 already talked to five of the people -- five people who had
3 worked before, from different groups, with me. And because I
4 was in Server Technologies and my products were consumed by
5 various groups on Cloud applications, I think several people
6 knew me already and they gave good feedback. So, he said he
7 already had five references, so he didn't need any.

8 Q And what position was this for?

9 A This was for senior principal applications
10 engineer.

11 Q Do you recall what IC level this was, if any?

12 A This was IC5.

13 Q And did you end up getting that senior principal
14 applications engineer position?

15 A Yes, I did.

16 Q And can you describe your general job duties in
17 that position?

18 A So, currently, I'm a senior principal applications
19 engineer and I work on a specially created role. I'm the
20 first (indiscernible) engineer for the ERP product group.
21 And in ERP product group I work with multiple product
22 development teams, I review their code and I find problems
23 proactively in the performance. I review performance data
24 that we gather from our Cloud across thousands of customers.
25 And I review the matrix for the performance and I send my

1 feedback to the product development teams on how they can
2 improve their code to enable better performance applications.

3 So, it's like an individual contributor role, but
4 at the same time I kind of lead multiple teams and that's
5 something I enjoy.

6 Q And what products are you currently working on?

7 A Currently, it's multiple products. It's anything
8 from -- so I work in the ERP Applications Team, so whatever
9 products we use, which is constantly changing, whatever we
10 consume is constantly changing, so it's not one specific
11 thing, I look at the entire product performance. So, it
12 could be either network layer or position layer or database
13 layer, and multiple things going on. So, it's hard to really
14 specify one product. I bring my experience from the previous
15 infrastructure I built, so my experience kind of goes from
16 one thing to the other, it's too broad.

17 Q Are any of these products associated with the
18 Cloud?

19 A Yes. Everything -- all of our ERP products are on
20 Cloud. And whatever we consumer for the infrastructure is
21 basically on Cloud. And the cycle liability is very specific
22 to Cloud, it is for performance on Cloud, there is nothing
23 related to on-premise.

24 Q I'd like to direct your attention now to how you
25 were compensated at Oracle. Can you focus on 2011 for me,

1 when you came back to Oracle the second time. Do you recall
2 what your salary was when you came back to Oracle in October
3 2011?

4 A It was \$115,000.00.

5 Q Do you know what your salary was in 2012?

6 A It was still the same, \$115,000.00 only.

7 Q What about 2013?

8 A Still the same, \$115,000.00.

9 Q What about 2014?

10 A I believe it was still the same, \$115,000.00.

11 Q Do you recall what it was in 2015?

12 A I believe it went up to \$118,000.00.

13 Q Do you know what your salary was in 2016?

14 A Yes. I think, if I recall correctly, it was still
15 \$118,000.00.

16 Q And what about 2017?

17 A I believe it was \$120,000.00 or approximately that.

18 Q Do you recall what it was in 2018?

19 A It was \$123,000.00.

20 Q So, you came back to Oracle in 2011, and you left
21 again in 2018, seven years, approximately. How much did your
22 salary change in that period?

23 A So, it was about \$8,000.00.

24 Q It was \$8,000.00?

25 A Yes.

1 Q Okay. So, during this seven-year period, 2011 to
2 2018, did you ever ask for a raise?

3 A Yes, every year, many times.

4 Q And who did you ask?

5 A It was usually my immediate managers and sometimes
6 their superiors.

7 Q And do you recall what you were told?

8 A Yes. My managers were very understanding, they
9 said they will take the request up through their chain of
10 command and get back to me.

11 Q And what happened next?

12 A Well, each time they came back with either a small
13 bonus. One time -- like I don't recall the exact amounts,
14 they were too trivial, too small to remember -- or sometimes
15 they raised it by 2k or 3k, and they said they were sorry and
16 that was the only budget they were given.

17 Q When you heard that, how did that make you feel?

18 A I felt very bad. I felt that I was working and not
19 getting recognized for how much work I was putting in.

20 Q You testified that your salary did change in small
21 amounts. Were you ever advised not to talk about your salary
22 increase?

23 A Yes. My managers usually said not to mention my
24 salary outside.

25 Q In this period of time, 2011 to 2018, did you ever

1 request a promotion?

2 A Yes, I did request a promotion a couple of times.

3 Q Do you recall when?

4 A I think once was around 2015, or something around
5 that time, or otherwise around sometime in 2017.

6 Q And in 2015, who did you make that request to?

7 A It was to my immediate manager and, also, to my
8 manager's manager, who was visiting at that time and had a
9 one-on-one with me.

10 Q And did you ask during this one-on-one?

11 A Yes, I did.

12 Q And what did they say?

13 A She was -- she was very positive about getting me
14 the promotion and she said she will look into processing it.

15 Q And did you get that promotion?

16 A I did not.

17 Q Do you know why?

18 A So, I remember that around that time there was a
19 change in my chain of command. Three levels of managers
20 changed. And my current manager and my manager's manager
21 left. So, I, at that time, I was with three completely
22 different new managers in my chain of command, so I'm
23 guessing that's why it didn't happen. Before my manager
24 could put in a formal request, but she decided to leave.

25 Q And you mentioned you requested a promotion in

1 2017?

2 A Yes.

3 Q Can you describe that?

4 A So, I waited for some time to re-request a
5 promotion, because I knew my immediate manager was new and
6 his manager, and his manager were also new, so they didn't
7 have any kind of background about me. So, I decided to wait
8 one or two years and let them see my work and understand my
9 quality of work and then request a promotion in 2017.

10 Q And who did you request that promotion from in
11 2017?

12 A It was my immediate manager.

13 Q And can you describe -- how did you make that
14 request?

15 A It was a verbal request.

16 Q And did your manager say anything to you?

17 A He was also very positive that at least he will
18 take it forward to his management.

19 Q And did you get that promotion?

20 A No, I did not.

21 Q Did you follow up on that promotion?

22 A No, I did not. I had kind of given up hope.

23 Q Why did you not leave Oracle before 2018, if you
24 weren't getting any promotions or salary increases?

25 A I strongly felt that I was getting underpaid and I

1 deserved a promotion, but at the same time my children were
2 very busy with their high school. My older one was in high
3 school, and I used to help her with her -- a lot of high
4 school work. And she was busy and I was busy, in turn,
5 because of my children. So, I didn't get a chance to
6 actively look for a job because I was busy with my work
7 responsibilities and also trying to take care of my family,
8 and at the same time I remember my father-in-law was sick and
9 I was taking care of him, too, at least up to 2013, so I was
10 very busy. So, after that, my children came into high school
11 and I was very busy, so, yeah, I didn't have the time.

12 Q Thank you. You testified a moment ago that between
13 2011 and 2018 your salary only changed \$8,000.00. During
14 this period of time were you dissatisfied with your pay?

15 A I was very dissatisfied with my pay.

16 Q Did you ever put this dissatisfaction in writing?

17 A Yes, I did. I put it in my appraisal report and
18 also I mentioned it to my manager multiple times.

19 Q And do you know what year that was?

20 A The year I put it in writing was 2016.

21 Q And do you recall what you put down in writing?

22 A I put something to the effect hat I was not being
23 compensated for the amount of work and quality I was showing.

24 Q Did anyone talk to you about this comment at
25 Oracle?

1 A Yes. I mean my manager was always understanding.
2 I was fortunate to have a good manager. And he did take it
3 up to his management, but I was told that he had a limited
4 budget, so it didn't work out.

5 Q Did you have a reason for putting this comment in
6 writing?

7 A So, yes. Until then I believed I was generally
8 getting paid less, but at that time there was an incident
9 that made me feel that I was getting paid not just less for
10 probably outside standards, but far less compared to within
11 my own org.

12 Q And you stated there was an incident, can you
13 describe that incident?

14 A So, we have a printer in our kitchen, it's a public
15 area, and I just happened to be in the kitchen and I saw a
16 W-2 lying around, and I unintentionally happened to see that
17 it was a salary which was higher than mine. And I didn't
18 want the W-2 to be lying around in an open area, it's
19 generally not a good thing for anyone, and I decided to take
20 it back to the person who printed it. So, there was a name
21 on that, I looked up our internal director and that's when I
22 realized he is within the same org and he was a senior member
23 of technical staff, which is IC3, and he had joined recently
24 and probably that's why he had printed out the W-2. He was
25 actually making more than me when I was working on the core

1 projects. My immediate thing was working on the core Cloud
2 products, which were very highly complex and I was the
3 principal member of technical staff and I was getting far
4 less than a new person, new hire coming in as an SMTS, who
5 was not working on the core products. So, that kind of made
6 me realize how less I was getting paid. Even if I were on
7 the same level as the other person, still my salary was less.

8 And I was actually at a higher individual contributor level.

9 So, this kind of made me realize that there was a
10 difference within our organization, so I decided to put it in
11 writing in the next step raise.

12 Q Do you recall what salary you saw on the W-2?

13 A I do not have the exact numbers, it was a long time
14 back, but it was something around \$125,000.00, I believe.

15 Q And at that period of time do you recall how many
16 hours you were working?

17 A It was routine to work long hours, because of the
18 nature of my job. I specialized in certain products and
19 there were no backups for those products, I mean there were
20 no people to cover up for me, so it was routine to work extra
21 hours. If there was an urgent issue that came up on the
22 Cloud, there was no way to, you know, start the work and come
23 back the next day, I would work through the night. And it
24 was not unusual, I have worked through the night several days
25 and sometimes, I mean, 10 to 12 hours is a normal routine.

1 Q And when you saw the salary on the W-2, how did
2 that make you feel?

3 A I just felt wronged. I felt that I was not being
4 paid what was due to me.

5 Q And after you put your dissatisfaction about your
6 pay in writing, did you do anything else?

7 A I did talk to my manager, also, about this
8 incident. I just made sure he knew, also. So, he did say
9 that he will try to get me a raise, at that time.

10 Q Did you start looking for a new job?

11 A Yes, I did. I knew my manager -- I was confident
12 my manager would take it up, however, from the previous years
13 I knew that Oracle probably wouldn't increase my wage much
14 higher. It would go in small chunks. So, I decided, at that
15 point, especially with my daughter now going into college,
16 around 2018 she was graduating high school, so I decided I
17 needed to be able to get a better paying job, so I can help
18 her with tuition.

19 Q Did you find a new job?

20 A Yes.

21 Q Have you ever heard of the term: "Exit Interview"?

22 A Yes.

23 Q And what does that mean to you?

24 A An interview, generally, with HR or management,
25 before exiting.

1 Q When you left in 2018, did you get an exit
2 interview with Oracle?

3 A I did not get one by default, but I requested and I
4 contacted my HR representative and I requested an exit
5 interview.

6 Q And did you get that exit interview?

7 A Yes, I did.

8 Q Can you describe what happened in the exit
9 interview?

10 A So, I gave a feedback to HR and I had HR write it
11 down and make sure it's recorded. I wanted it to be on the
12 record that I really enjoyed working there and my team and my
13 management were excellent, but the only reason I was leaving
14 was because of my poor pay.

15 Q And you mentioned this was HR. Do you recall who
16 was present at this exit interview?

17 A Just the HR representative I had at that time.

18 Q And did that person say anything to you?

19 A She did. She looked up my IC level and she said:
20 "Oh, yeah, this is low for IC4, for the salary." I mean she
21 said the salary did seem very low for the IC level.

22 Q And so you testified you got a new job in 2018.
23 Why did you take that job?

24 A So, the role -- there are a few things I look for.
25 I'm being in the Product Development, I wanted to make sure

1 I will be having a good role, of course, which was something
2 compatible with my experience. And the other main reason was
3 my pay structure, I wanted a better paying job. So, the new
4 company definitely paid me -- offered me a much better
5 salary. So, that was a deciding factor.

6 Q And when you got that much better salary, how did
7 that make you feel?

8 A Finally, I felt that finally I was getting what was
9 due to me,

10 Q And you went back to Oracle in 2019. Why did you
11 go back?

12 A So, this is -- I had always enjoyed working at
13 Oracle. I'm a technologist and Oracle is the place where we
14 created a lot of technologies right from '99, I was involved
15 in a lot of creation of technologies. So, work was always
16 the best over there. And the reason I left was because of my
17 salary. And the reason I went back was because of three
18 things: I got a promotion, I got a much better salary, and
19 the work, the nature of the work was perfectly in tune with
20 my experience.

21 Q Right before you left Oracle in 2018, what was your
22 salary there?

23 A I'm sorry -- at which, please?

24 Q At Oracle?

25 A At Oracle, it was \$123,000.00.

1 Q And when you left Oracle in 2018, for this new job,
2 what was your starting salary there?

3 A It was \$170,000.00.

4 Q It was \$170,000.00?

5 A Yes.

6 Q And when you came back to Oracle, 12 months later,
7 in 2019, what was your starting salary then at Oracle?

8 A It was \$190,000.00.

9 Q What was the difference between your ending salary
10 at Oracle in 2018 and the salary you came back with in 2019?

11 A It was nearly \$70,000.00.

12 MS. PULLEY: I have no more questions, Your Honor.

13 JUDGE CLARK: Okay. Thank you.

14 Who has this witness?

15 MR. PARKER: I have the afternoon shift, Your
16 Honor.

17 JUDGE CLARK: Okay. Very good. Let's take a
18 10-minute break and we'll start up at 3:15 o'clock p.m.

19 So, you can step down if you need to.

20 THE WITNESS: Thank you.

21 JUDGE CLARK: We'll be off the record.

22 (Off the record at 3:03 o'clock p.m.)

23 JUDGE CLARK: We are back on the record. All
24 parties are present.

25 Ms. Shah has retaken the stand.

1 Mr. Parker?

2 MR. PARKER: May I approach, Your Honor? We'd like
3 to hand the witness an exhibit that is a copy of Exhibit 448.

4 JUDGE CLARK: Yes.

5 MS. PULLEY: I have an objection, Your Honor.

6 JUDGE CLARK: So, is this a new -- hang on a
7 second. So, this is a new -- do you want this marked or it's
8 just a copy of 448?

9 MR. PARKER: It's just a copy. And I don't want to
10 keep marking up the same document.

11 JUDGE CLARK: Okay. Got it.

12 And what's your objection?

13 MS. PULLEY: This is not being used for
14 impeachment, and so I believe this should have been put into
15 evidence.

16 JUDGE CLARK: So, are you admitting it into
17 evidence, your motion to admit it?

18 MR. PARKER: No, Your Honor.

19 MS. PULLEY: This should have initially been
20 provided to us as an exhibit in evidence, not now.

21 JUDGE CLARK: Mr. Parker?

22 MR. PARKER: I'm using it on cross. One, I'm using
23 it on cross and I think I'm entitled to use it on cross.
24 It's not a piece of evidence that we are trying to put in
25 through any of our directs. Secondly, they certainly can't

1 claim surprise since it's their letter.

2 JUDGE CLARK: Okay. And what's the relevance? Why
3 are you showing it to this particular witness or any of the
4 witnesses?

5 MR. PARKER: For this particular witness, I'm going
6 to show it because this particular witness is coming back
7 from -- back to Oracle. She received this document after she
8 already received an offer letter. And I'm going to ask this
9 witness, so the witness can hear, despite all your
10 complaints, you came back to Oracle.

11 JUDGE CLARK: Okay. I'm sorry, Mr. Parker, I
12 didn't need you to go into your --

13 MR. PARKER: I don't mind.

14 JUDGE CLARK: The relevance is does it show bias,
15 does it show --

16 MR. PARKER: It certainly does. And I think it
17 shows a state of mind.

18 JUDGE CLARK: The objection is overruled. You can
19 show the witness the exhibit. Go ahead, Mr. Parker.

20 MR. PARKER: Thank you very much.

21 CROSS-EXAMINATION

22 BY MR. PARKER:

23 Q I apologize, but I am not able to pronounce the
24 entirety of your last name.

25 A Shah is good.

1 Q Is it? And I don't mean any disrespect.

2 A No problem.

3 Q Very good.

4 A Shah is good.

5 Q Have you -- Ms. Shah, have you seen Exhibit 448
6 before?

7 JUDGE CLARK: That's the one --

8 MR. PARKER: It's the document I've just handed to
9 you.

10 THE WITNESS: This one?

11 MR. PARKER: Yes, Ma'am.

12 THE WITNESS: I do not recall if I have.

13 BY MR. PARKER:

14 Q Do you recall -- how did you get in touch with the
15 OFCCP?

16 A I think they called me.

17 Q Okay. Did they know -- did you have an
18 understanding of why they picked you out to call?

19 A My assumption is that they called every employee.
20 I don't know why particularly me.

21 Q Okay. All right, very good. Let's talk about a
22 few things. First, just to have an understanding. As I
23 understand it, you work on a variety of projects or products
24 in your life, but they're Cloud based, correct?

25 A Correct.

1 Q And I have a hunch about something. My hunch is
2 that one of the reasons you didn't think you were paid is
3 there aren't a lot of people with your expertise in Cloud,
4 correct?

5 A I cannot comment on that.

6 Q Well, do you believe you have an expertise in
7 Cloud?

8 A I do.

9 Q Okay. And you can work on Cloud, I think you said,
10 at the job you briefly had in 2018, those were Cloud products
11 you were working on?

12 A Yes.

13 Q And now you've come back to Oracle, correct?

14 A Yes.

15 Q How many people do what you do in your current
16 position at Oracle?

17 MS. PULLEY: Objection, calls for speculation.

18 JUDGE CLARK: Overruled.

19 If you know?

20 THE WITNESS: Can you repeat the question?

21 BY MR. PARKER:

22 Q How many people do what you do currently at Oracle,
23 since you've returned?

24 A I do not know, but Oracle -- all across Oracle --
25 but for ERP Cloud I'm the first (indiscernible) engineer.

1 Q Right. And Oracle created a special role for you,
2 correct?

3 A Yes. Or they had the plan of creating the role and
4 they picked me for it.

5 Q And do you know of anyone else who has a special
6 role that you have at Oracle presently?

7 A I do not know, but for ERP I'm the only one, or the
8 first one. We do have plans to increase it.

9 Q All right. And I think when you were at Oracle
10 there was a period of time prior to the time you took --
11 prior to 2008 you were working on Cloud then, too, correct?

12 A I was working on the core server technologies
13 product, which could be either housed on Cloud or on premise.

14 Q And you received, at that time -- you talked about
15 your salary, I believe, before you left in 2008, and part of
16 the discussion was your bonuses, correct, do you remember
17 that?

18 A I remember some bonuses, but I cannot recollect the
19 amounts.

20 Q Right. And what you said was they were too small
21 to remember, is that correct?

22 A Yes.

23 Q And what do you consider too small, what number
24 does that mean to you?

25 A It's a little, of course.

1 Q Of course it is.

2 A And what I remember was it was divided across the
3 years it was probably enough to pay for a fancy dinner.

4 Q Okay. And so let me ask this, would you consider
5 \$2,850.00 paid in 2000 as too small and just to pay for a
6 fancy dinner?

7 A Yes, I do consider that too small.

8 Q Okay. And what about the \$5,000.00 you received in
9 2001, would that be just enough to pay for a fancy dinner?

10 A Five thousand?

11 Q Yes, Ma'am.

12 A In 2001?

13 Q Yes, Ma'am.

14 A I don't have a recollection going that far, but I
15 must have been happy with the \$5,000.00.

16 Q Okay.

17 A And I also stayed beyond 2001.

18 Q And how about the \$3,000.00 you received in bonus
19 in 2003?

20 MS. PULLEY: Objection, assumes facts not in
21 evidence.

22 JUDGE CLARK: Mr. Parker, just lay a little more
23 foundation as you ask the question over.

24 MR. PARKER: That's fine. And because of the
25 objection, I believe I need to respond. This is J-132, Tab

1 Base Pay, Column C-1, Tab Bonus, Column C-2F. So, it is in
2 fact in evidence. And I will lay the foundation for this
3 witness' memory.

4 MS. PULLEY: I have another objection, Your Honor.
5 An objection for best evidence.

6 JUDGE CLARK: Overruled.

7 You can ask the question, lay the foundation.

8 MR. PARKER: Thank you, Your Honor.

9 BY MR. PARKER:

10 Q Do you recall that you received a \$4,200.00 bonus
11 for the first quarter of 2004?

12 A I might have. I have not had a chance to go back
13 that far to look at bonuses. They usually don't show up in
14 the self-service apps where I was able to refresh my mind
15 with the base structure, but bonuses were not part of that
16 information.

17 Q Did you understand that you received a \$4,500.00
18 bonus that same year for the second half of the year?

19 A I do not remember, as I mentioned I might have got,
20 and as I said, adding up all these bonuses still never
21 brought my pay to the scale which is paid outside or within
22 my own org.

23 Q And do you recall that you received a \$4,000.00
24 bonus in 2005?

25 MS. PULLEY: Objection, assumes facts in evidence.

1 JUDGE CLARK: So, my understanding was it is in
2 evidence. He cited to whatever the pages of the exhibit, so
3 it sounds like it's in evidence.

4 MS. PULLEY: I would also like to object for lack
5 of foundation.

6 JUDGE CLARK: Okay. I'm going to overrule the
7 objection. She's saying she does have some recollection, and
8 she doesn't have some, if she doesn't know, she doesn't know.
9 She can answer those questions.

10 You can answer the question if you know, if you
11 recall.

12 BY MR. PARKER:

13 Q And do you know whether you received a \$3,544.00
14 bonus in the first two quarters of 2006?

15 A These bonuses information I do not recall. It's
16 been too far back, so I do not recall the amounts.

17 Q And let me then ask this question on bonuses, it
18 will be my final. My assumption is you don't recall, for the
19 second half of 2006, receiving a \$4,163.00 bonus?

20 A I do not.

21 Q Okay. Now, let's talk about that W-2 that you
22 found. When was that?

23 A Sometime around 2016, I believe.

24 Q Okay. And you said that person was in your same
25 organization, do you recall that?

- 1 A Sorry, I didn't understand the question.
- 2 Q You said you found a W-2?
- 3 A Yes.
- 4 Q You saw the name of the person?
- 5 A Yes.
- 6 Q And you understood that that person worked in your
7 same organization, correct?
- 8 A Yes.
- 9 Q And what organization was that?
- 10 A This was in the Sustaining Engineering of Server
11 Technologies.
- 12 Q And what did that person do, specifically?
- 13 A He was an engineer, a Product Development
14 sustaining engineer.
- 15 Q What did he do, specifically, as a sustaining
16 engineer in Product Development?
- 17 A It was well known he was also working on, I suppose
18 because we were part of the Sustaining Engineering, he was
19 working on sustaining the product.
- 20 Q Did you manage him?
- 21 A No, I did not.
- 22 Q Did you hire him?
- 23 A I did not.
- 24 Q Did you work side-by-side with him?
- 25 A No, I did not.

1 Q You don't know what he really did, do you, other
2 than being a sustaining engineer?

3 A I know that he was part of our org and he was in a
4 (indiscernible) -- he was in a peer group. I did not know
5 the exact work he did, because I did not -- I work more
6 focused on my products. And I can tell you one thing, that
7 Server Technologies code product were handled by me and my
8 immediate team, not by the peer groups. They worked on other
9 tools and infrastructures, but not the cores of our
10 technology product.

11 Q And one thing I did want to talk to you about --
12 well, let me finish this out. Now, at some point you went to
13 HR and complained about your pay, correct?

14 MS. PULLEY: Objection, misstates the testimony.

15 THE WITNESS: I did not go to HR.

16 JUDGE CLARK: Hang on a second.

17 Overruled. She's answering the question.

18 Overruled.

19 THE WITNESS: I'm sorry.

20 JUDGE CLARK: You can answer the question.

21 THE WITNESS: Sorry. Are you asking if I went to
22 HR and complained?

23 MR. PARKER: Yes, Ma'am.

24 THE WITNESS: I did not go to HR and complain.

25 MR. PARKER: Okay.

1 BY MR. PARKER:

2 Q And when you complained about your -- did you
3 complain to anyone about your compensation?

4 A Yes. As stated, I went to my managers and I took
5 my complaints or request to my managers, constantly.

6 Q And your complaint was you were paid too low,
7 correct?

8 A Yes.

9 Q And as I understand it, one of the issues was
10 against the market outside of Oracle you were paid too low,
11 correct?

12 A Yes.

13 Q And you didn't complain that your wage was set too
14 low because you were a woman or because of your race,
15 correct?

16 A I would not have known, so I didn't complain that
17 way. I only stated my position, it was -- I did not identify
18 the reasons for that, but I only stated my position.

19 Q And the same is true of your exit interview, you
20 complained that your pay was poor, correct?

21 A Yes, yes.

22 Q Now, I don't know if you know this, but let me ask.
23 Don't you think other men at Oracle would complain about
24 their salary being below market?

25 MS. PULLEY: Objection, calls for speculation.

1 THE WITNESS: How can I know that?

2 MR. PARKER: Okay.

3 JUDGE CLARK: Sustained.

4 MR. PARKER: Okay.

5 BY MR. PARKER:

6 Q So, you don't know whether or not men complain
7 about their pay being too low?

8 MS. PULLEY: Objection, calls for speculation.

9 THE WITNESS: I have absolutely no idea.

10 MR. PARKER: Okay, very good.

11 JUDGE CLARK: If she knows. She said she doesn't
12 know.

13 THE WITNESS: I'm sorry.

14 JUDGE CLARK: You're okay. You're good.

15 MR. PARKER: You're perfectly fine.

16 BY MR. PARKER:

17 Q All right. Now, a question for you, and I forgot
18 about this -- I forgot to ask you this, or perhaps you
19 answered, but please excuse me. When did you -- when did
20 OFCCP reach out to you?

21 MS. PULLEY: Objection, asked and answered.

22 JUDGE CLARK: Overruled.

23 You can answer the question.

24 THE WITNESS: Sometime in April, I believe.

25 MR. PARKER: Okay.

1 BY MR. PARKER:

2 Q April 2019?

3 A I think so.

4 Q Okay. And what did -- and at that time, you had
5 already accepted a position again at Oracle, correct?

6 A Yes.

7 Q And this would have been the third time you were
8 back at Oracle, correct?

9 A Yes, the third time.

10 Q So, you went to Oracle the first time, correct?

11 A Yes.

12 Q You didn't think your salary was right then, your
13 compensation, correct?

14 A Yes.

15 Q Then you came back?

16 A Yes.

17 Q And then you left Oracle again, because you didn't
18 think your compensation was correct?

19 A Yes.

20 Q And then you came back, again?

21 A The second time, as I stated, I felt that my
22 sacrifices were not justifying the salary paid to me, I left
23 to focus on my family and take care of things, because my
24 salary was just not making it work well for me. And yes, I
25 came back again.

1 Q Now, one thing that I want to clear up, because I
2 think -- I just want to clear up something. You were an IC3
3 and then you moved to IC4 in 2007, correct?

4 A Yes.

5 Q And then you also talk, at the same time, about a
6 title which was when you moved -- principal member technical
7 staff, do you recall that?

8 A Principal member of technical staff, in 2007.

9 Q Yes, yes, Ma'am.

10 A Yeah, that is IC4, yes.

11 Q Okay. And the principal member technical staff, do
12 you understand at Oracle -- and you may not -- but do you
13 understanding at Oracle that's called a discretionary title?

14 A I'm not aware.

15 Q Okay. You do understand, though, that when the
16 same year that you moved to IC4 you received a raise?

17 A Yes.

18 Q Okay. And then the same thing when you moved to
19 IC5, you're making more money now, correct?

20 A If you look at the proportion of increase, that's
21 very different, but yes.

22 Q I understand it's very different, we can do the
23 math on it, but you did get an increase, correct?

24 A Yes.

25 Q And not only do you not -- and when we talk about

1 the W-2, you haven't been a manager at Oracle at anytime,
2 correct?

3 A I have chosen not to be a manager.

4 Q Did someone ask you if you wanted to be a manager?

5 A There is always a pathway, it is usually initiated
6 by the employees. I could go ahead at Oracle and request
7 them to make me a manager, and there is a separate pathway.
8 And I have always chosen to be a technologist and an
9 individual contributor, and I do mentor teams and work with
10 teams and I did not want to be burdened with HR issues, so I
11 always chose to be an individual contributor.

12 Q And you have not participated in the setting of
13 compensation, correct?

14 A I have not.

15 Q The same with bonus of others?

16 A I am not.

17 Q The same with focal reviews or raises?

18 A I am not.

19 Q Same with performance reviews, correct?

20 A Yes.

21 MR. PARKER: One moment, Your Honor.

22 JUDGE CLARK: Thank you.

23 MR. PARKER: I've been told that I made the grade,
24 so I'm going to have no more questions at this time.

25 JUDGE CLARK: Thank you, Mr. Parker.

1 Ms. Pulley, anything further?

2 MS. PULLEY: Nothing further, Your Honor.

3 JUDGE CLARK: Okay.

4 Ms. Shah, thank you so much for your time, you are
5 free to go.

6 THE WITNESS: Thank you.

7 (Witness excused.)

8 JUDGE CLARK: Thank you. You can just leave
9 whatever papers are up there, you can just go ahead and leave
10 them there and take your bottle of water and have a good
11 afternoon. Thanks again.

12 So, it's 3:30 o'clock p.m. We're scheduled until
13 5:30 o'clock p.m. Do we have another witness today?

14 MS. BREMER: Your Honor, no, we do not. One of our
15 witnesses was ill and we're still hoping that she can appear
16 tomorrow, but is not available today.

17 JUDGE CLARK: Okay. So, do you have anything
18 further, anything else we can put on today?

19 (No verbal response.)

20 JUDGE CLARK: Okay. So, when we set the dates,
21 both parties thought I didn't allot enough time for the
22 hearing. And then during the prehearing conference you both
23 said I didn't give enough time and we agreed to extend the
24 hours, and potentially extend the day. Now it's 3:30 o'clock
25 p.m., so I don't mind ending early, but I don't want to pick

1 it up at the back and have to come back weeks later, because
2 we can't finish the case in the allotted time. So --

3 MS. BREMER: We expect that we are on track, Your
4 Honor, with the current schedule.

5 JUDGE CLARK: Ms. Connell or Mr. Parker?

6 MR. PARKER: All our interest is that we don't get
7 cheated because these last two hours are unoccupied by an
8 OFCCP time, otherwise I understand what the Court has said.

9 JUDGE CLARK: Okay. I don't mind ending early, but
10 I'd rather fill up the court day. And if the whole hearing
11 ends early, I'd rather end the whole hearing early, days
12 early, particularly since the time of year we're at, than
13 just simply being in session 10 days because we all agreed
14 we'd have a 10-day hearing.

15 So, anything further for the record? Well, there
16 are a few things we can go through, but any -- you have no
17 further witnesses today, correct, Ms. Bremer?

18 MS. BREMER: That's correct.

19 JUDGE CLARK: Okay.

20 So, let's talk about a couple of the other things
21 then. Is Ms. Hermosillo here? Here she is.

22 So, you had asked about putting something on the
23 record under seal. Are you going to handle that or is
24 somebody else going to do that -- or is that even an issue
25 any longer? Was it the names of the Jane Doe -- there were

1 three when Ms. Klagenberg testified.

2 MS. HERMOSILLO: So, that was the amount of stock
3 options, I believe, that had been -- it wasn't the amount of
4 stock options, but it was the financial terms of the stock
5 options that had gone in, so the questions were asked, the
6 objection was sustained. But the numbers are still there.
7 So, I was asking if that portion could be put under seal.

8 JUDGE CLARK: Okay. And I overruled that
9 objection. I'm talking about Ms. Klagenberg talked about
10 three people in her testimony and you had made a motion to
11 put something under seal regarding their names.

12 MS. HERMOSILLO: Oh, excuse me, yes, that's
13 correct, Your Honor.

14 JUDGE CLARK: Okay. And are you still making that
15 motion or did we take care of that when you gave the names to
16 Ms. Connell?

17 MS. HERMOSILLO: I mean we would still prefer to
18 have those names placed under seal, so that we can use them
19 on briefing, should we need to.

20 JUDGE CLARK: Okay. I'll tell you what, I'm going
21 to pass that, I'm going to let the parties talk about that
22 and you can pick it up with me once you've decided if you can
23 agree on how those come into the record. Because I think you
24 would be able to refer to Jane Doe, for sure, if you need to
25 know -- I don't know why you need to know the specific name,

1 you can refer to the testimony and I would know exactly what
2 you're talking about. But I will leave that to a different
3 -- to another time.

4 MS. HERMOSILLO: Okay.

5 JUDGE CLARK: The second thing left are these --
6 we've marked some exhibits just for the record at this point,
7 we're just keeping them marked for the record, nobody is
8 moving them into evidence or anything?

9 MR. PARKER: I think we will, but if you could just
10 give us until tomorrow.

11 JUDGE CLARK: Okay. I will keep those.

12 MR. PARKER: Thank you.

13 JUDGE CLARK: And then we have the depositions that
14 I deferred from this morning. Let's talk about how best to
15 do that. I do think it would be better to have just the
16 parts of the depositions that the parties want to have into
17 evidence, the same true for the actual videotapes, if you
18 want me to watch the videotapes. And the errata, including
19 that, as well.

20 And Mr. Parker, since I recall this morning you
21 said you didn't think it was going to be a big deal to make
22 those changes, that I would propose you do that and let Mr.
23 Garcia take a look.

24 MR. PARKER: You're giving me my own medicine, and
25 I'll take it.

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TITLE: Federal Contract Compliance Programs v. Oracle
America, Inc.

CASE NUMBER: 2017-OFC-00006

OWCP NUMBER: N/A

DATE: December 5, 2019

LOCATION: San Francisco, CA

This is to certify that the attached proceedings
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