

UNITED STATES DEPARTMENT OF LABOR  
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of: )  
)  
OFFICE OF FEDERAL CONTRACT ) Case No. 2017-OFC-00006  
COMPLIANCE PROGRAMS, )  
U.S. DEPARTMENT OF LABOR, )  
)  
Plaintiff, )  
)  
vs. )  
)  
ORACLE AMERICA, INC., )  
)  
Defendant. )  
)

**VOLUME III**

Tuesday,  
December 10, 2019

Office of OALJ  
90 Seventh Street  
San Francisco, CA

The above-entitled matter came on for hearing,  
pursuant to notice, at 9:00 o'clock a.m.

BEFORE: THE HONORABLE RICHARD M. CLARK,  
Administrative Law Judge

**APPEARANCES:**On behalf of the Plaintiff:

LAURA BREMER, ESQ.  
NORMAN E. GARCIA, ESQ.  
JANET HEROLD, ESQ.  
PAIGE B. PULLEY, ESQ.  
DAVID EDELI, ESQ.  
EDUARD MELESHINSKY, ESQ.  
KIESHA COCKETT, ESQ.  
U.S. Department of Labor  
Office of the Solicitor  
90 7th Street, Suite 3-700  
San Francisco, CA 94103  
415-625-7740 415-625-7772 fax

M. ANA HERMOSILLO, ESQ.  
U.S. Department of Labor  
Office of the Solicitor  
300 Fifth Street, Suite 1120  
Seattle, WA 98104  
206-757-6751 206-757-6761 fax

On behalf of the Defendant:

WARRINGTON S. PARKER III, ESQ.  
ERIN M. CONNELL, ESQ.  
KATHRYN MANTOAN, ESQ.  
Orrick, Herrington & Sutcliffe, LLP  
The Orrick Building  
405 Howard Street,  
San Francisco, CA 94105-2669

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WITNESSES:DIRECTCROSSREDIRECTRECROSSALJ

Tamerlane Baxter

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Nicole Alexander

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Vicky Hardman

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Sean Ratliff

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EXHIBITS:IDENTIFIEDRECEIVEDREJECTEDPLAINTIFF

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450 and 451

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DEFENDANT

(None entered or received.)

ADMINISTRATIVE LAW JUDGE

(None entered or received.)

P R O C E E D I N G S

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

1  
2  
3 JUDGE CLARK: Okay. Good morning. We are on the  
4 record in the matter of OFCCP versus Oracle America,  
5 Incorporated, Case Number 2017-OFC-00006.

6 Today is December 10th, 2019, it's Day 3 of our  
7 hearing, and all parties are present this morning.

8 Ms. Bremmer, who do we intend to call as witnesses  
9 today?

10 MS. BREMMER: OFCCP intends to call Tamerlane  
11 Baxter.

12 JUDGE CLARK: Okay.

13 MS. BREMMER: Nicole Alexander, Sean Ratliff, and  
14 Victoria Hardman.

15 We have decided not to call Jane Suhr. We believe  
16 her testimony's not necessary in light of the testimony of  
17 Shauna Holman-Harries on Friday. So since we're not calling  
18 her, today may be a little bit shorter, but she will be off  
19 our witness list.

20 And then tomorrow will be Dr. Madden and on  
21 Thursday Dr. Madden will continue if she hasn't completed her  
22 testimony on Wednesday, and then we have one witness left  
23 Kuassi Mensah. And so we expect to be done with our case  
24 before the end of the day on Thursday.

25 JUDGE CLARK: Okay. Is there some reason why

1 Kuassi, that particular witness, is not going to be here  
2 today to fill in?

3 MS. BREMMER: Yes. He's on a business trip in  
4 India for Oracle currently.

5 JUDGE CLARK: Okay.

6 Mr. Parker, was there something you wanted to put  
7 on the record?

8 MR. PARKER: Ah, yes, Your Honor.

9 JUDGE CLARK: Go ahead.

10 MR. PARKER: We would like to talk to the Court  
11 about the testimony of Sean Ratcliff [sic] -- Ratliff I'm  
12 sorry.

13 JUDGE CLARK: Okay.

14 MR. PARKER: Sean Ratliff is the district director  
15 of San Diego. He was not otherwise involved in this case  
16 except for the following two instances:

17 He was OFCCP's 30(b)(6) witness on what we call the  
18 failure to produce claims, the claims that have been now  
19 resolved on summary judgement by this court. He was also the  
20 OFCCP's 30(b)(6) witness on the facts that underlie --  
21 underlay -- underlied that supported the supplemented  
22 complaint. Notably for the second topic, the 30(b)(6) topic,  
23 OFCCP restricted Mr. Ratliff's testimony to facts know to  
24 OFCCP at the time they filed the second amended complaint.  
25 That was the subject of a motion *in limine*.

1           My understanding and, if the Court looks at the  
2 description of what Mr. Ratliff was going to talk -- was to  
3 talk about, it states: "That he will testify regarding  
4 documents and data produced by Oracle." Now at the time, and  
5 before the summary judgement motion, we believed that, that  
6 would be with regard to items produced or not produced  
7 according to OFCCP before the filing of any complaint and  
8 during the audit period. And we had an opportunity to  
9 cross-examine Mr. Ratliff on that topic.

10           We became concerned as we were preparing for the  
11 cross-examination that there is law -- and I'll provide the  
12 court cases and cites -- there is law that says:

13           "A party that has a 30(b)(6) witness cannot  
14 call them to the stand at trial to  
15 affirmatively present testimony, because  
16 Federal Rule of Evidence 602 requires personal  
17 knowledge."

18           And there's case law that says the 30(b)(6)  
19 deposition rules that allow that are for convenience of  
20 parties, but when it comes to trial, one cannot affirmatively  
21 present your own 30(b)(6) witness, because Federal Rule of  
22 Evidence 602 requires one to have personal knowledge.

23           Yesterday I spoke to Ms. Bremmer about this  
24 particular issue and Ms. Bremmer told me -- and I have an  
25 email to confirm my understanding and it was not responded

1 to, so I believe my understanding is correct -- that in fact  
2 Mr. Ratliff was not going to talk about items produced during  
3 the audit which was the subject of the 30(b)(6) testimony,  
4 which already for us was suspect given the rules of Federal  
5 Rule of Evidence 602. But rather that Mr. Ratliff would  
6 testify regarding documents in the data base information  
7 produced since litigation commenced.

8           Now Mr. Ratliff's sole role in this case has been  
9 as a 30(b)(6). I do not believe Mr. Ratliff has a foundation  
10 -- we've never corresponded with him about discovery, we've  
11 never talked to him about the database while this case was  
12 going on -- has a basis to talk about documents and databases  
13 produced in this litigation.

14           As this court will recall, we brought a motion in  
15 limine number 12 that said we should: "OFCCP attorney's  
16 should not be allowed to testify." And this Court denied it  
17 as mute, because OFCCP said that they weren't going to call  
18 any attorneys. I believe that this will be an end run around  
19 that representation and this Court's order because Mr.  
20 Ratliff in my view, could only know facts regarding documents  
21 and database produced since litigation commenced from OFCCP's  
22 attorneys. And so effectively we have, if you will, a  
23 surrogate.

24           The other thing that I think would be of note on  
25 this is Mr. Ratliff was not identified in interrogatory

1 responses as someone with personal knowledge and, in fact,  
2 only appeared on two different instances as a 30(b)(6)  
3 witness. And, therefore, we don't believe Mr. Ratliff should  
4 be allowed to testify.

5 Let me provide the Court with cases and I'll also  
6 provide a copy for the record. I'm going to provide to the  
7 Court Federal Rule of Evidence 602, a case out of the Western  
8 District of Michigan dated 2016 called *Stryker Corporation*  
9 *versus Ridgeway*. Stryker spelled S-T-R-Y-K-E-R. A case out  
10 of the Northern District of Ohio called *Cooley vs Lincoln*  
11 *Electric Company*, C-O-O-L-E-Y and then Lincoln common  
12 spelling Electric same. And last, a case out of the Middle  
13 District of Florida, *Industrial Engineering and Development,*  
14 *Inc. versus Data Control Components* it's dated 2014. And  
15 just so the record is clear, the *Cooley* case is dated March  
16 10, 2010.

17 May I approach?

18 JUDGE CLARK: Yes. Thank you. You've given a copy  
19 of those to -- are you giving them now to Ms. Bremmer?

20 Thank you.

21 Ms. Bremmer, would you care to be heard?

22 MR. GARCIA: Your Honor, I will speak for OFCCP.

23 JUDGE CLARK: Mr. Garcia, go ahead.

24 MR. GARCIA: One of the objections to OFCCP's  
25 exhibits was P-171, and the Court -- and we stated to the

1 Court that we would bring in a person to lay the foundation.

2 Mr. Ratliff personally built P-171, so he has personal  
3 knowledge regarding that exhibit and will give testimony  
4 regarding that exhibit. The main objection from Oracle is  
5 that Mr. Ratliff doesn't have any personal knowledge. And as  
6 you will see, when Mr. Ratliff testifies, he will show that  
7 he does have personal knowledge he will take a spreadsheet  
8 Bates Stamp No. 3616 which is P-260, Exhibit -- and he will  
9 show how he manipulated that spreadsheet that was produced  
10 and how he came up with the results of Exhibit P-171.

11 There was also testimony rendered on Friday  
12 regarding what a snapshot contains by Ms. Holman-Harris  
13 [sic]. Mr. Ratliff, because he is the district director of  
14 San Diego has been an OFCP -- OFCCP district director for  
15 four years, has a lot of experience with snapshots and can  
16 provide information to the Court about the information  
17 contained there in and address Ms. Holman-Harries comments on  
18 Friday.

19 So, for these reasons, Mr. Ratliff has personal  
20 knowledge for the subjects that he will testify in this case.

21 JUDGE CLARK: So, Mr. Garcia, what about Mr.  
22 Parker's argument that since he was a 30(b)(6) witness he  
23 can't be called as a witness in this proceeding? I have not  
24 read these cases so I need to do that.

25 MR. GARCIA: His argument, Your Honor, is saying

1 that it was related to the topics that he was the 30(b)(6)  
2 witness for. Mr. Ratliff is not going to be testifying on  
3 those topics that he was presented as a Rule 30(b)(6) witness  
4 person most knowledgeable. Instead, he's going to be talking  
5 about other topics that he as a percipient witness has  
6 knowledge of.

7 JUDGE CLARK: Okay.

8 Mr. Parker, anything further?

9 MR. PARKER: Yeah. There's two things further.

10 First, the snapshot is or is in evidence. That is  
11 now on expert testimony about what snapshots should or  
12 shouldn't look like. They had Ms. Holman-Harries here who  
13 was a percipient witness and they could have asked any number  
14 of questions about that particular snapshot. It is still --  
15 there's no personal basis in -- there's no involvement in  
16 this case, no correspondence between Ms. Holman-Harries and  
17 Mr. Ratliff about a snapshot. And certainly would be -- so I  
18 don't know what he would say. He certainly can't say that he  
19 received it, he was not in that line.

20 Secondly, whether it has things or doesn't have  
21 things in it is a matter of whether OFCCP asked for it or  
22 didn't ask for it, and it's an interpretation of OFCCP by a  
23 person not involved and it's in evidence. If OCCP [sic]  
24 wants to make argument, certainly, based on that. But to  
25 avoid the percipient witness and not ask any questions about

1 the snapshot, and then to bring in Mr. Ratliff -- who's not  
2 involved -- and because he has seen snapshots in the past --  
3 utterly irrelevant -- but it would also be expert testimony.

4 P-171, this is an exhibit that was used in a deposition. It  
5 doesn't matter to me how Mr. Ratliff arrived at this exhibit,  
6 it matters what the person who testified who was shown this  
7 would say about it in the exhibit. And I'm going to double  
8 check, but I believe it was Juan Loiza.

9 So merely having this doesn't matter what Mr.  
10 Ratliff did. What matters is what the witness said about it  
11 when the witness saw that. And so Mr. Ratliff could say  
12 however he created it, but it is utterly irrelevant, in this  
13 case, unless the deponent who this was shown to can actually  
14 say what it is. And, if I recall correctly, the deponent  
15 said he didn't know what it was. So there is again no basis  
16 for putting this into evidence through Mr. Ratliff, because  
17 it would be irrelevant, there's no testimony supporting what  
18 this is or isn't.

19 MR. GARCIA: Your Honor, may I respond?

20 JUDGE CLARK: Yes, Mr. Garcia, go ahead.

21 MR. GARCIA: Let me definitively state that, that  
22 exhibit was not presented at Juan Loiza's deposition. In  
23 fact, that exhibit was physically created less than two  
24 months ago --

25 MR. PARKER: I'm sorry --

1 MR. GARCIA: I'm not done yet, please.

2 Let me also definitively state that Mr. Ratliff, in  
3 terms of the snapshot, is going to identify that a snapshot  
4 by it's very nature includes information of the prior year  
5 pertaining to what was the performance evaluations in the  
6 prior year: what was the bonuses or equity stock received,  
7 such that a 2014 snapshot would have like bonuses,  
8 performance, stock from 2013.

9 He would also identify that, if a 2013 snapshot was  
10 produced, like OFCCP requested, having the same data fields  
11 as was in the 2014 snapshot that is in Bates Stamp No. 3616  
12 which is Exhibit P-260, then it would also include  
13 information pertaining to bonuses, stocks, performance  
14 evaluations from 2012.

15 Now Mr. Ratliff is not testifying as an expert.  
16 He's testifying as his percipient knowledge of what  
17 information is included in the snapshot, based upon his  
18 review and using the 3616 Bates No., document P-260.

19 MR. PARKER: One last word.

20 JUDGE CLARK: Mr. Parker, go ahead.

21 MR. PARKER: And I apologize. So it was not used  
22 in Juan Loiza, but let me tell you this. The snapshot on  
23 which P-171 is based is in evidence as Exhibit P-260. So we  
24 don't need -- there's not testimony about this other than  
25 what Mr. Ratliff would have said he's done, but that's not

1     pertinent at all to these proceedings, particularly because  
2     Mr. Ratliff is not involved in this case except to say what  
3     he's done to a document.

4             Secondly, what should be or isn't or is in the  
5     snapshots, the snapshots are in evidence. I think this is  
6     going to go a little bit further than that. So we don't need  
7     Mr. Ratliff to tell us what's in the snapshots because we got  
8     that, it's in evidence. And there's going to be Dr. Madden  
9     who relied on perhaps the snapshots and, if she did, Dr.  
10    Madden can testify about that.

11            I think what's going to happen is Mr. Ratliff's  
12    going to say: "Typically what you see in a snapshot is this  
13    and I don't see it here." Now true or not that's a failure  
14    to produce at most, but that is -- this Court already heard  
15    about give and take during the audit period between Ms.  
16    Holman-Harries and OFCCP.

17            Furthermore, those documents right now are in  
18    evidence about the give and take between OFCCP and Oracle.  
19    So, one, we don't need Mr. Ratliff to say what's in a  
20    snapshot or not. And again that is expert testimony, because  
21    it's based on facts not in evidence in this case. It's based  
22    on Mr. Ratliff's knowledge of what a snapshot should be,  
23    that's outside the parameters of this case. That is  
24    necessarily not percipient, it would violate Rule 602 and it  
25    definitely goes into the world of 702 and expert opinion.

1           But I think there's more to it. Right. I think  
2 there's more to it. I think it's a way of saying what should  
3 have been there but wasn't there, and that is also the give  
4 and take directly between OFCCP and Oracle. And what would  
5 be even worse is if when Mr. Ratliff says, "Well I don't know  
6 what was exactly asked for. I don't remember --" I mean,  
7 this is a back and forth. This Court can determine the facts  
8 of this case with this case, not bringing in someone who  
9 literally doesn't know who created a document and then wants  
10 to testify about what a snapshot should look like or what you  
11 would expect to see.

12           JUDGE CLARK: Mr. Garcia, anything further?

13           MR. GARCIA: Yes, Your Honor.

14           Mr. Ratliff is not going to testify about what  
15 should have been included in the snapshot. What Mr. Ratliff  
16 is going to testify is about Ms. Holman-Harris's comments  
17 that were made, that some of the information in the 2014  
18 snapshot was from 2013. Mr. Ratliff is going to identify  
19 what that information is. And is going to identify that,  
20 when you do a snapshot, when it's as of a certain date, like  
21 January 1st, 2014, then people usually don't receive bonuses  
22 or equities or other actions that occur exactly on that date.  
23       Now that may be their -- they may have their salary known on  
24 that date, but other things are not. That's what he's going  
25 to attestify to, is to identify what things were in the 2014

1 snapshot that came from 2013.

2 JUDGE CLARK: Okay. At this point -- he's not your  
3 first witness, I take it, correct?

4 MR. GARCIA: Yes, Your Honor. He's not our first  
5 witness.

6 JUDGE CLARK: Okay. I'm going to take the matter  
7 under submission. I need to read the cases and the  
8 information provided by Mr. Parker, and we will address the  
9 issue before you call him as a witness here today.

10 MR. GARCIA: Thank you, Your Honor.

11 JUDGE CLARK: Anything else, Mr. Parker?

12 MR. PARKER: No, Your Honor.

13 JUDGE CLARK: Okay.

14 So I issued an order yesterday regarding a number  
15 of the objections that were still pending to the hearing  
16 exhibits. The order was dated December 9th, 2019.

17 Did you receive your copy of that Ms. Bremmer?

18 MS. BREMMER: Yes, Your Honor.

19 JUDGE CLARK: And Ms. Connell?

20 MS. CONNELL: Yes, Your Honor.

21 THE COURT: Okay. So I'm just going to go through,  
22 just so the record is clear, I'm not going to address the  
23 reasoning I'm just going to put on what was admitted, what  
24 was withdrawn, and what was not admitted. I'm just going to  
25 put that on to the record here.



1 the depositions and the errata that were previously discussed  
2 -- I show Joint Exhibit 102, Plaintiff Exhibit 3, Plaintiff  
3 Exhibit 7, Plaintiff Exhibit 10 through Plaintiff Exhibit 27,  
4 Plaintiff 271, and Plaintiff Exhibit 329 and Defense Exhibits  
5 439 through 443. So those relate to the depositions which  
6 should be admitted once the specific portions are received.

7 And then there's a few other additional exhibits  
8 that are under submission subject to foundation. Plaintiff  
9 Exhibit 88, 93, Plaintiff 171, and Plaintiff Exhibit 499  
10 through 505, and Defense Exhibits 88 through 91, Defense 93,  
11 Defense 96 and 97, and then Defense 99 through 106.

12 And, I think, that basically takes care of the  
13 evidence that has been offered at the hearing.

14 MR. Garcia, would you care to be heard about the  
15 evidence?

16 MR. GARCIA: Your Honor, that's our understanding  
17 as well, essentially.

18 JUDGE CLARK: Okay.

19 Mr. Parker, I think you were handling the exhibits  
20 if I recall?

21 MR. PARKER: I was. And there's nothing further,  
22 Your Honor.

23 JUDGE CLARK: All right. Thank you.

24 Okay. Anything else? I think we just have the  
25 motions related to the confidentially that are remaining. I

1 think, there's an update due on December 20th, or briefing  
2 due on December 20th. Those are the issues I want to discuss  
3 this morning.

4 Anything else before we get started today, Ms.  
5 Bremmer?

6 MS. BREMMER: No, Your Honor.

7 JUDGE CLARK: And Ms. Connell?

8 MS. CONNELL: No, Your Honor.

9 JUDGE CLARK: Ms. Bremmer, you may call your first  
10 witness.

11 MS. BREMMER: OFCCP calls Tamerlane Baxter.

12 MR. GARCIA: Ms. Baxter is downstairs, Your Honor,  
13 we'll go get her or somebody will get her.

14 JUDGE CLARK: Okay. We'll go off the record until  
15 Ms. Baxter arrives.

16 (Off the record at 9:21 o'clock a.m.)

17 JUDGE CLARK: And before you have a seat if you  
18 would raise your right hand.

19 Whereupon,

20 TAMERLANE BAXTER,

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

23 JUDGE CLARK: Have a seat, please. And then if you  
24 would state your name and spell it for our record, please?

25 THE WITNESS: Tamerlane Baxter. T-A-M-E-R-L-A-N-E

1 Baxter, B as in boy A-X-T-E-R.

2 JUDGE CLARK: Great. Thank you, Ms. Baxter. So  
3 the lawyer's going to ask you questions -- probably much like  
4 you've seen on TV and I'm not sure if you've given a  
5 deposition in this case or not -- let the lawyer ask the  
6 complete question and then you give your answer, they'll let  
7 you give the complete answer. Because we're recording  
8 everything that's said here and we can't record two people  
9 talking at the same time, understand?

10 THE WITNESS: Yes.

11 JUDGE CLARK: And because we're recording you have  
12 to speak out loud yes or no, not uh-hu or uh-huh or shake  
13 your head, because we can't really take that down,  
14 understand?

15 THE WITNESS: Yes.

16 JUDGE CLARK: If one of the lawyers makes an  
17 objection, just stop talking, I'll let you know whether or  
18 not you can answer the question. And if you don't understand  
19 something, just let us know and we'll have the lawyers  
20 rephrase it for you, sound good?

21 THE WITNESS: Yes.

22 JUDGE CLARK: Who has this witness?

23 MS. BREMMER: I do, Your Honor.

24 JUDGE CLARK: Ms. Bremmer, you may go ahead.

25 DIRECT EXAMINATION

1

2 BY MS. BREMMER:3 Q Ms. Baxter, my name is Laura Bremmer, I've met you  
4 before at your deposition, do you recall?

5 A I do recall.

6 Q Okay. Great. Ms. Baxter, you are a human  
7 resources senior director for Oracle, correct?

8 A That's correct.

9 Q And the global career level for your position is  
10 M5?

11 A That's correct.

12 Q You've had that job since about 2012, is that  
13 right?

14 A I've been a senior director since then, yes.

15 Q Who do you report to?

16 A Vickie Thrasher.

17 Q And when did you start reporting to Vickie  
18 Thrasher?

19 A In the fall of 2014.

20 Q And Vickie Thrasher reports to Joyce Westerdahl?

21 A That's correct.

22 Q And Joyce Westerdahl reports to Safra Catz,  
23 correct?

24 A That's correct.

25 Q And this has been your reporting hierarchy since

1 the fall of 2014?

2 A Yes.

3 Q Starting in late 2014, you took on a new role  
4 managing workplace investigations at Oracle, correct?

5 A That's correct.

6 Q Since that time you have managed workplace  
7 investigations for all Oracle locations in North America?

8 A Could you repeat your question? I'm sorry, Ms.  
9 Bremmer.

10 Q When you took on the role managing workplace  
11 investigations at Oracle, did the scope of the investigations  
12 include all of Oracle's locations in North America?

13 A My team specifically has been doing investigations  
14 in the US since that time and not necessarily Canada,  
15 although we do, have done some in Canada.

16 Q And have you had any responsibilities globally?

17 A Yes.

18 Q Okay. For all Oracle locations globally?

19 A Are you asking if I have responsibilities now  
20 globally?

21 Q Yes.

22 A Your question was have I had global  
23 responsibilities.

24 Q Since the fall of 2014?

25 A Can you repeat your question please?

1           Q     In your role managing workplace investigations at  
2 Oracle, what has been the geographical scope of your  
3 responsibilities?

4           A     It is global in some aspects, yes.

5           Q     And does that include investigations globally?

6           A     Not necessarily. No.

7           Q     But at least since late 2014 your responsibilities  
8 have included managing workplace investigations for Oracle in  
9 the United States?

10          A     Yes. That is correct.

11          Q     I'd like to walk you through your background before  
12 you took on the role of managing workplace investigations at  
13 Oracle, okay?

14          A     Yes.

15          Q     Okay. Your highest educational degree is a high  
16 school diploma, correct?

17          A     Correct.

18          Q     And then you started your career working in the  
19 real estate industry, right?

20          A     Correct.

21          Q     And then in about 1999, you switched your focus to  
22 human resources?

23          A     That is correct, approximately.

24          Q     And you started working for Oracle in 2005?

25          A     That is correct.

1           Q     From, approximately, 1999 until you started working  
2     at Oracle in 2005 you worked in human resources for start-ups  
3     in the Bay Area, is that right?

4           A     That's correct.

5           Q     How many employees did the largest start-up that  
6     you worked for have?

7           A     It's been a while, but I would say 300, perhaps.

8           Q     Three hundred employees?

9           A     Correct.

10          Q     Were any of the start ups that you worked for  
11     government contractors?

12          A     I don't recall.

13          Q     From 2005 until late 2014 you worked in Oracle's  
14     Mergers and Acquisitions organization within human resources,  
15     is that right?

16          A     That's correct.

17          Q     So until late 2014, your role within human  
18     resources at Oracle involved working on human resources  
19     issues regarding companies that Oracle was acquiring, right?

20          A     It involved all aspects of M and A transactions  
21     from an HR perspective.

22          Q     M and A meaning mergers and --

23          A     Mergers and acquisitions.

24          Q     And so up until late 2014, your role within  
25     Oracle's Human Resources Department did not involve workplace

1 investigations, right?

2 A It did not specifically involve workplace  
3 investigations other than as it pertained to reviewing such  
4 in any given transaction.

5 Q And that would mean, if there was an acquisition  
6 that had an ongoing investigation, you might review that?

7 A Yes. That could happen.

8 Q After you moved to your new role managing workplace  
9 investigations, you hired HR investigators who were dedicated  
10 full-time to workplace investigations, correct?

11 A That's correct.

12 Q And there were no minimum educational requirements  
13 for the job of HR investigate -- investigator, right?

14 A I would -- my recollection would be they would need  
15 a high school diploma and then applicable experience and  
16 skills.

17 Q And would the applicable experience and skills  
18 necessarily include experience conducting investigations of  
19 discrimination complaints?

20 A Can you repeat your question? You lost me there.

21 Q You indicated that someone being hired for the job  
22 of HR investigator would need applicable experience and  
23 skills, right?

24 A Yes.

25 Q Would the applicable experience and skills required

1 include a requirement that they had conducted discrimination  
2 investigations?

3 A Not necessarily.

4 Q The first HR investigators you hired to be  
5 dedicated full time to work place investigations started  
6 working in this role on March 1st, 2015, right?

7 A That's correct.

8 Q And prior to March 1st, 2015, if an Oracle employee  
9 made a complaint, Oracle had no dedicated HR investigators to  
10 handle it, right?

11 A Prior to me stepping into this role and hiring  
12 dedicated resources who are both external hires and internal  
13 hires, those investigations were handled by the HR business  
14 partners.

15 Q Right. And you made those hires starting on March  
16 1st, 2015?

17 A That is correct.

18 Q Okay. So prior to that date, if an Oracle employee  
19 made a complaint, Oracle had no dedicated HR investigators to  
20 handle it?

21 A As far as I know, no one was fully dedicated to  
22 just investigations, correct.

23 Q And you indicated that prior to March 1st, 2015,  
24 Oracle's HR business partners handled discrimination  
25 complaints?

1           A     That's not what I said.

2           Q     Prior to March 2015, Oracle's HR business partners  
3 would handle workplace investigations?

4           A     That's correct.

5           Q     And that would include any investigations of pay  
6 discrimination, right?

7           A     As far as I know, that could be included, yes.

8           Q     HR business partners provide HR related support to  
9 employees in management and leadership, correct?

10          A     That's correct.

11          Q     And that's been the role since 2015?

12          A     I'm sorry, could you repeat your question, please?

13          Q     I'm sorry. Has that been the role of HR business  
14 partners since at least 2013?

15          A     Yes.

16          Q     And even after you began managing HR investigators  
17 in 2015, HR business partners continued to handle some  
18 discrimination complaints, correct?

19          A     I couldn't say what complaints they specifically  
20 handled. They handle workplace investigations.

21          Q     And that could include complaints of  
22 discrimination, right?

23          A     It can include any category of complaints, yes.

24          Q     And an employee or manager could also make a  
25 discrimination complaint directly to an HR manager, right?

1           A     Employees and managers at Oracle could make any  
2 type of complaint to anyone in HR, correct.

3           Q     And if that happened, your group would not  
4 necessarily receive notice of it, right?

5           A     If what happened?

6           Q     If an employee or manager made a discrimination  
7 complaint directly to an HR manager?

8           A     Are you asking if I would know if that happened?

9           Q     Yes.

10          A     Not necessarily.

11          Q     And if an employee complains about pay  
12 discrimination to a manager in her line of business, there's  
13 no policy that requires that, that manager notify the HR  
14 investigators, right?

15          A     Can you please restate your question.

16          Q     If an employee complains about pay discrimination  
17 to a manager in her line of business, Oracle has no  
18 requirement that, that manager notify the HR investigators,  
19 right?

20          A     When you say HR investigators, are you referring to  
21 my team specifically?

22          Q     Yes.

23          A     There is no policy that states a manager has to  
24 tell my team about a complaint they received.

25          Q     And HR investigators are not involved in requests

1 for dive and save salary adjustments, right?

2 A You're referring to the investigators that report  
3 to me whether they're involved in dive and saves?

4 Q Yes.

5 A None that I can recall, no.

6 Q Okay. Would you -- during your deposition I asked  
7 what you would like me to call the people who worked for you  
8 and you said HR investigators, is there another term you  
9 would like me to use to talk about the team that you manage  
10 conducting workplace investigations?

11 A No.

12 Q Okay. I'll continue to use that then.

13 A Okay.

14 JUDGE CLARK: So, Ms. Bremmer, your saying, if you  
15 say HR investigators, you're talking specifically about her  
16 team?

17 MS. BREMMER: Yes.

18 JUDGE CLARK: Okay.

19 THE WITNESS: That was the point of clarification  
20 that I was trying to make, thank you.

21 JUDGE CLARK: Okay.

22 BY MS. BREMMER:

23 Q And your team of HR investigators would not receive  
24 complaints about pay discrimination raised in exit  
25 interviews, correct?

1           A     It's possible that could happen.

2           Q     But not necessarily?

3           A     Not necessarily.

4           Q     Would it have to be referred to your team by the  
5 person conducting that HR -- I mean, the exit interview?

6           A     Would what have to be referred?

7           Q     A complaint about pay discrimination raised in an  
8 exit interview?

9           A     I'm not sure I understand your question, could you  
10 repeat it?

11          Q     How would your group receive complaints about pay  
12 discrimination raised in exit interviews?

13          A     We receive complaints in a variety of ways.  
14 Specifically, if someone raised something in an exit  
15 interview, I would anticipate that would get referred to the  
16 Legal Department and may or may not then get referred to my  
17 team.

18          Q     And is there any requirement or policy that a  
19 complaint about pay discrimination raised in an exit  
20 interview be referred to the Legal Department?

21          A     I'm not aware of a -- did you say policy?

22          Q     Yes.

23          A     I'm not aware of such a policy. But if an exit  
24 interview were being conducted by a manager, the expectation  
25 was that they would refer complaints to the Legal Department

1 or to HR.

2 Q And is there any documentation setting forth that  
3 expectation?

4 A It's an expectation of our managers and it's in our  
5 manager training, they have expectations to raise concerns  
6 that are brought to them to either HR, the legal document,  
7 another manager, things like that.

8 Q And what training, specifically, are you referring  
9 to?

10 A With regard to manager expectations?

11 Q Yes. If raising concerns.

12 A The ones that come -- the one that comes to my mind  
13 would be our code of conduct and the training associated with  
14 that.

15 Q Can you think of any examples where a complaint of  
16 discrimination made in an exit interview was referred to your  
17 group for investigation?

18 A I cannot think of one, no.

19 Q And HR investigators are not involved in  
20 investigating EEOC complaints, is that right?

21 A Could you clarify your question? What do you mean  
22 by that?

23 Q If Oracle receives an EEOC complaint, those are not  
24 handled by your team of HR investigators, right?

25 A If we receive -- if Oracle received a charge from

1 the EEOC?

2 Q Yes.

3 A No. My team would not be.

4 Q And HR investigators do not investigate all  
5 discrimination complaints made directly to the Legal  
6 Department, right?

7 A Can we go back to your previous question for a  
8 second? Can you ask me your previous question, because I may  
9 have misunderstood you, about the EEOC complaint.

10 Q If an EOC [sic] complaint is filed against Oracle,  
11 your team of HR investigators does not investigate the issues  
12 raised in those complaints, right?

13 A Not necessarily. But to clarify, if the EEOC  
14 charge was related to something that we had previously  
15 investigated, then there's possibility that my team would be  
16 involved if the Legal Department engaged us.

17 Q Okay. And then if -- HR investigators do not  
18 investigate all discrimination complaints made directly to  
19 the Legal Department?

20 A I don't believe so, no.

21 Q You might investigate some if the Legal Department  
22 referred those complaints to you for investigation?

23 A Which complaints are you referring to?

24 Q Discrimination complaints that had come directly  
25 into the Legal Department.

1           A     Not necessarily, no.

2           Q     You wouldn't -- okay.

3           JUDGE CLARK:   So I just want to make -- I  
4 understood the question to be if the Legal Department  
5 referred you a discrimination complaint, you would  
6 investigate it or you wouldn't investigate it?

7           THE WITNESS:   Oh. I didn't understand the question  
8 to be that.

9           JUDGE CLARK:   Okay. If Oracle's Legal Department  
10 asked you to investigate a discrimination complaint, would  
11 you do that or would you not do that?

12          THE WITNESS:   My team would do that, yes.

13          JUDGE CLARK:   They would do that.

14          Ms. Bremmer, go ahead. I just was clarifying for  
15 me. Go ahead and ask your next question.

16 BY MS. BREMMER:

17          Q     But the Legal Department does not refer all  
18 discrimination complaints it receives to your team to  
19 investigate, right?

20          A     I don't believe so. But I don't know for sure what  
21 they do with every single case.

22          Q     Can you think of any examples of complaints of  
23 discrimination made to Oracle's Legal Department by employees  
24 who are no longer working at Oracle that your team  
25 investigated?

1           A     Is your question can I think of a specific case  
2     that my team investigated that was brought by a former  
3     employee directly to the Legal Department?

4           Q     Yes.

5           A     Off the top of my head, no. I cannot think of a  
6     specific case.

7           Q     Do you personally conduct some of the workplace  
8     investigations handled by your team?

9           A     From time to time, yes.

10          Q     And have you personally handled any complaints or  
11     investigations of complaints regarding discrimination?

12          A     I may have, yes.

13          Q     But you don't recall right now?

14          A     Whether I personally have conducted an  
15     investigation of an allegation of discrimination?

16          Q     Yes.

17          A     I don't recall a specific case, no.

18          Q     And do you recall any case that you personally  
19     handled investigating complaints of pay discrimination?

20          A     It is likely that I have done a pay -- did you use  
21     the word discrimination case --

22          Q     Yes.

23          A     -- or complaint of pay? I don't recall  
24     specifically but it's possible, yes.

25          Q     Possible or likely?

1           A     I have done a number of investigations since I  
2 started in this role and in my career, but if you're asking  
3 me specifically since I've been in this role at Oracle, I've  
4 handled cases on a number of different -- in lots of  
5 categories. So would I say more it's likely or possible? I  
6 would say possible, I don't know how likely it is.

7           Q     Do you provide guidance to the HR investigators  
8 that you manage regarding conducting investigations?

9           A     Could you be more specific about what do you mean  
10 by guidance?

11          Q     Do you provide them with advice as they conduct  
12 their investigations?

13          A     No. The advice that the investigators receive  
14 about conducting their investigations comes from our internal  
15 counsel.

16          Q     And do you, do you talk to the HR investigators  
17 that you manage concerning the investigations that they are  
18 conducting?

19          A     Sometimes, yes.

20          Q     Do you provide any suggestions to them about things  
21 that they should do on their investigations?

22          A     I'm not sure what you mean by suggestions.

23          Q     Do you ever suggest that they look at certain  
24 documents, for example, as they conduct an investigation?

25          A     Not that I can recall, no.

1           Q     Okay. I'm going to put up Plaintiff's Exhibit 108.  
2     And there's a screen in front of you.

3           A     Yes. Yes.

4           Q     This is a document from Oracle's website that  
5     describes Oracle's integrity helpline, correct?

6           A     Yes.

7           Q     And if employees have a complaint about  
8     discrimination they could make their complaint to their  
9     manager, their HR -- sorry, let me start over. If an Oracle  
10    employee has a complaint about discrimination, they can make  
11    their complaint to their manager, their HR representative, or  
12    they could call the Oracle Integrity Helpline, correct?

13          A     Oracle employees can use those avenues that you  
14    just described for any type of complaint or concern.

15          Q     And the document that we're looking at, Plaintiff's  
16    Exhibit 108, is from 2019, right?

17          A     It does have a date in 2018 at the bottom of the  
18    document.

19          Q     But Oracle has had a helpline since at least 2010,  
20    correct?

21          A     I don't know how long we've had a helpline. I do  
22    know that we've had the integrity helpline we have through  
23    this particular vendor since 2010. But there was something  
24    in place prior to that, I don't know how long back -- how far  
25    back it goes exactly.

1 Q But at least since 2010?

2 A Was that a question?

3 Q Yes.

4 A Yes.

5 Q When an employee reports this discrimination to the  
6 integrity helpline, the HR investigators receive an email  
7 summarizing the information the employee provided correct?

8 A Not necessarily.

9 Q I'd like to show you Plaintiff's Exhibit 10, pages  
10 [sic] 54 lines 5 through 10.

11 MR. PARKER: Your Honor, if I may have those read  
12 out one more time, I apologize?

13 MS. BREMMER: Plaintiff's Exhibit 10, which is the  
14 deposition of Tamerlane Baxter, page 54, lines 5 through 10.

15 BY MS. BREMMER:

16 Q So 54 is in the bottom left hand corner. Do you  
17 recall that I took your deposition in this case?

18 A Yes.

19 Q And during that deposition I asked you the  
20 question:

21 "How is a complaint from the Oracle integrity help  
22 line communicated to your group who  
23 investigates complaints?"

24 And you answered:

25 "If a report of a discrimination comes to the

1 integrity help line, we would get a written  
2 document email summarizing what the reporter  
3 provided."

4 Do you see that?

5 A Yes. I do.

6 MR. PARKER: And, Your Honor, if I could have lines  
7 20 to -- page 54, lines 20 to page 55, line 2 read?

8 JUDGE CLARK: Overruled. You can do that on  
9 redirect -- or I mean on cross --

10 MR. PARKER: Very good.

11 JUDGE CLARK: -- if you need to. I assume it's  
12 going to be a part of the excerpt that I'm going to read  
13 anyway.

14 MR. PARKER: If it's not, it's going to be.

15 JUDGE CLARK: Okay.

16 MR. PARKER: But, yes.

17 JUDGE CLARK: Fair enough.

18 Go ahead, Ms. Bremmer.

19 BY MS. BREMMER:

20 Q Okay. So an -- so if an employee reports  
21 discrimination to the integrity helpline, the HR  
22 investigators receive a document summarizing what the  
23 employee -- the information the employee provided, correct?

24 A If the integrity helpline is used for any complaint  
25 or concern that is an employee relations or HR related, that

1 would include discrimination, then we would get a  
2 notification of whatever information was provided by the  
3 reporter or the complainant. Yes.

4 Q And since approximately, March 2015, all workplace  
5 investigations conducted by your team of HR investigators  
6 have been tracked using a case management system, correct?

7 A Can you repeat your question? It was a little long  
8 and I lost you there.

9 Q And since, approximately, March 2015, all workplace  
10 investigations conducted by your team of HR investigators  
11 have been tracked using a case management system, right?

12 A That's correct.

13 Q And HR investigators also store case files of  
14 investigations on an Oracle network drive called "beehive,"  
15 right?

16 A That's correct.

17 Q And HR business partners also file documents  
18 relating to their investigations in beehive, right?

19 A They can, yes.

20 Q And that's the best practice?

21 A That is our request of them, yes.

22 Q And documents relating to workplace investigations  
23 at Oracle have been stored in beehive since before you began  
24 managing HR investigations, correct?

25 A Not that I'm aware of.

1           Q     When you became the manager -- when you began  
2 managing workplace investigations in the fall of 2014, did  
3 you review any prior files of workplace investigations?

4           A     Not that recall.  No.

5           Q     And do you know if any of those files -- any files  
6 of workplace investigations had been stored on beehive before  
7 you took on that role in the fall of 2014?

8           A     I wouldn't be able to say, specifically, if anyone  
9 was using beehive to store their investigation files, no.

10          Q     And, since you became in charge of managing  
11 workplace investigations for the HR investigators, you've  
12 also conducted trainings for HR business partners for  
13 workplace investigations, correct?

14          A     Oracle does -- excuse me.  Oracle does conduct  
15 sessions with the HR business partners on investigations, and  
16 that has been since I stepped in this role and previous to  
17 that as well.

18          Q     And, since the time that you stepped into that  
19 role, you've been involved in conducting those trainings,  
20 correct?

21          A     I have participated with our employment legal team  
22 in those trainings, correct.

23          Q     And, during those trainings, have you provided any  
24 tips on what HR investigators or HR business partners should  
25 do when they're investigating a claim of compensation

1 discrimination?

2 A The trainings are intended to provide information  
3 about things that HR professionals should consider when they  
4 are called upon to conduct an investigation. And we talk  
5 about all different categories of complaints or concerns that  
6 we might receive, which would include discrimination.

7 Q But in those trainings with HR business partners  
8 and HR investigators, there has not been any discussion about  
9 what types of documents they need to gather when  
10 investigating a compensation claim, correct?

11 A That would not be something we would necessarily  
12 discuss that I can recall, no.

13 Q Oracle's US based employees attend affirmative  
14 action training, right?

15 A Yes.

16 Q And that's an online training?

17 A Yes.

18 Q Is that training required?

19 A Yes.

20 Q When did you first attend the affirmative action  
21 training for Oracle?

22 A Many years ago, I don't remember exactly when.

23 Q The affirmative action training does not provide  
24 specific information on compensation discrimination, does it?

25 A Is your question with regard to the training that

1 I've most recently taken? I don't recall there being  
2 something specific about that, no. But I haven't memorized  
3 the training either.

4 Q Do you recall any affirmative action training that  
5 you've taken at Oracle that did include compensation  
6 discrimination?

7 A Did include what about compensation discrimination?

8 Q Specific information about compensation  
9 discrimination?

10 A Not that I recall, but I would have to review the  
11 training to be certain.

12 Q And you don't recall receiving any training  
13 regarding compensation discrimination whether it be as part  
14 of the affirmative action training or some other training,  
15 correct?

16 A I'm not sure what you mean by training?

17 Q I'm talking about any training that you've received  
18 at Oracle, in-house training.

19 A As an HR professional, I am informed, I know about  
20 discrimination, is that your question?

21 Q No. My question was about training that you  
22 received, such as online training or training where you are  
23 in a room and some one's providing a presentation, has there  
24 been any such training relating to compensation  
25 discrimination that you've attended?

1           A     I don't recall attending any formal training  
2 specifically on compensation discrimination. No.

3           Q     We were talking before about training provided to  
4 HR business partners regarding workplace investigations, do  
5 you remember that?

6           A     Yes. I do remember that.

7           Q     Okay.

8                   MS. BREMMER: Could you pull up Plaintiff's Exhibit  
9 109, please?

10          BY MS. BREMMER:

11          Q     And is this power point from your training of the  
12 HR investigators?

13          A     Yes. From 2015.

14          Q     And the HR investigators and HR business partners  
15 attended this training, correct?

16          A     Yes.

17          Q     Let's take a look at page 2 of Plaintiff's Exhibit  
18 109. Page 2 is the agenda of the workplace investigation  
19 training, right?

20          A     That's what it says, yes.

21          Q     And the focus of this training was guidelines for  
22 interviewing?

23          A     No. The focus of this presentation are you asking,  
24 or the focus of the training?

25          Q     The focus of the training.

1           A     The focus of the training was on HR investigations.

2           Q     And the focus of this particular presentation was  
3 on interviewing?

4           A     I don't -- that sounds -- that looks to be part of  
5 this slide deck. There are topics around interviewing, yes.

6           Q     And this training did not relate specifically to  
7 investigations of discrimination, correct?

8           A     The training that we offer -- this training that we  
9 offered in 2015 and the training we offered before and after  
10 that, is not focused on any particular type of complaint or  
11 concern, it is about workplace investigations more generally.

12          Q     And there was no discussion in this training about  
13 the types of documents to gather when investigating a  
14 compensation discrimination claim, correct?

15          A     The type of documents that would be collected for a  
16 specific investigation, would be based on the facts of that  
17 case, so no.

18          Q     And you're not aware of any training that provides  
19 guidance to HR business partners or HR investigators about  
20 the types of documents to gather in an investigation of a  
21 compensation discrimination complaint?

22          A     If an investigator is conducting an investigation  
23 into compensation discrimination or any other complaint or  
24 concern, they would work with internal legal on what process  
25 they're specifically going to follow and what documents they

1 may need to collect.

2 Q Okay. So I'm going to ask my question again,  
3 because I don't think you answered it. You're not aware of  
4 any training or policy given to HR investigators or HR  
5 business partners that provides guidance on the types of  
6 documents to gather in conducting an investigation regarding  
7 compensation discrimination, right?

8 A I am not.

9 Q And you're not aware of any training or policies  
10 that provide guidance on what type of data to collect during  
11 an investigation of compensation discrimination, right?

12 A I am not.

13 Q And you're not aware of any training or policies or  
14 guidance, outside of the legal Department, give to HR  
15 business partners or HR investigators on how to conduct a  
16 compensation analysis?

17 A I am not.

18 Q Other than the training that you've conducted for  
19 HR business partners, you're not aware of other training that  
20 Oracle conducts regarding workplace investigations?

21 A The training that Oracle provides, I don't conduct  
22 it myself entirely, is the only training like that, that I'm  
23 aware of, correct.

24 Q And that's the type of training that we're -- that  
25 was shown in Plaintiff's Exhibit 109?

1           A     Is this the Power Point presentation?

2           Q     Yes.

3           A     That is part of such a training, yes.

4           Q     Okay.  So just to be clear, I'm not sure that it's  
5 clear.  But you're not aware of other training other than  
6 Plaintiff's Exhibit 109 and similar trainings that you  
7 provide to HR investigators and HR business partners that  
8 would concern investigations of workplace complaints?

9           A     I am not.

10          Q     And you've not received any training regarding  
11 legitimate business reasons for differences in pay based on  
12 gender?

13          A     Can you ask me that question again, I'm sorry?

14          Q     You have not received any training regarding  
15 legitimate business reasons for differences in pay based on  
16 gender?

17          A     As both an HR person and a manager at Oracle, we do  
18 have training or information regarding making pay decisions.  
19 I'm aware of that.

20          Q     And are those trainings that are created by  
21 Oracle's compensation group?

22          A     That's correct.

23          Q     And are you aware of any training at Oracle that  
24 specifically relates to or discusses legitimate business  
25 reasons for differences in pay, based on gender?

1           A     Specifically for differences in pay?

2           Q     Right.

3           A     I don't believe so, no.

4           Q     And you and your HR investigators did not receive  
5 any training regarding bona fide business factors, right?

6           A     Is your question, if we have a training that's  
7 about -- that's focused on bona fide business factors?

8           Q     Not that focuses on, but that includes that, a  
9 discussion of bona fide business factors.

10          A     For what?

11          Q     Regarding compensation?

12          A     Okay. So to be -- I want to make sure I understand  
13 your question. So are you asking me do we have training  
14 about bona fide business decisions for pay?

15          Q     Let's pull up Plaintiff's Exhibit 103. I'm sorry,  
16 Plaintiff's Exhibit 116. It was Deposition Exhibit 103.

17          A     Okay.

18          Q     Okay. So there's --

19                 JUDGE CLARK: So I'm showing 116, I thought you  
20 said 115?

21                 MS. BREMMER: 116.

22                 JUDGE CLARK: 116.

23 BY MS. BREMMER:

24          Q     So you recognize this type of document, correct?

25          A     I do.

1           Q     This is a memo showing investigation results that  
2 was prepared by one of your HR investigators?

3           A     That's correct.

4           Q     Okay.  So, if you look at the third paragraph, in  
5 -- I'll just read this.  It says:

6                     "Based on the findings of the investigation I  
7                     found no evidence that your gender or any  
8                     inappropriate factors played a role in decisions  
9                     regarding your salary or the level of your salary  
10                    generally.  The investigation revealed that there  
11                    were and are several bona fide business factors  
12                    contributing to the level of your salary: including  
13                    job changes over the course of the tenure, your  
14                    tenure with the company, your position when you  
15                    started with Oracle, your starting salary at Oracle  
16                    as well as budgetary constraints that impacted the  
17                    ability to give annual adjustments to make larger  
18                    adjustments to your salary during the focal  
19                    processes."

20                    Do you see that?

21           A     I do.

22           Q     So in this memo -- so this memo was written by  
23 Karima Kassan, that's a member of your team, correct?

24           A     Correct.

25           Q     She used the term bona fide, business factors, do

1 you see that?

2 A I do.

3 Q And I'm just wondering if there has been any  
4 training that was given to your team regarding this issue of  
5 bona fide, business factors?

6 A Outside of the guidance or advice we get from our  
7 Legal Department we do not have formal training on what  
8 constitutes a bona fide, business factor.

9 Q Okay. And during your deposition you indicated  
10 that you've attended one formal training regarding  
11 investigations outside of Oracle, correct?

12 A That's not what I recall saying. No, not exactly.

13 Q Well let me ask you -- let's look back at  
14 Plaintiff's Exhibit 10, which is your deposition, page 141,  
15 lines 22 through 24. So, if you look at the bottom of this  
16 page, I asked you:

17 "So the one formal training regarding investigations  
18 that you attended outside of Oracle was in  
19 February of 2019?"

20 And you stated: "That's correct."

21 JUDGE CLARK: Is there a question, Ms. Bremmer?

22 BY MS. BREMMER:

23 Q Are you saying that's not true?

24 A No. I'm not saying that. When you asked me that  
25 question in my deposition looking at it now, you say: "So the

1 one formal training regarding investigations was in  
2 February." What I'm thinking at this moment when you [sic]  
3 answered that question was there's lots of training, I guess  
4 or, that I've either availed myself of or been part of.  
5 Maybe the difference would be the word formal, because the  
6 program that I attended in February of 2019, was indeed very  
7 formal.

8 Q Well my question to you was formal.

9 And this is -- the training that you received in  
10 February of 2019 regarding investigations was the only formal  
11 training that you've received regarding investigations,  
12 correct?

13 A It's the only program of that nature that I've  
14 attended, that's correct.

15 Q And that training in February of 2019 did not  
16 include analyzing compensation, correct?

17 A As I said in my deposition, the context of  
18 particular investigation categories is not its focus. It's  
19 about conducting workplace investigations overall.

20 Q Right. So the answer to my question is no?

21 A What was your question?

22 Q That training that you took in February of 2019  
23 regarding investigations did not include a discussion of  
24 analyzing compensation?

25 A That was not a subject of the training, no.

1 Q And you've not attended any training on conducting  
2 statistical analyses of compensation, correct?

3 A No. I have not.

4 Q And Oracle does not have any policies or procedures  
5 stating how an investigation of compensation discrimination  
6 should be corrected, right?

7 A I'm sorry, how it should be corrected?

8 Q I'm sorry. Conducted.

9 A Conducted?

10 Q Yes.

11 A We do not have a policy about how any investigation  
12 should be conducted, no.

13 Q And Oracle does not have any policies or procedures  
14 stating what documents should be considered when  
15 investigating a compensation discrimination complaint, right?

16 A We do not.

17 Q And Oracle does not have any policies or procedures  
18 stating what data should be reviewed in investigating a  
19 compensation discrimination complaint, correct?

20 A There's no policy, as far as I know.

21 Q Or procedures?

22 A There is no policy or procedures.

23 Q And Oracle does not have any policies or procedures  
24 stating whose salaries should be reviewed in conducting an  
25 investigation of a compensation discrimination complaint,

1 correct?

2 A We do not have such a policy or a procedure, no.

3 Q And Oracle does not have any policies or procedures  
4 stating which factors should be considered in analyzing  
5 compensation when investigating a compensation discrimination  
6 complaint, correct?

7 A There is no specific policy or procedure that I'm  
8 aware of, no.

9 Q Are you aware of Oracle's requirement, as part of  
10 it's affirmative action obligations, to conduct compensation  
11 analysis?

12 A Generally, yes.

13 Q What's your understanding of the requirement?

14 A It's not my area of expertise, I just know that  
15 there is a requirement that we have to do certain analyses of  
16 compensation.

17 Q And do you know what's included in those analyses?

18 MR. PARKER: Lacks foundation.

19 JUDGE CLARK: It's sustained, lay some foundation.

20 BY MS. BREMMER:

21 Q How did you learn of Oracle's affirmative action  
22 obligations to conduct compensation analyses?

23 MR. PARKER: Misstates testimony and assumes a  
24 fact.

25 THE COURT: Overruled. You can answer that

1 question.

2 BY MS. BREMMER:

3 A I didn't say that I knew Oracle's specifically, I  
4 just know that affirmative action requirements of companies  
5 include compensation analysis requirements, but that's about  
6 as far as my knowledge goes without looking it up.

7 Q And do you have any understanding of the types of  
8 analyses that are done by federal contractors to comply with  
9 their affirmative action obligations?

10 MR. PARKER: Lacks foundation and irrelevant.

11 JUDGE CLARK: I think as phrased, you can answer  
12 the question.

13 BY MS. BREMMER:

14 A Would you please repeat the question?

15 Q Are you aware of the type of compensation analyses  
16 federal contractors such as Oracle conduct to comply with  
17 their affirmative action obligations?

18 A No. I'm not.

19 Q Do you know what a compa ratio is?

20 A Yes.

21 Q What is it?

22 A It's the comparison of salary to a salary range.  
23 Where it sits compared to the midpoint.

24 Q Have you ever done an analysis related -- have you  
25 ever done an analysis related to compa ratio for pay to look

1 for disparities by gender or race?

2 A Can you repeat that question, please?

3 Q Have you ever conducted an analysis of compa ratios  
4 for pay to look for disparities by gender or race?

5 A I don't -- I don't generally do analyses in my  
6 role, so I would say, no. I don't do that type of analysis.

7 Q And that type of analysis, looking at compa ratios  
8 and seeing if there are disparities by race or gender, that  
9 wouldn't be part of your typical practice in investigating a  
10 discrimination complaint, would it?

11 A I can't tell you what a typical practice would be  
12 in any particular case.

13 Q But you don't recall ever having conducted such an  
14 analysis?

15 A Not in the way that you've described it, no.

16 Q And you've never conducted any statistical analysis  
17 of compensation as part of an investigation of a compensation  
18 discrimination complaint, correct?

19 A No. I have not.

20 Q As a practice, when investigating a complaint of  
21 compensation discrimination, do you review the pay of the  
22 person who made the complaint?

23 A As I've said before, if that's regarding a specific  
24 case, that would be between the investigator and our counsel  
25 and would be -- what they look at would be at the direction

1 of our counsel.

2 Q Okay. So I asked as a practice, so I'm not talking  
3 about a specific case. I'm talking about your typical  
4 practice when investigating a complaint of compensation  
5 discrimination, do you review the pay of the person who made  
6 the complaint?

7 A I wouldn't be able to answer specifically, as I  
8 said, but in general if an HR investigator was looking into a  
9 pay -- a compensation case, I would expect they would  
10 probably look at that person's pay, yes.

11 Q And as a practice, when investigating a complaint  
12 of compensation discrimination, would your team review the  
13 compensation of other people on the same team as the person  
14 who complained?

15 A I would not be able to say that there's a practice  
16 as you describe it. Every case is different, and what is  
17 looked at in any given case would depend on that case.

18 Q And, as a practice, when your team's conducting an  
19 investigation of compensation discrimination, is it the  
20 practice to consider the compensation of all employees in the  
21 same global career level as the person making the complaint?

22 A As I -- the same answer as your previous question.  
23 There isn't a practice of what might be done in an  
24 investigation, it's going to depend on that case.

25 Q And so you're team also doesn't have any practice

1 regarding whether it looks at the compensation of everyone  
2 with the same job code as the person who makes the complaint  
3 of compensation discrimination?

4 A We don't have a practice of what we do in any given  
5 case. What is done in a case would be based on the facts of  
6 that case and would always be done at the direction of our  
7 internal counsel.

8 Q And so you also -- your team also wouldn't have a  
9 practice of what factors to consider in analyzing the pay of  
10 someone making a compensation discrimination complaint?

11 A Can you repeat your question please?

12 Q So your team of HR investigators also would not  
13 have a practice of what factors would be considered when you  
14 look at the pay of someone making a compensation  
15 discrimination complaint?

16 A We don't have a practice as you describe it.

17 Q What is the purpose of the HR investigations that  
18 your team conducts?

19 MR. PARKER: Vague and ambiguous.

20 JUDGE CLARK: Do you understand the question?

21 THE WITNESS: I might, could she -- I was going to  
22 ask her to --

23 JUDGE CLARK: Why don't you go ahead and rephrase  
24 your question.

25 THE WITNESS: I was going to ask her to repeat it

1 at least.

2 BY MS. BREMMER:

3 Q Let me give you a hypothetical, I guess. If  
4 someone makes a complaint of compensation discrimination,  
5 your team investigates that complaint if it's referred to  
6 you, correct?

7 A We would, yes.

8 Q What is the purpose of the investigation that your  
9 team conducts?

10 A In general, we conduct workplace investigations.  
11 The purpose of that investigation is to gather whatever  
12 concern or complaint is being raised, any facts or evidence  
13 to support that, and make a finding about whether there was  
14 any, primarily, violations of our policy.

15 Q Are there any other purposes in conduct -- in your  
16 teams investigations of discrimination complaints?

17 A There's not a specific purpose that my team has as  
18 it pertains to discrimination complaints. Our purpose is to  
19 investigate any type of concern or complaint, understand  
20 what's being raised, review it, partner with our Legal  
21 Department on how we're going to investigate it as needed and  
22 then the investigator and the internal -- their internal  
23 legal partner make a finding.

24 Q So going back to your practices, your teams  
25 practices in conducting investigations of compensation

1 discrimination, your investigations are not uniform, correct?

2 A No investigation is uniform, correct.

3 Q You don't -- you don't in all compensation  
4 discrimination investigations review the same types of  
5 documents, correct?

6 A Investigations are all done based on what needs to  
7 be done in any given case.

8 Q And you don't review the same types of data in  
9 every compensation discrimination complaint?

10 A Not necessarily. I would, again, it would have to  
11 -- it would be based on the advice of counsel and the facts  
12 of the matter.

13 Q Okay. So, after HR investigators conduct  
14 investigations, they prepare a document to provide to the  
15 complainant describing the results of the investigation,  
16 correct?

17 A Generally that would happen, yes.

18 Q And you do not review the results of all of the  
19 investigations by the HR investigators you manage, correct?

20 A Not necessarily, no.

21 Q Okay. Let's go back to Plaintiff's Exhibit 109,  
22 please, page 7.

23 Okay. So this is, again, the mechanics of  
24 investigation training that we talked about earlier, but this  
25 is page 7. And it talks about investigations guidelines, the

1 top bullet point is: "Communicate findings to the complaining  
2 individual." So after HR investigators conduct  
3 investigations they do communicate the results to the  
4 complainant, right?

5 A I would generally expect that to happen, yes.

6 Q And the second bullet point says:

7 "Individually or with management communicates  
8 the results of the investigation to the accused  
9 individual."

10 Is that something else that is done after  
11 conducting an investigation of compensation discrimination?

12 A I would say -- I would generally expect in an  
13 investigation the findings or result of that investigation to  
14 generally be communicated to the complaining party as well as  
15 the accused.

16 Q Okay. The third bullet point talks about  
17 implementing actions resulting from an investigation, do you  
18 see that?

19 A I do.

20 Q You don't have any authority to adjust anyone's pay  
21 after an investigation, correct?

22 A I do not.

23 Q And the HR investigators that you supervise, don't  
24 have any authority to adjust someone's pay as a result of an  
25 investigation?

1           A     No.  They don't.

2           Q     And you don't have any budget for making any pay  
3 adjustments to correct pay disparities revealed in  
4 investigations, right?

5           A     Are you asking about my organization's budget  
6 specifically?

7           Q     Yes.

8           A     No.  I do not.

9           Q     And you're not aware of any investigation by the HR  
10 investigators that concluded that there had been  
11 discrimination, right?

12          A     I'm sorry, can you just repeat your question to  
13 make sure I understood?

14          Q     You're not aware of any investigation by your team  
15 that concluded there had been discrimination?

16          A     It's not the job of my team to make that  
17 determination, we would not.  That's a legal conclusion and  
18 that's not in our purview.

19          Q     Okay.  Let's turn back to Plaintiff's Exhibit 116,  
20 please.

21                 Okay.  So looking at the third paragraph of this  
22 letter that was prepared by someone on your team, it says:

23                         "Based on the findings of the  
24 investigation, I find no evidence that your  
25 gender or any inappropriate factors played a

1           role in decisions regarding your salary or the  
2           level of your salary generally."

3           Do you see that?

4           A     I do.

5           Q     Okay.  And are you aware of any investigation  
6           conducted by your team that did find evidence that gender or  
7           any inappropriate factor played a role in decisions regarding  
8           salary?

9           A     Off the top of my head, I am not.

10          Q     And are you aware of any investigation by an HR  
11          business partner that determined that gender or any  
12          inappropriate factor played a role in a decision regarding  
13          salary?

14          A     I am not.

15          Q     Okay.  So, after an investigation's completed,  
16          we've talked about who receives the results of an  
17          investigation by your team, and so far we've talked about the  
18          complainant receives the results and also the person accused  
19          of discrimination, right?

20          A     The accused of whatever type of complaint it is  
21          would be the -- would receive the results, yes.

22          Q     Right.  And if someone -- if the complaint regarded  
23          discrimination, the person accused of discrimination would  
24          receive the results of the investigation, right?

25          A     I would generally expect, regardless of the

1 category of complaint, that the accused would receive the  
2 results as well as the complaining party.

3 Q Okay. And the other -- and the Legal Department at  
4 Oracle would also receive the results of the investigation?

5 A The Legal Department is part of the team that, you  
6 know, that works with the investigator on the results. So  
7 they are aware, yes, of the results of the investigation.

8 Q And, if an HR business partner was involved with  
9 the complaint or investigation, that HR business partner  
10 would also receive the results of the investigation?

11 A Can you repeat that question?

12 Q If an HR business partner was also involved with  
13 the complaint or the investigation, they would also have the  
14 results, correct?

15 A It would depend on their involvement. It would  
16 depend on the investigation. They may have them, they may  
17 not.

18 Q And so, if the complaint involved a complaint of  
19 retaliation, again, the person who complained would receive  
20 the result of the investigation of the retaliation?

21 A In general, I would expect, if someone is an  
22 accused in an investigation regardless of the type of  
23 complaint, that the accused as well as the complaining party  
24 would be aware of the results. That is my general  
25 expectation, yes.

1 Q Okay. You anticipated my next question.

2 Okay. And so no one receives the findings of  
3 Oracle's investigations of discrimination complaints other  
4 than the complaining employee, the accused, legal department,  
5 and the HR business partners, if they are involved, correct?

6 A I could not -- I wouldn't be able to say that no  
7 one else has not ever received the results. Specifically  
8 depending on the category of the case and the finding of the  
9 case, it's possible someone else may need to know about it.

10 Q But, generally, those are the categories of people  
11 who receive the results of the investigation?

12 A In general, I would expect that it's the  
13 complaining party and the accused, sometimes the HR business  
14 partners that would be aware, in addition to the investigator  
15 and the Legal Department, yes.

16 Q And you have the ability to generate summaries of  
17 complaints handled by HR investigators, correct?

18 A Could you clarify what you mean by summaries?

19 Q During your -- you talked about a case management  
20 system that you used for investigations that are handled by  
21 your team, correct?

22 A We use a case management system to track the cases  
23 that are handled by my team, that's correct.

24 Q And that system can prepare reports or summaries?

25 A You can run reports from that system, correct.

1 Q And the reports that you can run from those systems  
2 include the type of complaint that was investigated, correct?

3 A Yes. The case that should include the category of  
4 complaint.

5 Q And your group does not send any reports  
6 summarizing your workplace investigations to Shauna  
7 Holman-Harries, correct?

8 A We do not.

9 Q And do you know that Shauna Holman-Harries is the  
10 person at Oracle responsible for implementing Oracle's  
11 affirmative action plan?

12 A That is my understanding.

13 Q And your group does not send the results of  
14 workplace investigations to Shauna Holman-Harries' compliance  
15 group, right?

16 A We do not.

17 Q And you don't provide any reporting to Shauna  
18 Holman-Harries' compliance group concerning compensation  
19 discrimination investigations, right?

20 A We do not provide any information to Shauna's team  
21 at all.

22 JUDGE CLARK: Ms. Bremmer, do you have much more  
23 with Ms. Baxter? We need to take our morning break at some  
24 point. And I'd rather finish the direct at least before the  
25 break if you've got a few more minutes. If not we can --

1 MS. BREMMER: I have a few more pages, I don't  
2 think it'll take that long, but it could take --

3 THE COURT: Five minutes?

4 MS. BREMMER: -- 10- 15 minutes.

5 JUDGE CLARK: Ten to fifteen minutes. It's 10:45  
6 let's go ahead and take a 10 minute break and we'll come back  
7 and finish up. We'll be off the record until 5 to 11:00,  
8 were off the record.

9 (Off the record at 10:45 o'clock a.m.)

10 JUDGE CLARK: You can be seated. Thank you.

11 Okay. We are back on the record, all parties are  
12 present, Ms. Baxter has returned to the stand.

13 Ms. Bremmer, you may continue.

14 MS. BREMMER: Thank you, Your Honor.

15 BY MS. BREMMER:

16 Q Ms. Baxter, did you speak to counsel during the  
17 break?

18 A I did.

19 Q Did counsel provide you with advice regarding your  
20 testimony today during the break?

21 A They did not.

22 Q Okay.

23 MS. BREMMER: And we just -- perhaps it would -- we  
24 would like some guidance from the Court as to whether there  
25 can be substantive discussions with witnesses during the

1 break regarding their testimony.

2 JUDGE CLARK: So I'm pretty sure that was a motion  
3 in limine at the prehearing conference, and I denied that  
4 request. The witnesses are able to talk to counsel. They're  
5 representatives of the Court. So, I mean, I'm not sure what  
6 guidance you want. But your objection is overruled, and ask  
7 whatever questions you need to.

8 MS. BREMMER: Okay. Thank you.

9 BY MS. BREMMER:

10 Q Approximately, how many compensation discrimination  
11 investigations have been handled by your team of HR  
12 investigators?

13 A Since 2015, we handle hundreds of investigations of  
14 all types every year. Without looking at the case management  
15 system, I would not be able to tell you specifically how many  
16 of those involved an allegation of compensation  
17 discrimination?

18 Q Can you give me a general estimate since March of  
19 2015 through the present, you know, has it been more than 20?

20 A I would not be comfortable guessing.

21 Q Okay. I'm not asking you to guess, I'm just  
22 wondering if you have some general estimate, 10, 50, 100,  
23 100s?

24 A Without looking at the data, I would not be able to  
25 tell you in any given category how many cases -- how many

1 investigations we've handled in that category.

2 Q Are all the findings of workplace investigations  
3 conducted by your team reviewed by Oracle's legal counsel?

4 A The investigator works closely with a legal  
5 partner, and yes they discuss the findings -- the  
6 investigators findings in the investigation.

7 Q And is that in every case?

8 A The cases that are handled by my team we discuss  
9 every case with legal, yes.

10 Q Okay. Oracle has a policy against retaliation  
11 against employees who make discrimination complaints,  
12 correct?

13 A We have a policy against retaliation or reprisal  
14 for anyone against anyone who participates in any type of  
15 investigation or concern or complaint raising.

16 Q And HR relies on employees to complain about any  
17 retaliation they experience, right?

18 A Employees do bring forward their concerns of  
19 retaliation to HR sometimes, yes.

20 Q And are you aware of your team finding out about  
21 any claims of retaliation other than through an employee  
22 complaint?

23 MR. PARKER: Vague and ambiguous.

24 JUDGE CLARK: Rephrase the question.

25 BY MS. BREMMER:

1           Q     Has your team handled any investigations of  
2     retaliation that were not the result of an employee raising  
3     the concern of retaliation?

4           A     As far as I can recall, the concerns of retaliation  
5     would be brought to my team either through the HR business  
6     partner or from an integrity helpline concern or from the  
7     Legal Department, just like any other category of concern.  
8     And so as far as I know, the ones I can think of are all from  
9     employees raising a concern with retaliation, correct.

10          Q     Okay. So after HR investigators investigate a  
11     claim of discrimination, they do not track future employment  
12     decisions about the complainant, right?

13          A     Repeat your question, please?

14          Q     After your team of HR investigators investigates a  
15     claim of discrimination, they do not track future employment  
16     decisions about the complainant, right?

17          A     In general, HR investigators that is not part of  
18     their role necessarily, but what we might do in any given  
19     situation could vary based on that particular case or what  
20     guidance are received from internal counsel.

21          Q     Can you recall any instance where you or your team  
22     of HR investigators did track future employment decisions of  
23     someone who claimed about compensation discrimination?

24          A     Off the top of my head, I cannot.

25          Q     And you are not aware of any findings after an

1 investigation that a manager had retaliated against an  
2 employee who complained, are you?

3 A As I said before, my team as well as HR business  
4 partners I assume, do get concerns raised of retaliation,  
5 it's one of the things that we look into to. But would I be  
6 able to tell you that there's a -- I have a specific memory  
7 of a case where we found that a manager had retaliated  
8 against someone for bringing a compensation concern, is that  
9 what you said?

10 Q Yes.

11 A I do not recall such a specific instance off the  
12 top of my head.

13 Q And you're not aware of any Oracle manager having  
14 been disciplined for retaliation, right?

15 A I wouldn't, off the top of my head, be able to say  
16 what a manager, any manager, may or may not be disciplined  
17 for in any given case.

18 Q Are you aware of -- let me start over. Oracle does  
19 not have any procedure to appeal decisions after HR  
20 investigations are completed, correct?

21 A Employees sometimes do object to the findings of  
22 investigations and then we look at their objections case by  
23 case, but we do not have a -- I'm sorry did you call it a  
24 procedure?

25 Q Yes.



1           Q     Why don't you tell us their background and  
2     experience.

3           A     I have a former employment attorney now turned  
4     employee relation specialist. She worked for Wachovia and  
5     then Washington Mutual for many years.

6                     I have two 25 plus year HR business partners from  
7     20 or 25 years from Oracle. Another one that's probably 20  
8     years. HR business partner backgrounds working at Oracle and  
9     other companies doing dozens if not hundreds of  
10    investigations.

11                    I have an employee who has a military background  
12    and worked as a HR person, as well as an investigator in the  
13    military, and then went into doing that in corporate America.

14                    He's been doing it for a good -- for most of his career,  
15    30- 40 years probably.

16                    Let's see, who else do we have? Yeah. And we had  
17    another employment attorney who just recently went back into  
18    the practice of law. So she did employee relations for a  
19    while and then just recently left my team.

20                    I have a director level employee who we just  
21    brought over to work on our Latin America investigations  
22    based on her background in HR, privacy, and security, as well  
23    as her language skills. So she's a veteran of HR,  
24    specifically, and some tangential areas, so she's trying out  
25    the investigations now.

1           I think that's everybody. And we have someone that  
2 handles, you know, more operational things, not an  
3 investigator.

4           Q     Now let's just talk about you for a minute. You  
5 were asked and you responded to a question about formal  
6 training you had regarding investigations, do you recall  
7 that?

8           A     I do.

9           Q     And that was a training that you took in 2000 -- of  
10 February 2019, correct?

11          A     That's correct.

12          Q     Did you also remember answering questions about  
13 other type of trainings you've taken in -- in deposition do  
14 you recall answering questions about other types of trainings  
15 you took?

16          A     I do.

17          Q     Could you tell us what trainings you've taken?

18          A     Well I've been doing HR related work for 20 plus  
19 years now and so before getting into the focus of compliance  
20 and investigations I did a lot of more general HR training  
21 with the Society for Human Resource Management for instance,  
22 or the Northern California chapter of that when I lived here.

23          You know, we have a lot of things on demand internal to  
24 Oracle that are around things associated with, you know,  
25 professional development.

1           And then AWI, the Association of Workforce  
2     Investigators, is an organization I discovered in 2014 when I  
3     was researching this new role. And have been attending all  
4     of their webinars which they do live and then are also on  
5     demand and I get their newsletters and articles. And also I  
6     try to attend at least once a year a legal review put on by  
7     one of our outside firms that we work with at Oracle.

8           Trying to think what else? I participated in a  
9     certificate preparation program back in the late '90s or  
10    probably early 2000s that was about certification for HR  
11    professionals, went through that program. And then a lot of  
12    the informal training that I get about -- have gotten about  
13    investigations comes from our attorneys in house.

14           Q     And have you taken other types of training while at  
15    Oracle? Well I'll just ask you. Have you taken  
16    non-discrimination training?

17           A     Yes.

18           Q     And do you believe or not that, that  
19    non-discrimination training has any application to pay or  
20    compensation discrimination?

21           A     Certainly.

22           Q     How so?

23           A     Well it talks about all kinds of discrimination.  
24    You can't discriminate and make employment decisions which  
25    would include pay on the basis of protected categories.

1           Q     And you've taken affirmative action training,  
2     correct? I'm asking that in a direct -- in a leading way  
3     because I think you said that on direct.

4           A     I did. Yes. I have taken our affirmative action  
5     training at Oracle.

6           Q     And does Oracle offer compensation training?

7           A     We do.

8           Q     And have you taken that training?

9           A     I have.

10          Q     Now, I want to direct your attention to Exhibit  
11     P-109.

12          A     Okay.

13          Q     And you remember seeing this on direct, and it's  
14     entitled "Mechanics of an HR Investigation" --

15          A     That's correct.

16          Q     -- do you see that? Now I have a question for you.  
17     Does Oracle train people on how to conduct an HR  
18     investigation?

19          A     We do not.

20          Q     Okay. So how is Exhibit 109 different than a  
21     training on how to conduct an investigation?

22          A     Our training is about helping HR business partners  
23     and HR investigators hone their skills in the areas that you  
24     might have to do -- things you have to do in an investigation  
25     as well as things you need to consider when you're faced with

1 conducting an HR investigation. We walk through a lot of  
2 different scenarios and talk about interviewing skills,  
3 things like that. So it's not a -- it's not a how -- it's  
4 not a how to, or a step-by-step, or a process, or procedure,  
5 it's more generally about things to consider when you are  
6 conducting investigations.

7 Q And if you don't mind, just stay on topic, but  
8 we'll have to turn the page.

9 MR. PARKER: Could you bring up page 3, please of  
10 Exhibit 109?

11 BY MR. PARKER:

12 Q Do you mind -- the last paragraph of -- the first  
13 paragraph states that these are only guidelines, could you  
14 explain why that would be?

15 A Because each and every investigation is unique and  
16 has to be conducted based on the facts of that case.

17 Q And is that in paragraph -- the second paragraph,  
18 is that to your mind, the second paragraph that is, what is  
19 also stressed at the mechanics of an HR investigation?

20 A When we conduct training with HR business partners  
21 and HR investigators at Oracle, and we do that in partnership  
22 with our Legal Department, we always talk -- these are  
23 guidelines, this is for discussion purposes only. Every case  
24 is unique and different, and you have to do it on a  
25 case-by-case basis partnering with legal to determine what

1 you might need to do in any given case. So we stress that a  
2 lot.

3 Q And you were asked, on direct, about whether or not  
4 there were guidelines, policies, procedures that applied in  
5 pay discrimination -- claims arising out of pay  
6 discrimination complaints. And I believe you answered those  
7 that there were no specific guidelines, policies, or  
8 procedures with regard to pay discrimination investigations,  
9 is that accurate?

10 A That is accurate.

11 Q And could you, in light of this training, could you  
12 tell us why Oracle wouldn't have a policy or procedure  
13 specific to pay discrimination claims?

14 MS. BREMMER: Objection, lack of foundation.

15 JUDGE CLARK: Overruled. I think she can answer  
16 that question.

17 Go ahead and answer, if you can.

18 BY MR. PARKER:

19 A It's to me, personally, I would say we don't have a  
20 policy, a procedure, a practice for how to conduct any type  
21 of investigation, pay discrimination included, because, as it  
22 says in this document, every investigation is different and  
23 it needs to be conducted based on the case and also it needs  
24 to be conducted in the guidance of the legal partner you're  
25 working with. So there is no step-by-step or cookie-cutter

1 process or policy that can do that.

2 Q And I'm going to jump ahead a little bit and we're  
3 going to come back to this, but when HR investigators receive  
4 a complaint, is legal involved at any point in that process?

5 A Yes. Legal's involved in the entire process.

6 Q Well tell me about that.

7 A Certainly. So my team as well as the HR business  
8 partners and the company receive complaints a lot of  
9 different ways --

10 Q Excuse me. Slow down.

11 A Okay.

12 Q We're not going to rush you through, we're going to  
13 get done before lunch anyway.

14 A So we receive complaints from employees a lot of  
15 different ways. And the complaint come -- if the complaint  
16 comes to one of us as the investigator, whether your part of  
17 my team or you're an HR business partner, the first step in  
18 that would be making sure you understand what is being  
19 alleged and that would be what we would call an intake  
20 process. You want to make sure you understand what the  
21 person is concerned with or complaining about.

22 The reason that we do that, and we make sure we  
23 fully understand, is we need that information in order to  
24 seek legal advice from our legal -- you know, our legal  
25 partners at Oracle, internal counsel. So we get the

1 complaint, you're assigned as the investigator, so you get  
2 whatever information is known about that complaint, you  
3 conduct a thorough intake discussion or interview with the  
4 complaining party, and then you would talk to legal.  
5 Sometimes we then talk to legal before we even do the intake.

6 Q And then who makes -- is the HR investigator all  
7 alone in the world making the decision about what documents  
8 to review and who to interview?

9 A Absolutely not.

10 Q Tell me about that.

11 A Whether the HR investigator's a part of my team or  
12 it's an HR business partner, the way that we manage all  
13 investigations, workplace investigations, at Oracle the  
14 expectation is that you will partner with someone in legal  
15 and that your investigation is being conducted at the advice  
16 of counsel. So you're going to work with them to determine  
17 who you're going to interview, what documents you're going to  
18 look at, collect and look at.

19 Q And, if when it comes time to write a closure memo  
20 or an email or a letter, is that done just by the HR  
21 investigator or is there any involvement of legal?

22 A The HR investigator, generally, would in my  
23 experience draft that close out memo, their the one that's  
24 been conducting the investigation at the advice of counsel.  
25 But then the lawyer that they're working with would review

1 that document and need to sign off on it before we used it  
2 with the complaining party or the accused or whoever it is we  
3 are communicating with.

4 Q Okay. Back to Exhibit 109, if you don't mind.

5 A Sure.

6 Q Let's go to the first page and we're going to just  
7 take a couple steps through, not the whole thing. Who are  
8 the people, there are three names here on this document, who  
9 -- could you just run through each one and tell me who they  
10 are?

11 A Sure. Emily Sullivan is a first name, she's one of  
12 our employment attorneys at Oracle. Neil Perry is the second  
13 name. Neil was an employment attorney at Oracle, he's since  
14 left the company, and myself Tammy Baxter.

15 Q All right. And let's go to page 2. There was some  
16 -- I won't -- here's an agenda and it says: "Investigation  
17 guidelines, interviewing, interviewing, interviewing." Do  
18 you see that?

19 A I do.

20 Q Now if you flip to page 4, could you answer for me  
21 was this training just about investigations?

22 A This training was about workplace investigations,  
23 yes.

24 Q Okay. I'm sorry, was it just about interviewing,  
25 my mistake?

1           A     Oh.  No.  It was not just about interviewing.

2           Q     And what it was about is indicated in the contents  
3 of the document, correct?

4           A     Yeah.  This is a power point presentation about a  
5 particular section of the training that we delivered in 2015.

6           Q     Was there another section of this training?

7           A     Yes.  There are, generally, multiple sections of  
8 the training.

9           Q     And how often is this training given?

10          A     Generally, once or twice a year.  Depending on how  
11 many people we need to train.

12          Q     Let me direct your attention to Exhibit P-110.  
13 What is this?

14          A     This document was created by my team of  
15 investigators in 2018.  The training at that time that we did  
16 in 2018, was -- the format the training took was walking  
17 through a mock investigation.  So we made up some facts and  
18 walked everybody through this mock investigation.

19                 We developed this handout as a way for people to  
20 keep track of their thoughts and questions and things that  
21 they wanted to discuss as we went through the different areas  
22 of the investigation that was our mock.  And the exercises to  
23 help people hone their skills in the different areas that  
24 could come up.

25          Q     And who created this document?

1           A     My team created it and then it was reviewed by our  
2 internal attorneys. I believe Emily Sullivan and Neil Perry  
3 reviewed this and made changes based off it and then we  
4 finalized it. It is basically just a worksheet.

5           Q     Do you like this document?

6           A     Yeah.

7           Q     Why? Why do you think it has any utility at all?

8           A     Well in the context of the training we had  
9 developed this idea that would be cool to just do a mock  
10 investigation, you know, rather than just doing Power Point  
11 presentations and talking at people, to try and make it more  
12 engaging. And then someone on the team said:

13           "Well wouldn't it be -- it would be nice if they  
14                 could kind of take notes along the way, to  
15                 keep track of what we talked about when or if  
16                 they had questions, wanted to talk to the  
17                 lawyers afterwards."

18           So yeah, I mean, it was just a tool.

19           Q     And do you believe that this type of training and  
20 this document has application beyond just employment  
21 discrimination claims that your group may investigate?

22           A     Yeah. We're talking about any -- it applies to  
23 workplace investigations, generally.

24           Q     And why do you think it's of any use to -- do you  
25 believe that discrimination investigations are some how so

1 peculiarly different than other workplace investigations that  
2 it deserves a separate training process?

3 A I do not.

4 Q Why not?

5 A Any investigation you do is going to be different  
6 from any other investigation you do based on the facts and  
7 the circumstances of that case, and you're going to have to  
8 work with your legal counsel on exactly how you're going to  
9 conduct that investigation. So these are guidelines about  
10 things that might happen in investigations, based on, you  
11 know, the collective experience we all have.

12 Q And do Oracle employees, are they informed at  
13 headquarters about how to make a complaint?

14 A Yes.

15 Q And what are they told?

16 A Well starting with our new employee documents. So  
17 when employees are on boarded, there's a new employee process  
18 which includes a lot of training. And in each of those  
19 training modules we talk about ways to make complaints, or  
20 raise concerns or questions including talking to your  
21 manager, talking to HR, or going to the integrity helpline.  
22 I think, in some of those, it even talks about going direct  
23 to the Legal Department. So that's when you start working at  
24 Oracle. And then we have an annual program that we run on  
25 various topics in the area of compliance and all of the

1 modules that we deliver also talk about the ways that you can  
2 make a complaint.

3 Q And annual training, is there -- are employees  
4 given annual training?

5 A Yes. I said, annually -- we do something we call  
6 global compliance training annually.

7 Q And could you tell me what are some of the ways an  
8 employee can raise a complaint?

9 A An employee could raise a concern to their  
10 immediate manager or to any manager, they could go to their  
11 HR representative or anyone in HR, they could go to the Legal  
12 Department, anyone in the Legal Department, they could go to  
13 the integrity helpline.

14 Q You were asked some questions on direct about  
15 whether or not you had ever investigated a complaint that  
16 arose in an exit interview, do you remember that?

17 A Yes.

18 Q And then you were asked questions about whether or  
19 not you would get involved in a matter involving the EEOC,  
20 correct?

21 A Correct.

22 Q Do you always know the source of the complaint,  
23 whether it comes up in an exit interview or --

24 A The investigator may not know the source of the  
25 complaint. Exit interviews are not shared broadly, so

1 somebody could say something in an exit interview and then  
2 also file a complaint separately. The same could be said of  
3 a survey, some things are anonymous. So we don't always know  
4 all the ways they may have filed their complaint.

5 Q Are there times where legal will come to your team  
6 and ask the team to do an investigation without necessarily  
7 disclosing how the complaint came to legal's attention?

8 A That certainly could happen, yes.

9 Q And, I'm sorry, let's just be clear, because I  
10 think the Court had a question, I think it was answered --  
11 but let's -- does your team -- can your team, if legal asks  
12 you to do an investigation, can people on your team look at  
13 legal and say: "No. We're not going to do that."

14 A Absolutely not.

15 Q Okay. And so if legal asks your team to do an  
16 investigation, it gets done?

17 A That's correct.

18 Q Okay. Now let's talk about -- there's something  
19 called an employee handbook, correct?

20 A Yes.

21 Q Let's look at Exhibit P-50. You're familiar with  
22 this document, correct?

23 A I am.

24 Q Does this document at all allow someone to find  
25 where to look for the integrity Hotline?

1           A     Yes.

2           Q     And where would it be found?

3           A     In this particular employee handbook, the code of  
4     conduct we call it -- it has a little bit longer name, but I  
5     always get it mixed up -- the code of business ethics and  
6     conduct is attached -- is an attachment to the employee  
7     handbook, and in our code of conduct we outline how employees  
8     can file complaints including listing the integrity helpline  
9     information.

10           MR. PARKER:  One moment, Your Honor, I've lost an  
11     exhibit number that I really would like to --

12           JUDGE CLARK:  No problem.

13           MR. PARKER:  No matter how many times you write it  
14     down, you just don't write it down enough.

15     BY MR. PARKER:

16           Q     Let me direct your attention to J-152.

17           A     Mm-hmm.

18           Q     And with regard to Exhibit P-50, is this the  
19     document you're referring to?

20           A     This is the current code of conduct document, yes.

21           Q     Okay.  And then -- are you sure it's the current  
22     one or an older one?  Let me show you Exhibit P-130.  I'm  
23     sorry, I don't want that -- yes I do want that, Exhibit  
24     P-130.

25           A     That's the same document as the previous one.

1           Q     Okay. Great. Now let me direct your attention to  
2 Exhibit P-1 -- direct your attention to the more recent  
3 J-155. And you understand what is this document?

4           A     It's also the US Employee Handbook, but a more  
5 recently revised version.

6           Q     Okay. And do you know whether or not in the  
7 contents of Exhibit J-155, it actually refers to the  
8 integrity hotline?

9           A     It does.

10          Q     Okay. Now you were asked some questions about the  
11 integrity hotline, correct?

12          A     I was.

13          Q     And when someone makes a call to the integrity --  
14 into the integrity hotline you were asked if you received an  
15 email, correct?

16          A     Correct.

17          Q     And I think you said: "I don't know for sure." Is  
18 it always an email that one receives -- you're team would  
19 receive when someone calls into the integrity hotline?

20          A     Let me clarify, I think my response to Ms.  
21 Bremmer's question -- that I said not necessarily or  
22 something to that effect -- was, if an employee or anyone  
23 calls the integrity helpline and makes a report, only those  
24 that are related -- are employee relations, or HR related are  
25 going to come to my team. So that I think was the context.

1 Q Great. Let's do this so we can draw a distinction.

2 There are workplace complaints, correct?

3 A Yes.

4 Q Then there's another whole set of complaints at

5 Oracle, correct?

6 A Yes.

7 Q Can you tell me the type of -- and your team

8 handles the workplace complaints, correct?

9 A Yeah. Well the HR related ones, yes.

10 Q What complaints would never end up being in front

11 of your team?

12 A Those would be the complaints that are more

13 commercial in nature. So if someone is complaining of

14 corruption or insider trading activities or something that's

15 commercial, violation of business courtesy policies, anything

16 around anti-corruption, things like that.

17 Q And the integrity helpline complaints, those

18 complaints that come in that would go to your group, is legal

19 involved or not involved in those type of -- any

20 investigation that would result?

21 A Is legal involved? Yes.

22 Q Okay. Is legal involved in some different way than

23 what you've described already?

24 A No.

25 Q Now you talked about complaints and typically, if I

1 understand, in a general -- generally there's an interview of  
2 the person who's made the complaint, correct?

3 A Correct.

4 Q And, generally, there's an interview of the  
5 accused, correct?

6 A Yes.

7 Q And then third, are there any instances where you  
8 understand that the complainant says: "I don't want you to  
9 talk to the accused," have you ever encountered those  
10 situations?

11 A Yes.

12 Q Is there a set policy at Oracle about what one  
13 should do when that request is made by the accused?

14 A No.

15 Q What do you understand is the -- what generally  
16 happens?

17 A In general, if anything that comes up in an  
18 investigation -- we would -- as the investigator I would  
19 discuss with legal what we are or aren't going to do. So  
20 that would include if someone had said I don't want you to  
21 talk to so and so. Or I don't want you to do X, Y, or Z, we  
22 would discuss that as a part of the investigation and  
23 determine what we are or aren't going to do, case by case.

24 Q Now you were asked some questions about remedial  
25 measures, correct?

1           A     Yes.

2           Q     Is your team involved in monitoring any remedial --  
3     who makes the decision about whether there should be a  
4     remedial measure of some type?

5           A     The investigator would work with the Legal  
6     Department on recommended remedial actions, but it's up to  
7     the business, the management of that individual, to agree to  
8     those remedial actions or decide to do different remedial  
9     actions.

10          Q     Right.  And is your team responsible for monitoring  
11     remedial actions?

12          A     We are not.

13                 MR. PARKER:  One moment, Your Honor.

14                 JUDGE CLARK:  Thank you.

15     BY MR. PARKER:

16          Q     Oh.  I know I want to ask you this, then I'm going  
17     to consult with people.

18                 You were asked some questions about Shauna  
19     Holman-Harries, correct?

20          A     I was.

21          Q     Does your team make the decision about what  
22     information should go to Ms. Holman-Harries?

23          A     We do not.

24          Q     Do you have an understanding who makes decisions  
25     about what information Ms. Holman-Harries even needs, wants,

1 or desires?

2 MS. BREMMER: Objection, lack of foundation.

3 JUDGE CLARK: Overruled. I think you can answer  
4 that question if you know.

5 BY MR. PARKER:

6 A Yeah. As far as I know, Shauna works with the  
7 Legal Department for her work and I don't know that she works  
8 with anybody else.

9 MR. PARKER: One moment, now, Your Honor.

10 JUDGE CLARK: Thank you.

11 BY MR. PARKER:

12 Q We've been talking in terms of pay discrimination.  
13 In your view, when complaints are made, are they all pay  
14 discrimination complaints? Even if they're about pay, are  
15 they all about pay discrimination?

16 A Not necessarily, no.

17 Q Okay. And do you still investigate them if it's a  
18 complaint about pay even if it doesn't raise a pay  
19 discrimination?

20 A Yes.

21 Q Okay. Also, do you recall or know whether or not  
22 employees are regularly -- employees are sent emails  
23 reminding them about the integrity hotline?

24 A Yes. Dorian Daley, or general counsel, sends those  
25 out on a fairly regular basis.

1 Q And the integrity hotline information, is that  
2 available regardless of whether -- separate and apart from  
3 email, is that available in some form to employees like  
4 online or in hard copy form?

5 A Yes. Both.

6 Q Okay.

7 MR. PARKER: One more minute, Your Honor, and then  
8 I think we might be --

9 JUDGE CLARK: Thank you, Mr. Parker.

10 While we're waiting, Dorian Daley, can you spell  
11 it?

12 MS. BREMMER: Dorian D as in David, O-R-I-A-N.

13 JUDGE CLARK: Okay.

14 MS. BREMMER: Daley. D as in David, A-L-E-Y.

15 Oracle's general counsel.

16 JUDGE CLARK: Thank you.

17 MS. BREMMER: You're welcome.

18 MR. PARKER: No further questions.

19 JUDGE CLARK: Thank you, Mr. Parker.

20 Ms. Bremmer, anything further?

21 MS. BREMMER: Yes, Your Honor.

22 JUDGE CLARK: Go ahead.

23 REDIRECT EXAMINATION

24 BY MS. BREMMER:

25 Q You do not know if Shauna Holman-Harries gets

1 information regarding pay discrimination complaints from  
2 legal, correct?

3 A I do not know what information Ms. Harries gets  
4 from legal.

5 Q And you don't know if she receives information  
6 regarding pay discrimination complaints from any other  
7 source, correct?

8 A I do not know what information she gets from other  
9 sources, no.

10 Q And you don't know if Shauna Holman-Harries  
11 receives any information regarding the investigations that  
12 your team conducts, correct?

13 A Can you please repeat that question?

14 Q You don't know if Shauna Holman-Harries receives  
15 any information regarding the investigations that your team  
16 conducts, right?

17 A I do not provide her any of that information.

18 Q And you don't know if she receives it from any  
19 other source?

20 A I don't know what information she receives from any  
21 other source.

22 Q It sounds like you believe that an HR investigation  
23  
24 -- or that your team of HR investigators is qualified to  
25 conduct any HR related investigation, right?

1           A     I believe that we do have -- individuals who are  
2 qualified to conduct workplace investigations, yes.

3           Q     And are you aware that OFCCP investigators  
4 conducted an investigation of Oracle?

5           A     I am aware of that, yes.

6           Q     What would you think if the Department of Labor  
7 sent OSHA investigators to handle an OFCCP investigation?

8           MR. PARKER: Vague and ambiguous. Irrelevant.

9           JUDGE CLARK: What's the relevance?

10          MS. BREMMER: Just to show that investigators have  
11 different skills and experience.

12          JUDGE CLARK: I'm going to -- rephrase your  
13 question at this point, I'm not sure that --

14          MS. BREMMER: That's okay. I'll move on.

15 BY MS. BREMMER:

16          Q     You just testified about what might happen or what  
17 would -- what could happen if someone complained and said  
18 they didn't want the accused to find out about the  
19 investigation, do you recall that?

20          A     Yes.

21          Q     Are you aware of any instance where that happened,  
22 where the complainant asked that the accused not be notified  
23 about the investigation?

24          A     In my experience, it's not uncommon for  
25 complainants or witnesses to be concerned that someone's

1 going to find out they're involved in an investigation.

2 Q And are you aware of any instance where the accused  
3 was not notified of the investigation?

4 A I am not, off the top of my head, aware of a  
5 specific case, no.

6 MS. BREMMER: Okay. That's all I have.

7 JUDGE CLARK: Thank you, Ms. Bremmer.

8 Mr. Parker, anything on that limited area?

9 MR. PARKER: On that limited area, I don't know,  
10 Your Honor. I'm going to ask the question and I'll tell you  
11 I think it's on the edge but I think it's a fair question.

12 JUDGE CLARK: Go ahead and ask your question.

13 RE-CROSS-EXAMINATION

14 BY MR. PARKER:

15 Q Have you ever run into instances where after a  
16 complaint is made, the complainant seeks to withdraw the  
17 complaint?

18 A Yes. That does happen.

19 Q And does Oracle have a policy about that?

20 A We do not have a policy about that per se, but in  
21 general, after, you know, the cats out of the bag. If they  
22 make the complaint, we're going to take appropriate action.

23 MR. PARKER: NO further questions, Your Honor.

24 JUDGE CLARK: Ms. Bremmer, anything further?

25 MS. BREMMER: No, Your Honor.

1 JUDGE CLARK: Ms. Baxter, thank you so much for  
2 your time. You're excused as a witness. You're free to go.

3 THE WITNESS: Okay. Thank you.

4 JUDGE CLARK: Thank you very much.

5 Okay. Thank you. So our next witness?

6 MS. BREMMER: Okay. We'll need to get our next  
7 witness, it's going to be Nicole Alexander.

8 JUDGE CLARK: Okay. We'll go ahead and go off the  
9 record while the next witness comes up. We're off the  
10 record.

11 (Off the record at 11:36 o'clock a.m.)

12 JUDGE CLARK: Just go right up here. And before  
13 you have a seat, if you turn and face me, raise your right  
14 hand.

15 Whereupon,

16 NICOLE ALEXANDER,  
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.

20 And then if you would state your name and spell it  
21 for the record, please?

22 THE WITNESS: Nicole Alexander. N-I-C-O-L-E  
23 A-L-E-X-A-N-D-E-R.

24 JUDGE CLARK: Thank you, Ms. Alexander.

25 The lawyer's going to ask you questions and we're

1 recording everything that's said here. So do your best to  
2 let the lawyer ask the complete question and then you give  
3 your complete answer, because we can't record two people  
4 talking at once, do you understand?

5 THE WITNESS: I do.

6 JUDGE CLARK: And if you don't understand  
7 something, let us know and we'll have the lawyers rephrase it  
8 for you, okay?

9 THE WITNESS: I will.

10 JUDGE CLARK: If someone makes an objection, you  
11 just stop talking and I'll tell you whether you can answer  
12 the question. Sound good?

13 THE WITNESS: Sounds good. Thank you.

14 JUDGE CLARK: And because we're talking -- because  
15 we're recording everything that's said, you have to use words  
16 like yes or no, not uh-hu or uh-huh or shake your head,  
17 because we can't really take that down, all right?

18 THE WITNESS: Yes.

19 JUDGE CLARK: So you shook your head. Is that a  
20 yes?

21 THE WITNESS: Yes.

22 JUDGE CLARK: Okay. If you would pull the  
23 microphone just a little bit closer to you, you can just move  
24 it on the desk there. You don't have to lean into, we should  
25 be able to pick you up, a little bit closer is great.



1 California, Santa Barbara. And I have been a post-doctoral,  
2 visiting-researcher at the Center for Geographic Analysis at  
3 Harvard University for over a decade.

4 Q Thank you. Can you briefly summarize your work  
5 experience?

6 A I am a geographic information scientist and  
7 software developer. I specialize in geo-spatial application  
8 development.

9 Q Did you ever work for Oracle America, Incorporated?

10 A Yes. I did. I was employed by Oracle for almost  
11 18 years. I worked --

12 Q When did you work at Oracle?

13 A I worked at Oracle from May 2000 to February 2018.

14

15 Q Where did you work at Oracle?

16 A I worked at Oracle both at the Nashua facility in  
17 New Hampshire and at the Oracle Headquarters at Redwood  
18 Shores.

19 Q When were you at the Nashua facility?

20 A I was at the Nashua facility from May 2000 until  
21 mid April -- mid to late April 2016.

22 Q And when were you at the Redwood Shores  
23 headquarters facility?

24 A I was at the Redwood Shores facility from late  
25 April 2016 until I was laid off in February 2018.

1 Q How did you come to work at Oracle?

2 A Twenty years ago database technology was really  
3 exciting, and in 1999 I attended a geo-spatial conference,  
4 technical conference, and I met Kirk Michael Fisher. He was  
5 a product manager for Oracle and I told him that I was really  
6 excited about the Oracle technology and he gave me his  
7 business card. When I was ready to change employment, I sent  
8 Mike Fisher my resume and he passed it on to the Oracle  
9 Spatial Development Team.

10 Q Okay. Were you applying to a specific job when you  
11 passed your resume to him?

12 A No. I was not.

13 Q And where were you living when you gave him your  
14 resume?

15 A So I emailed him my resume, at the time I was in  
16 the Bay Area, around Sunnyvale, between Sunnyvale and  
17 Mountain View, California.

18 Q And where was the job located?

19 A The job -- at the time I was not aware, but the job  
20 was in Nashua, New Hampshire.

21 Q And when did you learn the position you were being  
22 considered for?

23 A So I learned about the position at the interview in  
24 Nashua, New Hampshire.

25 Q At some point, did you yourself apply for a

1 position online?

2 A No. I did not.

3 Q Who, if anyone, was involved in making you an offer  
4 to work at Oracle?

5 A Steven Serra was my hiring manager in the Nashua,  
6 New Hampshire facility.

7 Q Do you remember his title?

8 A He was, at the time, the Director of Engineering at  
9 the Nashua facility for the Oracle Spatial Team.

10 Q Okay. Was there anyone else involved in making you  
11 an offer?

12 A Steven Hagan, again from the Nashua Facility.

13 Q And do you remember his title?

14 A He was the VP of Development for Oracle Spatial at  
15 the Nashua facility.

16 Q Sorry. Dr. Alexander, do you remember what your  
17 starting pay at Oracle was in 1999?

18 A My starting pay was \$90,000 US.

19 Q What position did you have when you first started  
20 working at Oracle?

21 A When I first started working at Oracle, I was a  
22 senior member of technical staff.

23 Q And how long did you hold this position?

24 A I held this position for approximately five years.

25 Q And do you know if this was in the Product

1 Development group?

2 A It was. I was on the Oracle Spacial Development  
3 team. Oracle Spacial is Oracle's solution for storing  
4 geographic data in the database.

5 Q What were some of your duties as a senior member of  
6 technical staff?

7 A As a senior member of technical staff, I was  
8 involved in integrating business partner's software with the  
9 Oracle Spacial product. I was also involved in software  
10 development.

11 Q Did you hold any positions after seeing a member of  
12 technical staff?

13 A I did.

14 Q What was that?

15 A I was a principal member of technical staff on the  
16 Oracle Spacial Development team.

17 Q And when did you become principal member of  
18 technical staff?

19 A I became a principal member of technical staff  
20 towards the end of maybe around October 2005.

21 Q And how long did you hold that position?

22 A I held that position until I was laid off, so from  
23 October -- roughly October 2005 to February 2018.

24 Q What were some of your duties as a principal member  
25 of technical staff?

1           A     I was involved in software development.  
2           Specifically, I was lead developer for the Oracle Geocoder,  
3           which is the tool in the Oracle database which takes an  
4           address and returns a latitude-longitude value so that you  
5           can display location on a map.

6           Q     And was this position also in Product Development?

7           A     It is.

8           Q     Okay. Are you familiar with the term job function  
9           at Oracle?

10          A     No.

11          Q     Are you familiar with the term global career level  
12          at Oracle?

13          A     No.

14          Q     Are you familiar with the term individual  
15          contributor level?

16          A     I'm familiar with that term but only recently so.  
17          I was not aware of that term when I worked at Oracle.

18          Q     Did you know what an individual contributor level  
19          was at Oracle at any point?

20          A     No. I did not.

21          Q     Around 2005, do you recall if you saw any postings  
22          regarding the pay of software developers?

23          A     Yeah. Around 2005, when I worked at the Nashua  
24          facility as a senior member of technical staff, in the break  
25          room I recall seeing a job posting for a position that

1       sounded like mine at the time. And I recall that the salary  
2       for that position was about 5,000 more than I was currently  
3       making as a senior member of technical staff.

4           Q       Why did that posting stand out to you?

5           A       Well it was a posting for a H1B application, and it  
6       stood out to me because I was in the same job role. It  
7       sounded as if I were in the same job role.

8           Q       Okay. Let's talk about patents and your work, if  
9       any, involving patents. Were you involved in the application  
10      process for any patents while working at Oracle?

11          A       Yes. I was.

12          Q       How many?

13          A       One.

14          Q       Was the patent number awarded?

15          A       It was.

16          Q       And what was the patent for?

17          A       The patent was for the RDF object type and  
18      reunification in the database. RDF stands resource  
19      description framework.

20          Q       Okay. And what was your involvement with the  
21      invention of the patent?

22          A       I was the sole developer on this patent.

23          Q       Who, if anyone was listed on the patent?

24          A       On the patent was listed my manager, Siva Ravada,  
25      and I was listed on the patent, Nicole Alexander.

1           Q     Okay.  You mentioned Siva Ravada as your manager,  
2     what was his involvement in the project for obtaining the  
3     patent?

4           A     Siva's involvement was that he assigned the project  
5     to me as well as he reviewed my work.  But I was the sole  
6     developer on the project.

7           Q     Do you know if he was listed on any other patents?

8           A     Yes.  He was listed on many other patents.  In my  
9     understanding it was the custom to have the manager's name --  
10    your direct manager's name listed on the patent.

11          Q     Okay.  Outside of Siva Ravada, do you remember the  
12    names of any managers you supported in projects at Oracle?

13          A     Steven Serra.

14          Q     Outside of the resource description framework do  
15    you remember the names of any products you worked on while at  
16    Oracle?

17          A     Yes.  I worked on the Oracle Mapper, and that's the  
18    tool that will display the map.  And I also worked on the  
19    Oracle Geocoder which is what I had been working on most  
20    recently.

21          Q     When did you work on the Oracle Mappa [sic]?

22          A     I worked on the Oracle Mapper maybe from around  
23    2003 to 2006.

24          Q     Okay.  And when did you work on the Oracle Geocoder  
25    if you recall?

1           A     I worked on the Oracle Geocoder from 2006 until I  
2 was laid off in February 2018.

3           Q     So, during your employment with Oracle from 2000 to  
4 2018, do you recall if Oracle granted you any stock options  
5 during your employment?

6           A     Yes. They did.

7           Q     Do you remember when?

8           A     Yeah. On May the 26th, 2000, I was awarded 1,800  
9 shares over four years. The grant price was 33.219 so that's  
10 approximately \$33.22. So over four years I had 7,200 shares  
11 at \$33.22.

12          Q     Okay. Did you receive any money at the date that  
13 they were granted in 2000?

14          A     No. I did not.

15          Q     Was that the only time you were granted stock at  
16 Oracle?

17          A     No. It was not. On June the 4th, 2001, I was  
18 granted a one off-- a grant of 1,000 shares. The grant  
19 price was \$15.86 exactly.

20          Q     Okay. Did you receive any money at the date those  
21 stock options were granted in 2001?

22          A     No. I did not.

23          Q     Did you receive any additional shares while at  
24 Oracle?

25          A     No. I did not.

1 Q Did you ever exercise your stock options?

2 A I did. From the 1,000 share grant I exercised the  
3 first 500 in 2010 at a stock price of \$27.50. I exercised  
4 the second 500 shares of that 1,000 shares at \$34.75.

5 Q What about the 7200 shares that you first received?

6 A I was not able to exercise those, because they were  
7 underwater by the expiration date.

8 Q When was the expiration date?

9 A Ten years later, so May the 26th, 2010.

10 Q Okay. And you used the term underwater, is there a  
11 reason you describe as being underwater?

12 A Well they were underwater because the grant price  
13 of 33.219 was more than the market value of the Oracle stock  
14 on May the 26th, 2010. On May the 26th, 2010, the high price  
15 for the Oracle stock was approximately \$22.62.

16 Q So did you ever receive any money from the 7200  
17 shares you were granted?

18 A I did not.

19 Q You mentioned earlier that you worked at  
20 headquarters, how did that come about?

21 A So I was hired out of California and, after about  
22 15 years in New Hampshire with the long winters and shoveling  
23 snow, I was ready to come back.

24 Q And did you?

25 A I did.

1 Q And when did you relocate to headquarters?

2 A So I relocated to headquarters towards the end of  
3 April 2016.

4 Q When you relocated to headquarters did your pay  
5 increase?

6 A It did. In anticipation of the move, my salary was  
7 increased from about 99,700 to about 108,700 roughly.

8 Q Okay. After you relocated, did you seek an  
9 additional increase in pay?

10 A I did. I sought an increase by asking my manager  
11 if I can work -- I could work on my promotion to consultant  
12 member of technical staff.

13 Q And why did you seek a promotion to consulting  
14 member of technical staff?

15 A I sought the promotion because I was having my  
16 salary was not sufficiently covering my bills in California.

17 Q When did you seek the promotion to consulting  
18 member of technical staff?

19 A I initiated the process about just over three  
20 months after I relocated, so early August, 2016.

21 Q Do you know if the title consulting member of  
22 technical staff, was associated with a global career level?

23 A I do not. Or I did not.

24 Q Okay. So let's get into the specifics of when you  
25 were seeking a promotion. How did you go about seeking your

1 promotion?

2 A So I went about seeking the promotion by first I  
3 sent out an email to my manager telling him that I would like  
4 to work on my promotion to consulting member of technical  
5 staff, and he said we will have a meeting. You know, you  
6 organize the meeting when he came to visit. So he came out  
7 to visit for the Oracle Open World conference which is in  
8 October. And so in October of 2016, we had a meeting, you  
9 know, a discussion on the requirements for the application  
10 for consulting member of staff.

11 So as part of the application process I would need  
12 to acquire letters of recommendation from inter-level  
13 employees as well as external business partners that I had  
14 worked with over the years. He also said that I would need  
15 to work on a project across the group, meaning work on a  
16 project with another group inside of Oracle.

17 Q Okay. Had you previously completed any of those  
18 items?

19 A Yeah. I did previously work with a different group  
20 across Oracle.

21 Q Do you recall if he -- if the conversation with  
22 your manager if he mentioned anything else?

23 A Yeah. He said that, you know, even -- so I was  
24 saying to him, look, my key motivation, I mean, working on  
25 this promotion is to increase my salary. And so he said to

1 me that promotion and salary increases was separate. A  
2 promotion did not necessarily mean I would get a salary  
3 increase.

4 Q During the time you were seeking a promotion to  
5 consulting member of technical staff, how long had you been  
6 working at Oracle?

7 A I had been working at Oracle for approximately 16  
8 years.

9 Q And how long as a principal member of technical  
10 staff?

11 A I had been a principal member of technical staff  
12 for about 11 years.

13 Q And during the time you were seeking promotion to  
14 consulting member of technical staff, had anyone else  
15 recently been promoted to that position?

16 A Yes.

17 Q Do you remember that person's race and gender?

18 A Yes. It was a white male.

19 Q And do you know how long he had worked at Oracle?

20 A He had worked at Oracle for about the same time  
21 plus six months, so he was hired about six months before I  
22 was.

23 Q And how do you remember that it was about six  
24 months?

25 A Because we attended the same introduction to Oracle

1 Spatial Training.

2 Q Did you know what type of products he had worked on  
3 at Oracle?

4 A He worked on similar products because he was in the  
5 Oracle Spatial Development team. Oracle Spatial is Oracle  
6 solution for storing geographic data in the database and  
7 managing the geographic data in the database.

8 Q How did you come to find out that this person had  
9 been promoted to consultant member of technical staff?

10 A So around late 2016, I received an email from my  
11 colleague saying that he had brought donuts and that we can  
12 get the donuts at the kitchen. And so I emailed him and I  
13 said: "Are we celebrating something specific?" And his  
14 response was that he was celebrating his promotion to  
15 consulting member of technical staff.

16 Q Did you do anything once you learned this?

17 A Yeah. When I learned this I call my manager and I  
18 ask him why the rules -- why the rules for my promotion were  
19 different than others. And the reason that I was asking this  
20 was because I was aware that he had not worked on a project  
21 with another group at Oracle, which was one of the  
22 requirements that my manager had stipulated.

23 Q So to clarify, to your knowledge, at that time in  
24 2016, had this person worked with someone from a different  
25 team?

1           A     He had not.

2           Q     And to your knowledge at that time in 2016, had  
3 this person been awarded a patent?

4           A     He had not.

5           Q     Going back to the list of tasks Siva mentioned you  
6 needed in order to get the promotion, what if anything did  
7 you do?

8           A     I got the letters of recommendation together, and  
9 completed all the items that were necessary and around  
10 February 2017, I asked him:

11           "Do you now have everything that's required to submit  
12 my application to consulting member of  
13 technical staff?" And he said:

14           "Yes."

15           Q     Okay. Did you ever get the promotion to consulting  
16 member of technical staff?

17           A     I did not.

18           Q     Dr. Alexander, did you do anything to seek higher  
19 pay at Oracle other than seeking a promotion?

20           A     No. I did not.

21           Q     Why not?

22           A     I assumed that the only way to get more money was  
23 to be promoted.

24           Q     Allow me to draw your attention to April of 2017.  
25 Do you recall reading any news mentioning Oracle around this

1 time?

2 A Yes. I do.

3 Q And where did you see the news?

4 A So a friend sent me -- around April the 8th, a  
5 friend sent me an email with a link and said: "Read this  
6 article. Make sure you read the final paragraph." And the  
7 link was from NBC News site and in the final paragraph -- the  
8 article was mostly on Google. The final paragraph said that  
9 Oracle was also being sued by the Department of Labor for  
10 paying white males more than they were paying women and their  
11 non-white counterparts for doing similar jobs.

12 Q Dr. Alexander, I'm going to show you on your screen  
13 what has been entered into evidence as Plaintiff's Exhibit  
14 118, Bates Stamp No. OracleHQCA00416500. Do you recognize  
15 this document?

16 A I do.

17 Q What is it?

18 A It's an email that I had sent to Barbara Hardy, or  
19 Ms. Williams, Barbara Williams from -- she was from Oracle HR  
20 and I was asking her specifically to do a salary review. In  
21 fact, I quote, I said: "In light of this now public  
22 disclosure, I would like my salary discreetly reviewed."

23 Q Dr. Alexander was there a particular reason you  
24 asked for your salary review to be done discretely?

25 A Yes. There was. I had already submitted my -- as

1 far as I knew, my manager had already submitted my  
2 application for promotion to consulting member of technical  
3 staff to be reviewed by the above managers Steven Hagan and  
4 Andy Mendelsohn and I didn't want the salary review to cost  
5 me my promotion.

6 Q Okay. Turning back to your email, Plaintiff's  
7 Exhibit 118, it says:

8 "In my estimation my salary is over 50,000 less than what  
9 other software engineers with my level experience  
10 are paid in the Bay Area."

11 What was the basis of your statement?

12 A So after I relocated to the Bay Area and was having  
13 difficulty, you know, meeting my financial obligations, I did  
14 -- I googled, you know, I did some research online and one of  
15 the links that I found was Glass Door. And with the Glass  
16 Door link, it had estimated that a principal member of  
17 technical staff at Oracle made, within the Bay Area, made  
18 between 135,000 to 165,000 -- 175,000 roughly. And so, based  
19 on where my salary was at the time of 112,000 and the fact  
20 that I had already submitted my application to consulting  
21 member of staff, I estimated that I was about -- being paid  
22 at least 50,000 short.

23 Q And what, if anything, happened after you sent your  
24 April 10th email?

25 A After I sent my April 10th email, I had a phone

1 call with my manager and he was really angry. He said to me  
2 that no one had ever been so persistent, you know, about  
3 following up on the promotion as I. He was really upset.

4 Q How do you know he was upset?

5 A He was upset because -- he's a very -- he's a very  
6 -- I had known him for over 16 years and he's a very mild  
7 mannered person, and he was really -- he was really shouting  
8 at me, what seemed like really raising his voice and he also  
9 wouldn't let me speak, so it was completely out of character.

10 Q Outside of Siva, your manager, did you speak with  
11 anyone else after sending your email?

12 A I did. I spoke with Nicole Lurie from HR.

13 Q And what happened?

14 A So I spoke with Nicole Lurie and I told her that --  
15 she introduced herself, I told her that I wanted this  
16 discreet salary review done. And I also told her that I  
17 would like to find out if she thought my salary reasonable  
18 for the Bay Area. My salary then was about 112,000 roughly.

19 Q Did you have any other conversations with Nicole  
20 Lurie in HR?

21 A Yes. So I had about four conversation -- I recall  
22 about four to six conversations with Nicole.

23 Q Total?

24 A Total.

25 Q And do you --

1           A     Roughly.

2           Q     Okay.  And do you remember any other specific  
3     calls?

4           A     So I had -- so we had roughly two introductory.  
5     The first call it was an introductory call, the second call  
6     was she wanted to find out specifically when was my  
7     application to consulting member of technical staff  
8     submitted.  The third call was -- or roughly the third call  
9     was initiated by me because at some point I realized that  
10    maybe my application was not submitted, because of the  
11    information that Siva was still asking of me.  I was really  
12    quite emotional and so I called her about that.  And then the  
13    final call, that I recall, was when she was giving me the  
14    report on the salary review.

15          Q     Of these calls do you -- do you remember how long  
16    any of these conversations were?

17          A     The first two calls would have been shorter calls,  
18    introductory calls, I would say, you know, 15 minutes to less  
19    than half an hour.  And then the two later calls would have  
20    been longer, you know, I would say 40 minutes to an hour.

21          Q     Did Nicole Lurie ever say who she spoke with to  
22    complete your salary review?

23          A     No.  She did not tell me this directly, but in the  
24    final report she said that she had spoken to managers and  
25    employees.

1           Q     Was she ever -- did she ever say anybody specific  
2     that she spoke with?

3           A     No. She did not.

4           Q     Did you obtain information about what else HR was  
5     doing to complete your salary review?

6           A     I did not.

7           Q     Dr. Alexander, I would like to talk to you about  
8     your job performance at Oracle. Had you ever received any  
9     formal performance appraisals while at Oracle?

10          A     I never received any formal appraisals while at  
11     Oracle.

12          Q     So how did you typically receive feedback if any?

13          A     Feedback was a really informal process. So the  
14     manager would call me into the office and say, you know,  
15     you're doing a good job, here's what we're doing for next  
16     year I suppose, but it's not something that happened every  
17     year and it was really informal.

18          Q     How would you describe the majority of the feedback  
19     you received during your time at Oracle?

20          A     Prior to asking for a salary review, I only ever  
21     received good feedback. I never received negative feedback  
22     on my performance while at Oracle.

23          Q     Okay. And so after you made your salary review  
24     requests with HR, were there any changes to the feedback you  
25     received?

1           A     Yes.  For the first time in 17 years, I received  
2 negative feedback about my performance.

3           Q     And who was this from?

4           A     From my manager.  So my manager said that I hadn't  
5 taken initiative on a particular project and he also said  
6 that particular project that I was working on I was slow.  
7 And neither were true.

8                     What he was accusing me of not taking initiative  
9 was something that would typically have been out of scope for  
10 my project.  And the task that he was saying I was being slow  
11 on was something that I had started two years ago, it was an  
12 integration with another -- with two from a different Oracle  
13 group.  And when I integrated it with my product, it was  
14 really slow and so I said to him:

15           "Look.  I tried this integration, you have a look at  
16                     it, let me know because -- let me know if you  
17                     see any ways of optimizing this because it's  
18                     -- it's getting better results, but it's  
19                     running really slow."

20                     And so he looked at it and he said, "There's no way  
21 to optimize this, let's can this project."  So we ended the  
22 project, then two years later when that team improved their  
23 tool, he said:  "How about trying it again and see if you get  
24 better performance."  So then I tried it again and the  
25 performance was better, but not that much.  However, he

1 looked at the time from when I originally started the project  
2 two years before to the final time and said: "Whoa. You  
3 took over two years on this project," when the truth was that  
4 I really had only taken more than, you know, three months on  
5 it.

6 Q Dr. Alexander, had you ever been told before that  
7 you took too long to complete an assignment?

8 A No. I had not.

9 Q And after you made your request to HR to have your  
10 salary reviewed, how long did it take before you got this  
11 negative feedback from Siva?

12 A It was within the same time frame, you know, a few  
13 weeks. Four to six weeks.

14 Q Did you believe your managers feedback was fair?

15 A I did not.

16 Q Why not?

17 A I did not, because I worked so hard, you know. And  
18 he said I didn't take initiative and it was on something like  
19 I said, out of the scope and with regard to the project that  
20 he claimed that I did not -- that I was slow on, I really  
21 wasn't slow on it. It was that it had been previously  
22 abandoned and then resurrected and abandoned again.

23 Q Do you recall if he mentioned anything else during  
24 this time?

25 A So, after he gave me the negative feedback, he told

1 me that I would not be getting my promotion to consulting  
2 member of technical staff, and to get the promotion I needed  
3 to do an additional project.

4 Q And how many years had you been working as a  
5 principal member of technical staff at this point?

6 A At this point, I would have been working as a  
7 principal member of technical staff almost 12 years.

8 Q So then what, if anything, happened after you found  
9 out that you needed to work on yet another additional project  
10 to receive a promotion?

11 A Well so a few things happened. So he came -- he  
12 came to visit and -- he came for other meetings at Oracle  
13 headquarters, and he met with me at that time to discuss, you  
14 know, how we would move forward with the new project and so  
15 forth and at that time he said to me:

16 "Look. When you've been at Oracle this long, your salary  
17 does not increase with the market value" -- "with  
18 the market. If you want more money you have to get  
19 a different job."

20 Q Dr. Alexander, I'm going to show you what has been  
21 entered into evidence as Plaintiff's Exhibit 119, Bates Stamp  
22 No. OracleHQCA000416510. Do you recognize this document?

23 A I do.

24 Q And what is it?

25 A So it's the investigation results. So it's the

1 results of Oracle HR's review of my salary.

2 Q And what information did Oracle provide to you  
3 about HR's review of your salary?

4 A Well it said and I quote:

5 "We conducted a thorough investigation of your  
6 concerns that include interviews with you, your  
7 manager, and other employees and management. We  
8 also reviewed various records, emails, and files  
9 including information and documentation you  
10 provided relevant to this investigation."

11 Q Did anyone at Oracle provide you with information  
12 as to who HR interviewed during this investigation?

13 A No. They did not.

14 Q Do you know what documents HR reviewed?

15 A I only know the documents that I sent to them. So  
16 I sent them my resume and I sent them the links to the Glass  
17 Door salary ranges and I also sent them the links to the  
18 article that I had seen online referring to the Department of  
19 Labor's case against Oracle.

20 Q Do you recall forwarding any emails to Nicole  
21 Lurie?

22 A I did forward one -- I do recall forwarding an  
23 email to Nicole and in that email it included information  
24 about my manager's response to her asking for -- her asking  
25 exactly when my application to consultant member of technical

1 staff was submitted. So when I asked Siva if he would  
2 provide this information, he said -- he wrote me by email and  
3 said: "Why is HR asking you this? Tell them if they want to  
4 find out they should ask me directly?" And so I had sent  
5 that to Nicole.

6 Q Did HR ever ask you to provide any documentation at  
7 any point?

8 A No. They did not.

9 Q What was the conclusion of HR's investigation  
10 regarding your salary?

11 A According to HR and I quote here:

12 "Our investigation found no evidence that  
13 gender, race or anything else inappropriate  
14 factored into the compensation decisions  
15 within in your department. We did find that  
16 there were variations in pay due to legitimate  
17 business reasons, such as performance levels,  
18 job scope, and responsibilities and overall  
19 contribution to the business."

20 Q Dr. Alexander, how did that make you feel?

21 A Well I was disappointed.

22 Q I want to ask you about the last paragraph that  
23 encourages you to speak with your manager and HR VP about  
24 your pay. It mentions that:

25 "They can provide suggestions pertaining to

1           your performance and contributions that will  
2           better support consideration of a pay increase  
3           should there be available budget during a  
4           future focal process."

5           What is your understanding of how the budget would  
6           impact your salary?

7           A     I had no understanding of this.  When I read it, my  
8           sense was that it had been copied and pasted from one of the  
9           HR manuals and was included in here for compliance, but it  
10          wasn't really anything actionable for me.

11          Q     Were you satisfied with HR's review of your salary?

12          A     I was not.

13          Q     Why not?

14          A     Because my pay was not adjusted.  And I also had  
15          specifically asked Nicole if she would let me know whether  
16          she found my salary reasonable for the Bay Area and she  
17          absolutely refused to answer that.

18          Q     Dr. Alexander, I'm going to show you what has been  
19          entered into evidence as Plaintiff's Exhibit 291 and I'm  
20          going to direct your attention to the top of the 3rd page  
21          Bates Stamp No. DOL00044172.  Are you familiar with this  
22          document?

23          A     I am.

24          Q     Did you ever respond to HR's July 3rd letter  
25          pertaining to this investigation results of your salary

1 review?

2 A I did. This is the response. I said specifically  
3 and I quote:

4 "I'm disappointed that my manager/Oracle had to  
5 denigrate my performance to justify my salary  
6 in the Bay Area and to further deny my  
7 promotion."

8 Q Did you receive a response at all?

9 A I did. I received a response that was essentially  
10 a rehash of the original findings in the report.

11 Q Do you recall if Nicole mentioned anything else?

12 A She said I could follow up by calling her.

13 Q And did you?

14 A I did not.

15 Q Why not?

16 A I didn't think the call would change the outcome of  
17 the report.

18 Q Turning your attention to the top of the 4th page,  
19 Bates Stamp No. DOL00044173, where it mentions no reprisal or  
20 retaliation. What was your basis for writing that?

21 A So my basis for writing this that subsequent to  
22 asking for the salary review I received my first negative --  
23 the first set of negative feedback on my performance in 17  
24 years and my promotion to consulting member of technical  
25 staff was denied. So I wanted to find out if it was okay to

1 speak to about this, because I wanted to let my friends know  
2 that if you had a problem don't go to Oracle HR with it.

3 Q And why did you feel that way?

4 A Because I did not -- because they did not help me.

5 Q Okay. After HR concluded it's investigation, did  
6 you ever receive a salary increase?

7 A I received a minor salary increase at the end of  
8 2017. The increase was \$6,000. However, I was laid off two  
9 months later, so I never really benefitted that much from the  
10 increase.

11 Q Did you ever receive a promotion?

12 A I did not.

13 Q Okay. Going back to your experience with HR. What  
14 has your experience been with HR responding to your requests?

15 A Well I'll ask for a discrete salary review, I got a  
16 negative performance review after, and I lost my promotion,  
17 and so it didn't go well for me.

18 Q Okay. Dr. Alexander, you mentioned that you were  
19 laid off, how did this happen?

20 A So on February the 27th, 2018, around 8:30 in the  
21 morning, I received an email from my manager. He said that  
22 he had booked a conference room and that I should call him  
23 from the conference room at 9:00 o'clock.

24 At 9:00 o'clock I called him from the conference  
25 room and I said: "Hey, should I get my laptop, do you want a

1 demo?" And he said: "This is sad news. Your position is no  
2 longer available." I was silent for about a minute, because  
3 I was really surprised. And then I said: "Could you not have  
4 given me some notice?" And he said, he wasn't allowed. And  
5 then I said: "Could you not have transferred me?"

6 And the reason that I was asking if he could not  
7 have transferred me because at the end of 2017 three members  
8 -- about three members of the Oracle Spatial Development team  
9 were transferred to other teams in Oracle. And he did not  
10 transfer me, he laid me off.

11 Q Do you remember who from the team had been moved  
12 out of your group in December 2017, without naming names?

13 A Yeah. Two white males and one Chinese male.

14 Q Did you go back to Nicole Lurie after you had been  
15 laid off?

16 A I did not. Nicole Lurie and Oracle HR have no  
17 history of ever helping me. When I asked Nicole Lurie for  
18 help, I got my first negative review in 17 years. When I  
19 asked Nicole Lurie for help, I lost my promotion to  
20 consulting member of technical staff. When I asked Nicole  
21 Lurie for help, she wouldn't even tell me if my salary was  
22 reasonable for the Bay Area. When I asked Nicole Lurie for  
23 help, I lost my job after 18 years at Oracle.

24 After losing my job at Oracle I did not go back to  
25 Nicole Lurie and Oracle HR for any help. My priority at that

1 time, was to find a job.

2 Q And just so I'm clear, Dr. Alexander, did you speak  
3 to anyone in HR about what happened concerning your layoff?

4 A I did not.

5 Q You've mentioned your interest in getting another  
6 job as soon as possible after you were laid off from Oracle,  
7 were you able to get another job?

8 A I was. In the early half of 2018, I recently been  
9 offer from Apple an offer for a senior engineering team lead  
10 position at the Sunnyvale facility.

11 Q Dr. Alexander, in your experience working in this  
12 field, is this job comparable to the one you had at Oracle?

13 A It's comparable, but I definitely was doing more  
14 technical and more working far longer hours at Oracle.  
15 Specifically, too, because I had been working through the  
16 weekends for months to try to finish my new project for  
17 consulting member of technical staff.

18 Q And are you making more or less at Apple than what  
19 you made when you were laid off at Oracle.

20 A I am making substantially more. Apple made me a  
21 fair and robust offer.

22 MS. COCKETT: No further questions, Your Honor.

23 JUDGE CLARK: Okay. Thank you, Ms. Cockett.

24 MR. PARKER: With the Court's -- go on I'm sorry, I  
25 think you're --

1 JUDGE CLARK: Well I was just going to say it's  
2 about time we normally take our break, if you have a lot of  
3 questions for this witness, we can finish --

4 MR. PARKER: I was going to --

5 JUDGE CLARK: -- her then take our break.

6 MR. PARKER: You were my words -- what my --

7 JUDGE CLARK: Very good.

8 MR. PARKER: -- words were going to be. With your  
9 indulgence I would like to try and finish up Dr. Alexander.

10 JUDGE CLARK: Thank you, Mr. Parker, go ahead.

11 CROSS-EXAMINATION

12 BY MR. PARKER:

13 Q Dr. Alexander, you were never a manager at Oracle,  
14 correct?

15 A That is correct.

16 Q And you weren't involved in making compensation  
17 decisions for other employees, correct?

18 A That is correct.

19 Q And you were -- you've never hired anyone at  
20 Oracle, correct?

21 A That is correct.

22 Q Never made transfer decisions for employees at  
23 Oracle, correct?

24 A That is correct.

25 Q You've never made any decisions in connection with

1 a focal review, correct?

2 A That is correct.

3 Q And you've --

4 A I have a question, I'm not sure what a focal review  
5 is, but I never made any such --

6 Q And that's fair, I think that answers the question  
7 more than any other response.

8 A Okay.

9 Q And you never prepared performance appraisals,  
10 correct?

11 A That is correct.

12 Q Now, Ms. Alexander, I understand from your direct  
13 testimony that you're not that familiar with global career  
14 levels, correct?

15 A That is correct.

16 Q Okay. And I understand from your testimony that  
17 you're not that familiar with job codes like software  
18 developer, correct?

19 A I'm familiar with what a software developer is.

20 Q Okay.

21 A But what do you mean by job codes?

22 Q That's exactly my point. Do you know what the term  
23 job code means?

24 A No.

25 Q And when you say you're familiar with what software

1 developers do, are you familiar with how that -- those words,  
2 software developer -- relates to job code or job title?

3 A No. I don't.

4 Q Okay. And before I move on. I understand you have  
5 a Ph.D in Geography, correct?

6 A Correct.

7 Q And I'm going to get this wrong. I wrote down two  
8 products that you worked on. One was Oracle Geocoder?

9 A Correct.

10 Q And did that -- I'm guessing it did -- but did that  
11 have something to do -- did you find useful your education in  
12 Geography when you were working on the Geocoder?

13 A Well let me be very specific. My Ph.D is in  
14 geography. It was done between the Computer Science  
15 Department and the Geography Department at University of  
16 California, Santa Barbara. I actually didn't specifically  
17 study geography, I studied geographic information science and  
18 database technology and computer science with the Computer  
19 Science Department.

20 Q Great.

21 A So in terms of what I was doing, I was involved in  
22 software development for the Oracle Geocoder. The Oracle  
23 Geocoder, like I said, is a software that takes an address  
24 and returns a latitude-longitude value.

25 Q Great. And I certainly didn't mean to sell you

1 short on what your background was, that's not my purpose in  
2 that at all. I'm just curious whether the intersection of  
3 your educational background where you bring in the aspect of  
4 geography -- and by that I don't mean anything wrong -- and  
5 then your aspect of computer programming and so on, did you  
6 find that useful when you were working on the geocoder?

7 A Yes. In fact, that's what our team does. So the  
8 team specifically the team that I was on was the Oracle  
9 Spatial Development team. Spatial really meaning  
10 geo-spatial. So it's the software is a part of the database  
11 that specifically handles geographic information.

12 So if you are dealing with geographic information  
13 systems you want a geographic information scientist like  
14 myself and software developers. But the thing is, straight  
15 off software developers don't always have the knowledge to  
16 ensure that the geography side, or the geographic side, is  
17 correctly handled. So ideally you want me on your team.

18 Q Understood. And did I understand you worked on  
19 Oracle Map, is that correct?

20 A Mapper. Yeah.

21 Q Mapper. Obviously, I couldn't hear the -- okay  
22 thank you.

23 A Yeah. Again, it's part of the same Oracle Spatial  
24 product. It's the part specifically that displays the map,  
25 the data on the map.

1 Q And given your background would Oracle want someone  
2 like you to work on Oracle Mapper given your --

3 A Absolutely.

4 Q And were there any other products that you worked  
5 on?

6 A I worked on the results description framework,  
7 which is a project for which I have the patent.

8 Q Okay. Very good. And again would you want someone  
9 with your background and your -- to work --

10 MS. CONNELL: Objection.

11 BY MR. PARKER:

12 Q -- on that kind product --

13 MS. CONNELL: Speculation, Your Honor.

14 JUDGE CLARK: Overruled. You can answer the  
15 question.

16 THE WITNESS: I can answer?

17 BY MR. PARKER:

18 A So with the results description framework, it's  
19 really like a network. The truth is before actually doing  
20 that project, I didn't have like a whole lot of information  
21 on this. This was something new, this was new technology.  
22 But I'm really super creative, so if you give me any problem  
23 and I understand the problem, I can solve it.

24 Q Great. Did you feel like there was a ramp-up  
25 period to get familiar with this new product?

1           A     Yeah.  Because it was new technology.  Yeah.

2           Q     Now you mentioned that there was a -- I believe it  
3 was when you were in New Hampshire, you saw a job posting for  
4 a software developer do you remember that?

5           A     I saw job posting for a senior member of technical  
6 staff.  This job description sounded like the job that I was  
7 currently doing.

8           Q     Okay.  Do you know what the job code was -- did the  
9 posting have a job code?

10          A     I do not recall.

11          Q     Okay.  What about a global career level, I bet you  
12 don't recall --

13          A     I do not recall.

14          Q     -- because you don't know what that is.  Okay.

15                   And then you were mentioning to me or to the Court  
16 -- and I apologize for that.  You were mentioning to the  
17 Court that at some point you looked at Glass Door and you  
18 felt that you were underpaid compared to others who had your  
19 title of principal member of technical staff, do you remember  
20 that?

21          A     Correct.

22          Q     Now do you understand that the principal member of  
23 technical staff is called a discretionary title --

24                   MS. CONNELL:  Objection.  Speculation.

25                   JUDGE CLARK:  Ask your question, again, I'm sorry.

1 MR. PARKER: Yeah.

2 BY MR. PARKER:

3 Q Do you know whether at Oracle the term principal  
4 member of technical staff is a discretionary title?

5 JUDGE CLARK: Overruled. You can answer -- if you  
6 know you can answer that question.

7 BY MR. PARKER:

8 A I don't know what that means.

9 Q Okay.

10 A I don't know what discretionary title means.

11 Q Very good. And I'm going to ask, and of course if  
12 you don't know you can just say no. Do you know that there  
13 are people who are between IC level 3 and IC level 6 and  
14 career level M2 and M4 --

15 MS. CONNELL: Objection, Your Honor.

16 JUDGE CLARK: He hasn't asked the full question  
17 quite yet, Ms. Cockett.

18 So finish your question and then I'll take the  
19 objection.

20 MR. PARKER: Yeah. I'll just -- let me do this and  
21 then I'm going to --

22 BY MR. PARKER:

23 Q When you left Oracle did you understand you were IC  
24 level 4?

25 A I did not.

1           Q     Very good.  And do you understand that at Oracle  
2     there are -- the following positions, the following career  
3     levels, have also been assigned principal member of technical  
4     staff and they are IC3, IC4, IC5, IC6, M2, and M4?

5           A     You're asking if I understand this?

6           Q     Do you know that?  I'm actually asking do you know  
7     that?

8           A     No.  I do not.

9           Q     Okay.  Now you've talked about a variety of  
10    different actions that were taken.  I'm going to do this.  
11    Your managers first name, at least for a very long time, is  
12    Siva, correct?

13          A     Correct.

14          Q     And you actually --

15          A     Former manager.

16          Q     I'm sorry.

17          A     Former manager, yes.

18          Q     Yes, ma'am.  I'm sorry.  Yes, ma'am.  I'm sorry  
19    about that.

20                MR. PARKER:  And I don't know, Your Honor, excuse  
21    me, I'm breaking the fourth wall a bit.  I don't know if Mr.  
22    Siva's last name has been mentioned, it is fully spelled out  
23    in the declaration.

24                JUDGE CLARK:  You can spell it for the record.

25                MR. PARKER:  Okay.

1 JUDGE CLARK: She did say last name.

2 BY MR. PARKER:

3 Q And the last name of Siva is Ravada, R-A-V-A-D-A,  
4 correct?

5 A Correct.

6 Q And you would consider him your line manager,  
7 correct?

8 A He was my direct manager.

9 Q Okay.

10 JUDGE CLARK: And spell the first name too, I'm  
11 sorry.

12 MR. PARKER: Siva, S-I-V-A.

13 JUDGE CLARK: Thank you.

14 BY MR. PARKER:

15 Q So he was your first line manager, MR. Ravada,  
16 correct?

17 A He was my direct manager, yes.

18 Q Okay. And then Mr. Ravada -- there was no -- let  
19 me ask it this way. When you say direct manager, there was  
20 no one between Mr. Ravada and you who was managing you,  
21 correct?

22 A Correct.

23 Q And if I understand it, it is Mr. Ravada who made  
24 the decision or not to submit you for promotion, correct?

25 A Correct.

1 MS. CONNELL: Objection.

2 BY MR. PARKER:

3 Q And it's Mr. Ravada who --

4 JUDGE CLARK: Hang on.

5 What's the --

6 MR. PARKER: Yeah.

7 JUDGE CLARK: Hang on.

8 What's the objection?

9 MS. CONNELL: Objection. Assumes facts not in  
10 evidence.

11 JUDGE CLARK: Overruled. I think the answer will  
12 stand. Overruled.

13 BY MR. PARKER:

14 Q And it's Mr. Ravada who allowed another Oracle  
15 employee, a white male, to receive the same promotion without  
16 working on a project from someone from a different team,  
17 correct?

18 A Ultimately, yes.

19 Q Well, ultimately that's what you said in your  
20 declaration, correct?

21 A Yeah. But that was -- a manager in between himself  
22 and Siva, but Siva to my understanding makes like the final  
23 decision because he's, like, the head of the Oracle Spatial  
24 Group.

25 Q So your direct manager made that decision?

1 A Yes.

2 Q Okay. And your direct manager is the person you  
3 spoke to about getting raises, which you didn't get, correct?

4 A Correct. About promotion, yeah.

5 Q Okay.

6 A Both. Yeah.

7 Q And it's your direct manager who yelled at you  
8 after you asked for your salary to be reviewed, correct?

9 A Yeah. He was yelling at me, because I was being  
10 persistent in asking, you know, following up on the status of  
11 my application.

12 MR. PARKER: And if we could bring up Exhibit 291  
13 page 3?

14 JUDGE CLARK: Is that Defense or Plaintiff 291?

15 MR. PARKER: Plaintiff's. I'm sorry, did I --

16 JUDGE CLARK: Page 293, okay.

17 MR. PARKER: I'm sorry. Exhibit page -- I'm sorry.  
18 Exhibit P-291 page 3, I apologize.

19 JUDGE CLARK: Okay.

20 BY MR. PARKER:

21 Q And in that first sentence there -- is that what I  
22 want? Yeah. That's what I asked for. Oh. It says: "I am  
23 disappointed that my manager/Oracle," do you see that Miss?

24 A I do.

25 Q And my manager's referring to Mr. Ravada, correct?

1           A     Correct.

2           Q     And then if we go to page 4 of that document.  
3     There's a clause, thank you -- or there's a sentence or a  
4     statement: "Thank you." And then it says: "With regard to no  
5     reprisal or retaliation," do you see that?

6           A     I do.

7           Q     And it said: "I got my first bad performance review  
8     in 17 years after my manager was contacted regarding this  
9     matter," do you see that?

10          A     I do.

11          Q     And the reference, my manager it refers to Mr.  
12     Ravada, correct?

13          A     Correct.

14                 MR. PARKER: Your Honor, I think we can go to lunch  
15     soon. Let me just make sure that I think that's -- make sure  
16     it's correct.

17                 JUDGE CLARK: Okay.

18     BY MR. PARKER:

19          Q     One last topic, Ms. Alexander.

20          A     Yes.

21          Q     The move from north New Hampshire to California,  
22     that was something you wanted to do, correct?

23          A     That is correct.

24          Q     Okay. And you were paid an increase salary because  
25     of the relocation, correct?

1           A     My salary was -- yeah. I was.

2           Q     And you understand that -- do you understand that  
3 generally Oracle does not pay relocation fees or increased  
4 salaries if someone is voluntarily transferring?

5           MS. COCKETT: Objection. Speculation.

6           JUDGE CLARK: Overruled, if you know.

7 BY MR. PARKER:

8           A     They did not pay my relocation, I paid my  
9 relocation.

10          Q     But do you understand that Oracle -- whether you do  
11 or don't, you can just say I don't know that to be true --  
12 but do you understand that Oracle does not always increase  
13 people's salary if they decide to voluntarily move from --

14          MS. COCKETT: Objection.

15 BY MR. PARKER:

16          Q     -- one location to another.

17          JUDGE CLARK: What's your objection.

18          MS. COCKETT: Objection. Asked and answered.

19          JUDGE CLARK: Overruled. You can answer that  
20 question if you know.

21 BY MR. PARKER:

22          A     I do not know for certain.

23          Q     All right. Thank you, miss.

24          MR. PARKER: No further questions.

25 BY MR. PARKER:

1           A     Thank you.

2           JUDGE CLARK:   Ms. Cockett.

3           MS. COCKETT:   A few questions, Your Honor.

4           JUDGE CLARK:   Sure.   Thank you.

5                           REDIRECT EXAMINATION

6   BY MS. COCKETT:

7           Q     Dr. Alexander, did you ever have any basis to know  
8   what a global career level was?

9           A     No.

10          Q     Did you ever have any basis to know what a job code  
11   function was?

12          A     No.

13          Q     Did you ever have any basis to know what an IC  
14   level was?

15          A     No.

16          Q     Okay.   Do you now know if your direct manager had  
17   to ask for permission for your promotion, do you?

18          A     I do not know -- I do not know for certain how the  
19   process went.   From what he said to me, was that he was  
20   submitting my application for Steve Hagan to review and also  
21   for Andy Mendelsohn to review.   That's all I knew.

22          Q     So Siva Ravada was not the only person involved in  
23   your promotion?

24          A     No.   He was not.

25          Q     And do you know if Siva Ravada was the final

1 authority for your lay off, sorry?

2 A I do not know.

3 MS. COCKETT: Nothing further, Your Honor.

4 JUDGE CLARK: Mr. Parker, anything further?

5 MR. PARKER: Yes.

6 RE-CROSS-EXAMINATION

7 BY MR. PARKER:

8 Q Yes. Ms. Alexander, in your declaration you state  
9 that Mr. Ravada gave you the impression that he had submitted  
10 your application for promotion, correct?

11 A Yeah. Yeah. He -- because I really wanted to know  
12 if when -- you know, if he had sent it in. Because I really  
13 was trying to get it done so I could get a salary increase.  
14 So I had asked him specifically, do you have everything to  
15 submit? Yes. I think so. Yeah.

16 Q And given that you state in your declaration that  
17 it was your impression he had submitted --

18 A Yeah.

19 Q -- it's -- your belief is he didn't really, right?

20 A I got the impression during the salary review, he  
21 asked me for more -- for information like -- he asked me for  
22 more information so it made me feel that he hadn't really  
23 submitted it, but I do not know that as a fact. It was just  
24 because he was asking for information that I thought, if you  
25 had really submitted this when you said you sent it in, you

1 would have asked for this information earlier. But I do not  
2 know for certain. I never asked him directly, and he never  
3 stated directly.

4 Q Thank you.

5 MR. PARKER: No further questions.

6 JUDGE CLARK: Anything further?

7 MS. COCKETT: No thank you, Your Honor.

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

9 Dr. Alexander, I just need two names.

10 THE WITNESS: Sure.

11 JUDGE CLARK: I think you said Steven Serra?

12 THE WITNESS: Yeah.

13 JUDGE CLARK: If you could spell the last name?

14 THE WITNESS: S-E-R-R-A.

15 JUDGE CLARK: Okay. And then it was Steven Hagan?

16 THE WITNESS: Yeah. H-A-G-A-N.

17 JUDGE CLARK: A-N. Dr. Alexander, thank you so  
18 much for your time. Thanks for being here today. You're  
19 free to go. You're excused as a witness.

20 THE WITNESS: Thank you. Thank you.

21 JUDGE CLARK: Okay. It is 12:45. We'll go ahead  
22 and take our lunch break. An hour still?

23 MR. PARKER: That's fine. Thank you, Your Honor.

24 JUDGE CLARK: 1:45.

25 MS. COCKETT: Thank you, Your Honor.

1 JUDGE CLARK: We will be off the record until 1:45.

2 Thanks again, Doctor.

3 (Whereupon, at 12:44 o'clock p.m., the hearing was  
4 recessed for lunch.)

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1 AFTERNOON SESSION

1:44 O'CLOCK P.M.

2 JUDGE CLARK: We're back from lunch. All parties  
3 are present.

4 Who do you have scheduled to be your next witness?

5 MS. BREMMER: We have Ms. Hardman.

6 JUDGE CLARK: Ms. Hardman. Okay. Why don't you go  
7 ahead and call your next witness.

8 MS. CONNELL: Your Honor -- Your Honor, excuse me.

9 JUDGE CLARK: Yes.

10 MS. CONNELL: At your convenience we also just  
11 wanted to raise an Exhibit issue. It doesn't have to be now,  
12 but at some point today.

13 JUDGE CLARK: Okay. Why don't you go ahead and  
14 tell me what the issue is right now.

15 MS. CONNELL: Okay. So I just raised it with Ms.  
16 Bremmer and Mr. Garcia.

17 So it came to our attention that the back up file  
18 for Dr. Madden's 10/11/19, declaration and analysis that was  
19 the subject of motion in limine number 1.

20 JUDGE CLARK: Okay.

21 MS. CONNELL: Was included on the exhibit list  
22 twice. It was included as PX-436 and, Your Honor, excluded  
23 it from evidence based on the motion in limine ruling. But  
24 we realized over the lunch that we had -- Defendant's also  
25 had included it on our list as Defendant's Exhibit 342, with

1 a notation on the list that if -- because it was before the  
2 motion in limine we had a ruling -- that if the motion in  
3 limine was granted it should not be considered or submitted  
4 into evidence, but if it was denied then we would want the  
5 opportunity to question Dr. Madden on it. But since the  
6 motion in limine was granted it was -- there's a discrepancy  
7 right now.

8 JUDGE CLARK: Okay. So it should be removed from  
9 evidence?

10 MS. CONNELL: Correct.

11 JUDGE CLARK: Based on the in limine rule.

12 MS. CONNELL: Correct.

13 JUDGE CLARK: Mr. Garcia.

14 You can go ahead and have a seat ma'am, I'll be  
15 right with you.

16 UNIDENTIFIED FEMALE: Okay.

17 MR. GARCIA: Your Honor, we disagree with Ms.

18 Connell's statement that it had to have Dr. Madden's back up  
19 information included as an exhibit in the Defendant's  
20 Exhibits. Because the motion in limine was not granted when  
21 it needed to use that exhibit to ask Dr. Madden questions  
22 about her back up data when parties have shown throughout  
23 this litigation that they have used the exhibits of the other  
24 party when they wanted to ask questions. They did not need  
25 to put in Madden's back up file in order to ask Dr. Madden

1 questions about the litigation, especially since they knew on  
2 November 5th, 2019, that OFCCP was planning to use Dr.  
3 Madden's back up files as an exhibit.

4 So, second, it's my understanding that Exhibit 436  
5 is not being admitted because not in the motion in limine but  
6 because Oracle made a separate objection. There's objections  
7 to exhibits, and it is on that basis it is not being  
8 admitted. If Oracle wanted to withdraw that exhibit, they  
9 should have withdrew the exhibit before. But now that  
10 Exhibit is entered into evidence.

11 JUDGE CLARK: So, Mr. Garcia, you disagree with Ms.  
12 Connell that their Exhibit 342 is the same or similar to your  
13 Exhibit 436 which is the backup data for the October 11,  
14 2019, report from Dr. Madden which was excluded. You  
15 disagree with that? Or do you agree that those are the same  
16 Exhibit?

17 MR. GARCIA: I agree that they are the same  
18 exhibits, Your Honor.

19 JUDGE CLARK: So you're -- the fact that I excluded  
20 your's, Exhibit 436, when I ruled that, that report from Dr.  
21 Madden would not be discussed in this hearing. And through  
22 inadvertence as counsel has just explained that their exhibit  
23 was left in evidence, you want to rely on that evidence now  
24 even though it was excluded?

25 MR. GARCIA: Your Honor, the basis of their

1       inadvertence is saying that they submitted that exhibit into  
2       evidence because they wanted to ask Dr. Madden questions  
3       about that exhibit. It doesn't make any sense for them to  
4       have stated that because they did not need to put that  
5       exhibit into evidence because they could have relied on  
6       OFCCP's Exhibit 436 that they knew was going to be an exhibit  
7       as of November 5th.

8                 JUDGE CLARK: Okay. So you're -- I'm sorry.  
9       You're objecting to them withdrawing 342 at this point?

10                MR. GARCIA: Yes, Your Honor.

11                JUDGE CLARK: Did I cut you off, go ahead and  
12       finish your argument.

13                MR. GARCIA: No, Your Honor. My issue is, I don't  
14       know what reasons they came up with in terms of why they  
15       wanted Defendant's Exhibit 342 entered into evidence, I'm  
16       saying that the reasons they proffered for it because they  
17       wanted to be able to ask Dr. Madden questions for it, doesn't  
18       make any sense because they could have asked questions from  
19       the Plaintiff's exhibit. To me it looks like they had  
20       another reason, for whatever reason they've changed their  
21       opinion and it's already entered into evidence.

22                JUDGE CLARK: Okay.

23                Ms. Connell, anything further?

24                MS. CONNELL: The rationale for why we included it  
25       on the exhibit list is on the exhibit list, we included it.

1 And I don't have anything further beyond our explanation  
2 provided there.

3 JUDGE CLARK: Mr. Garcia, anything further?

4 MR. GARCIA: No, Your Honor.

5 JUDGE CLARK: Okay. I'm going to grant the request  
6 to withdraw Defense 342, that will be removed from the trial  
7 exhibits and I'll show it as a withdrawn exhibit after --  
8 over the objection of OFCCP.

9 (Defendant's Exhibit No. 342  
10 is withdrawn from evidence.)

11 JUDGE CLARK: Okay. Got started on something  
12 before you, I guess. I'm sorry about that. Tell me your  
13 name?

14 MS. HARDMAN: Vicky Hardman.

15 JUDGE CLARK: Ms. Hardman, okay. So if you would  
16 stand and raise your right hand.

17 Whereupon,

18 VICKY HARDMAN,  
19 having been first duly sworn by the Administrative Law Judge,  
20 was examined and testified as follows:

21 JUDGE CLARK: Have a seat, please.

22 THE WITNESS: Thank you.

23 JUDGE CLARK: Okay. Then state your name again and  
24 spell it for our record please.

25 THE WITNESS: Vicky Hardman. V-I-C-K-Y

1 H-A-R-D-M-A-N.

2 JUDGE CLARK: Okay. And Ms. Hardman the lawyer's  
3 going to ask you questions and we're recording everything  
4 that's said here, so you need to speak out loud --

5 THE WITNESS: Okay.

6 JUDGE CLARK: -- keep your voice up so everybody in  
7 the courtroom can hear you and our court reporter can hear  
8 you. This is amplifying a little bit, but you need to keep  
9 your voice up if you can.

10 THE WITNESS: Okay.

11 JUDGE CLARK: And because we're recording, you have  
12 to let the lawyer ask the complete question and they'll let  
13 you give a complete answer because we can't take down two  
14 people at once, understand?

15 THE WITNESS: Yes. Thank you.

16 JUDGE CLARK: And also because we're recording you  
17 have to say yes or no not uh-huh or uh-hu --

18 THE WITNESS: Yes.

19 JUDGE CLARK: -- or head nods, because --

20 THE WITNESS: Yes.

21 JUDGE CLARK: -- that doesn't really take well to  
22 taping either, okay? Got that?

23 THE WITNESS: Yes. Thank you.

24 JUDGE CLARK: Okay. If one of the lawyers makes an  
25 objection, you just stop talking and I'll let you know

1 whether you can answer the question. And if you don't  
2 understand something, let us know, I'll have them rephrase it  
3 for you.

4 THE WITNESS: Okay. Thank you.

5 JUDGE CLARK: All right. Thank you.

6 Go ahead. It's Ms. Pulley, correct?

7 MS. PULLEY: Correct.

8 JUDGE CLARK: All right.

9 MS. PULLEY: And just for the Court, Ms. Hardman is  
10 sort of recovering from a cold, and so hopefully that does  
11 not --

12 JUDGE CLARK: Okay. Well we'll work around --

13 MS. PULLEY: -- distract.

14 JUDGE CLARK: I'll keep my voice up too, in case  
15 you're congested.

16 THE WITNESS: Thank you.

17 JUDGE CLARK: All right.

18 MS. PULLEY: Thank you, Your Honor.

19 JUDGE CLARK: Okay.

20 DIRECT EXAMINATION

21 BY MS. PULLEY:

22 Q Good afternoon, Ms. Hardman. Are you testifying  
23 here today pursuant to a request from the Department of  
24 Labor, Office of the Solicitor?

25 A Yes. I am.

1 Q And what gender and race do you identify as?

2 A Female, Caucasian.

3 Q How long have you worked in the technology  
4 industry?

5 A A little over 30 years.

6 Q And do you recall any of the employers you worked  
7 for?

8 A Yes. I worked for Sun Microsystems and I worked  
9 for Oracle America.

10 Q How long did you work for Sun Microsystems?

11 A A little over 20 years.

12 Q Are you currently employed?

13 A Yes. I am. I work for Oracle America.

14 Q Approximately, how long have you worked for Oracle?

15 A Almost 10 years, this February it will be 10 years.

16 Q And how was it that you came to work for Oracle?

17 A I was working for Sun Microsystems and Oracle  
18 acquired the company, so through the acquisition I was  
19 offered employment.

20 Q What Oracle locations have you worked at?

21 A I've worked at the Santa Clara facility and the  
22 Redwood Shores facility.

23 Q Do you currently work at the Redwood Shores  
24 facility?

25 A I currently work from home, but I report there for

1 various meetings and other activities as required.

2 Q I would like to ask you some questions about the  
3 positions you've held at Oracle, your job duties and the  
4 products you work on.

5 A Okay.

6 Q What position do you currently hold at Oracle?

7 A Currently, I'm an E-Knowledge program manager.

8 Q And how long have you held that position?

9 A It will be nine years this January.

10 Q Have you ever heard of the term discretionary title  
11 at Oracle?

12 A Yes. I have.

13 Q What does that mean to you?

14 A Well my title E-Knowledge program manager is a  
15 discretionary title. My official title is software developer  
16 4, so it's just a more common name that fits the role that we  
17 do.

18 Q Are you familiar with the term individual  
19 contributor?

20 A Yes.

21 Q And what does that mean to you?

22 A It means that I'm an individual contributor as  
23 opposed to a manager of people. I'm only responsible for  
24 myself and my work.

25 Q Do you know if there are levels?

1           A     Yes.  I believe there are.

2           Q     Do you know how many?

3           A     No.  I don't.

4           Q     Are you currently an individual contributor?

5           A     Yes.  I am.

6           Q     And do you know what level you're at?

7           A     I'm an IC4.

8           Q     Generally speaking, what are your job  
9 responsibilities as a software developer 4?

10          A     Okay.  So I'm considered a release owner.  When  
11 Oracle acquired Sun, they brought in a lot of hardware  
12 products, so I'm the release owner of various hardware  
13 products.  I do tape libraries, I do acme switches, I do a  
14 lot of the internal cloud products.  So as a release owner,  
15 I'm responsible for releasing new products or updating  
16 sustaining products as they go.

17                 So I work with the product teams, with compliance,  
18 and engineering, and marketing, and product management,  
19 material planning, and coordinate all of the requirements for  
20 the various products that I am responsible for.  And then I  
21 take it back to my configuration engineering team and I work  
22 with them for the CX people, the user interface people, the  
23 modelers to develop a model that represents the product that  
24 I own.  And then, when the customer goes to buy the product,  
25 they can log onto the website, and it shows a picture of what

1 the product is. And then they can go through a series of  
2 using the rules that I've gather and the requirements that  
3 I've put together that can go through and procure a product  
4 that guarantees it will work when they get it.

5           So, for instance, if they buy a tape library and  
6 their installing it in North America, they can't buy a  
7 European power cord for it. So the rule is, if it's in North  
8 America these are the only power cords that will work. If  
9 it's European product, they don't get the North American and  
10 power supply. So you put together all the different things  
11 so that you can configure a product so that the customer gets  
12 what they want and it will work when they get it.

13           Q     And I think I heard you mention cloud, do you work  
14 on cloud products?

15           A     Yes. A little over half of my products are  
16 internal cloud products.

17           Q     And what position if any, did you hold prior to  
18 software developer 4?

19           A     I was a software developer 3.

20           Q     Did you have a discretionary title for that  
21 position?

22           A     Yes. E-Knowledge program manager, the same.

23           Q     The same as your --

24           A     The same as --

25           Q     -- discretionary title now? And did you have an IC

1 level for that position?

2 A Yes. I was an IC3.

3 Q Okay. And so how long did you hold that IC3  
4 position?

5 A About eight-and-a-half years.

6 Q And what were your job responsibilities in that  
7 position?

8 A The same as they are now. Same product, same  
9 responsibility.

10 Q Did you work on any products as a software  
11 developer 3?

12 A Yes. I started out with -- when I first joined, I  
13 started out with about 8 to 10 products and as I got more  
14 experienced I took on additional products, more complex  
15 products. And then in 2016, we started having some lay offs,  
16 so as people left through attrition or they got laid off the  
17 products that the other people had we divvied them up between  
18 the rest of us, so we all took on additional work load to  
19 compensate.

20 Q And if you could approximate how many products were  
21 you working on at that time?

22 A I was probably working on 12 to 15 then and now I  
23 have over -- I have like 32 I think. I was up to 40 at one  
24 point.

25 Q And you mentioned 2016. At that time when you were

1 getting more products, did your pay increase when you got  
2 those additional products?

3 A No.

4 Q Did you get additional training to work on these  
5 products?

6 A No.

7 Q Does anyone else in your team work on the same  
8 products as you?

9 A No. Everybody has their own products. So as  
10 you're a release owner that means you own a certain product.

11 So these are my products in the matrix, I own them. If  
12 there's anything with them, I'm responsible for fixing it or  
13 getting it done.

14 Q And so do you ever work on products that someone  
15 else might be the release owner for?

16 A Yes. It was -- we help as back up for -- people go  
17 on vacation or they're out sick or whatever, we'll often back  
18 up other -- our coworkers and take on their products and go  
19 through whatever steps in the release cycle that need to be  
20 taken care of or handled.

21 Q And can you describe a little bit more, what it  
22 means to be a back up?

23 A Well it's like -- so, typically, we'll do a monthly  
24 release. So the second Tuesday of every month is any changes  
25 that are implemented or any new products that are being

1 released will be released on that day. So if there's tasks  
2 that need to be done, quality assurance checks, we do a  
3 publication of the models. So as the publication -- we'll do  
4 an internal publication, then do a quality check on it, and  
5 then publish it to the external, do another quality check,  
6 and then we turn it live to the public. So it's handling  
7 those tasks in that release cycle for the various products  
8 that you volunteered to help out with.

9 Q How often would you say do you serve as a back up?

10 A Probably at least one week a month.

11 Q And how long of a period do you serve as a back up?

12 A It's typically a week to ten days, but one time  
13 it's been up to three weeks.

14 Q When you serve as a back up do you receive training  
15 for these new products?

16 A No specific training. I'll get an email from the  
17 release owner saying, you know, this product is having new  
18 disc drives added to it or whatever and send me the numbers  
19 of the change request. And I'll go in, and figure out what  
20 needs to be done, follow the tasks, follow up to make sure  
21 that QA is doing what they need to by their due dates and  
22 just kind of manage it for them.

23 Q And so just to be clear, though, there is no  
24 training for these new products?

25 A No. No specific training.

1           Q     And what position did you hold prior to software  
2 developer 3?

3           A     I was in systems web presence was my title in  
4 technical marketing.

5           Q     And what was your job responsibility in that  
6 position?

7           A     I worked in technical marketing and we developed  
8 best practices for -- I came in from Sun so I worked on the  
9 Sun hardware products -- so it was developing best practices  
10 -- or our subject matter experts would say the best way to  
11 use the equipment. I'd coordinate subject matter experts  
12 with technical writers and come up and publish internal  
13 articles for the Oracle technical network. And we publish  
14 them to Twitter saying a new article's out or to Facebook,  
15 things like that, so social network.

16          Q     And what position, if any, did you have prior to  
17 systems web presence?

18          A     Well I was working at Sun Microsystems then.

19          Q     You testified earlier that you came through the  
20 acquisition.

21          A     Yes.

22          Q     How did you first learn that you would be working  
23 at Oracle?

24          A     I received a letter.

25          Q     Do you recall what date you received that letter?

1           A     It would have been early February just saying that  
2 they were offering me a position.

3           Q     And what position were you hired into?

4           A     I'm not sure of the exact title, I mean we called  
5 systems web presence, it was sort of a continuation of what I  
6 was doing at Sun. Sun they called it the BluePrints program,  
7 it was best practices by subject matter experts on how to use  
8 the equipment most efficiently.

9           Q     Did you have to apply for this position?

10          A     No. I did not.

11          Q     Did you have to interview for this position?

12          A     No. I did not.

13          Q     And when you began working for Oracle, how were you  
14 paid?

15          A     When they brought me in, I found out after I'd  
16 accepted it that I was an hourly employee.

17          Q     Was that how you were paid at Sun Microsystems?

18          A     No. I was always a salaried employee there.

19          Q     While you were an hourly employee were you  
20 compensated for any overtime hours?

21          A     No. I was not.

22          Q     Do you know if Sun had pay designations for  
23 positions?

24          A     Yes. They did.

25          Q     And how do you know that?

1           A     Well I'm just -- I was a manager at Sun for a short  
2 period of time and I had access to the paid -- everybody had  
3 access to the pay designations. So they would have different  
4 categories for hourly employees and then different categories  
5 for salaried employees, and they had the pay ranges and what  
6 bonus levels was available at each different level.

7           Q     And I think you kind of touched on this, but what  
8 was your understanding of a pay designation?

9           A     Well it was just a pay category, so I was an E8 at  
10 Sun and what my pay range was and just a level.

11          Q     And so you mentioned you were an E8 at Sun?

12          A     Yes.

13          Q     What is an E8?

14          A     Just a level of pay range.

15          Q     So that's a pay designation?

16          A     Yes. Yeah.

17          Q     Did you receive any promotions while working for  
18 Oracle?

19          A     Yes.

20          Q     And when did you receive them?

21          A     June 1st of this year.

22          Q     And what was that promotion for?

23          A     Just my boss called me out of the blue and said:

24                "I have good news. I've raised you a job category

25                   and given you a \$6,000 a year raise."

1           Q     And so I want to break that down a bit.  When he  
2     said he raised your job category, what do you mean by that?

3           A     Well when he gave me the job category, it raises  
4     the ceiling of the pay -- what your pay grade can be.  So  
5     there's a minimum and maximum, and before I was near the  
6     maximum of what I could get.  And this gave me more potential  
7     earning power.

8           Q     And was this on June 1st of 2019?

9           A     Yes.  It was.  Well he called a couple of days  
10    after and said retroactive, I've already implemented this,  
11    you will be getting -- starting June 1st, you'll be getting  
12    an increase.

13          Q     Was this promotion -- did it come with an IC level  
14    change?

15          A     Yes.  Went from a 3 to a 4.

16          Q     And did you get a salary increase?

17          A     Yes.  \$6,000.

18          Q     And I think you also testified that it was out of  
19    the blue.

20          A     Yeah.

21          Q     What do you mean by that?

22          A     Well Oracle's year ends on May 31st, and typically  
23    we begin our annual review cycle mid may.  And we do our self  
24    evaluation of our performance to goals, turned it into the  
25    manager, then the manager goes through, evaluates it, and

1       then we have a conversation where we discuss it and make sure  
2       we're in agreement of what the performance is and what we've  
3       accomplished. And that usually happens in September, so this  
4       was early.

5           Q     Okay. Were there any other promotions?

6           A     No.

7           Q     Does the term transfer mean anything to you in your  
8       capacity as an Oracle employee?

9           A     Yes.

10          Q     And what does that mean?

11          A     Just transferring from one job level to -- one job  
12       to another. So when I came in I was in systems web presence.  
13       An opportunity in my department came up, it would have been  
14       a transferred that I applied for and I asked my current  
15       manager who I had worked with before if he would give me a  
16       recommendation. So he wrote one up and a few days later  
17       called and said:

18                   "Hey. I've just opened up a job req, are  
19                   you interested? I've worked with you, I know  
20                   this would be a good fit."

21       So I looked it up and applied for it was a transfer of a job  
22       straight across, it wasn't a promotion per se.

23          Q     Do you recall when this transfer occurred?

24          A     Yes.

25          Q     And when was that?

1           A     January of 2012.

2           Q     You mentioned earlier that you had a pay  
3     classification of E08 at Sun Microsystems before you began  
4     working for Oracle?

5           A     Yes.

6           Q     Was that the pay classification you started at  
7     Oracle with?

8           A     No. I don't believe so.

9           MS. PULLEY: I would like to bring the Court's  
10    attention to marked for identification Exhibit 499, P-499.

11                                 (Plaintiff's Exhibit No. 499  
12                                 is marked for evidence.)

13           JUDGE CLARK: Okay.

14           MR. PARKER: And I'm hoping that comes up on your  
15    screen.

16           JUDGE CLARK: Not quite yet, but I hope so to.

17    BY MS. PULLEY:

18           Q     Okay. I think we have it there. Ms. Hardman, can  
19    you see that?

20           A     Yes. I can.

21           Q     Hopefully that's better.

22           A     That's better, thank you.

23           Q     Do you recognize this document?

24           A     Yes. I do.

25           Q     And what is it?

1           A     It is an email that I received from my current  
2 manager Gary Rush at the end of December saying that my  
3 transfer was approved. So when we had spoken before this  
4 letter came out, I had talked to him about that -- when I  
5 first hired into Oracle and it came time for pay raises, I  
6 found out that I was not eligible for any pay raise, because  
7 I was maxed out in my job category. And so I had told him  
8 that, and he said well he thought that he would be able to  
9 get me an increase in pay as well as a job classification  
10 raise so that I would have more potential for earning in the  
11 future.

12          Q     And just a couple more questions about this  
13 document before we get into that. Is this a true and  
14 accurate representation of the e-mail you received?

15          A     Yes. It is.

16          Q     Is the date sent indicated anywhere on this  
17 document?

18          A     Yes, 12/28/2011.

19          Q     Is the sender indicated anywhere on this document?

20          A     Yes. It's from my current manager Gary Rush.

21          Q     And so I think you started to tell us a little bit  
22 about this. What pay classification, if any, did you have  
23 when you started at Oracle?

24          A     E7.

25          Q     And was that different from the pay classification

1 you expected to have?

2 A Well I just assumed that I would be what I was at  
3 Sun, but I didn't have any visibility into it. So the pay  
4 was the same, but I didn't know what the classes were.

5 Q And so I'd like to draw your attention to a term on  
6 this e-mail, E07, what does that mean to you?

7 A It means that it's a pay grade lower than the E08  
8 which is what I was transferred into.

9 Q And was this the first time that you learned your  
10 pay designation was different?

11 A I had an indication before that I was -- that there  
12 was something different when they -- when my previous  
13 position that my manager said he couldn't give me a raise  
14 because I was at the top of the ceiling. But this is the  
15 first time I'd seen the specific grade levels and that I was  
16 going to be made an 8 which gave me more potential, but  
17 showed that I had been capped out before.

18 Q Thank you. And you said there was an indication?

19 A Well it said: "I'm no longer at the pay ceiling."  
20 So there's potential with the 8, then the pay range would go  
21 higher and I could, in the future, get a higher rate of pay.

22 Q And when you learned you had been moved over as a  
23 lower pay designation, how did that make you feel?

24 A Well it was a little frustrating, but I just had  
25 sort of assumed that I would be brought over at -- I got the

1 same pay, that I would get the same level and have the same  
2 opportunities, but that wasn't the case.

3 Q And so when this transfer was approved, did your  
4 pay change?

5 A No. It did not.

6 Q Did this transfer have any other effect on your  
7 pay?

8 A Well it gave me the potential to get raises in the  
9 future.

10 Q Do you know who approved your transfer, if any one?

11 A Yes. In this e-mail and when I spoke to my boss he  
12 told me that it had gone all the way to Larry Ellison's  
13 office to get --

14 MS. MANTOAN: Objection, Your Honor. That's  
15 hearsay if it's admitted for the truth.

16 JUDGE CLARK: What's your response?

17 MS. PULLEY: I believe this is an admission by a  
18 party opponent as a manager.

19 JUDGE CLARK: I'm going to overrule the objection,  
20 the answer will stand.

21 MS. PULLEY: Your Honor, I move to enter the  
22 previously marked Exhibit P-499 into evidence.

23 JUDGE CLARK: Ms. Mantoan, this is your witness?

24 MS. MANTOAN: Correct.

25 JUDGE CLARK: Any objection?

1 MS. MANTOAN: No, Your Honor.

2 JUDGE CLARK: P-499, Plaintiff 499 is admitted into  
3 evidence.

4 (Plaintiff Exhibit No. 499  
5 is received in evidence.)

6 BY MS. PULLEY:

7 Q And I want to follow up on one other thing you said  
8 when you were discussing transfers. What did you mean by  
9 transfer straight across?

10 A Well there was no promotion or pay raise involved.

11 Q Did you receive any other promotions other than the  
12 ones you've described?

13 A No.

14 Q Any other transfers?

15 A No.

16 Q What is your current salary at Oracle?

17 A \$123,000.

18 Q And how long have you earned that salary?

19 A Since June 1st of this year.

20 Q Do you recall what your salary was prior to June  
21 1st of 2019?

22 A It was 117,000.

23 Q And do you remember how long you held this salary?

24 A I believe it was October of 2015 was the last time  
25 I had received a raise.

1 Q And so to clarify, you had \$117,000 salary from  
2 October of 2015, approximately, to June of 2019?

3 A Correct.

4 Q So about four years?

5 A Yeah. Almost.

6 Q Do you know if Oracle has any pay ranges or  
7 designations for positions?

8 A I'm assuming that they do based on the e-mail and  
9 what I've been told about the job classifications that I'm  
10 in, but I've never seen any of them.

11 Q Was there a way to look up pay ranges at Oracle?

12 A Not that I knew of or could find.

13 Q Did you ever know what your pay range was for any  
14 position you held at Oracle?

15 A No.

16 Q Did you ever know what any of your colleagues pay  
17 ranges were at Oracle?

18 A No.

19 Q And do you know if Sun Microsystems was a federal  
20 contractor?

21 A Yes. It was.

22 Q And how do you know this?

23 A Because my first 10 years at Sun I worked at the  
24 Sun Federal Division and I worked on the government  
25 contracts.

1           Q     When you were at Sun could you see your own pay  
2 ranges for positions you held?

3           A     Yes. I could.

4           Q     Could you see any other colleagues pay ranges who  
5 may have held a different position than you?

6           A     You could see all of the pay ranges for the  
7 different -- hourly employees had their certain pay grades  
8 and ranges and then the salaried employees had the same. And  
9 you could see where the bonus structures went for director  
10 level bonus versus a, you know, individual contributor bonus,  
11 management bonus. You could -- I didn't know necessarily who  
12 was what, but you could see all of the ranges.

13          Q     Thank you. I just have a couple questions, I want  
14 to move your attention to again to make sure the record is  
15 clear. You had testified earlier that based on the e-mail it  
16 was your understanding that Larry Ellison had approved your  
17 transfer?

18          A     Correct.

19          Q     And did you learn that any other way?

20          A     I talked with Gary about it and he was kind of  
21 saying, I had to go all the way up to Larry but we got it  
22 through.

23          Q     And one last question, do you recall how many years  
24 you were at Redwood Shores?

25          A     About two-and-a-half years.

1 MS. PULLEY: No further questions.

2 JUDGE CLARK: Okay. No further questions?

3 MS. PULLEY: I do have one more.

4 JUDGE CLARK: Go ahead.

5 BY MS. PULLEY:

6 Q Do you recall what years those were at Redwood?

7 A Well I started there for six months January of  
8 2012, I worked there for about six months and then I moved to  
9 the Santa Clara office for a couple of years and then I went  
10 back to Redwood Shores, so 2014 through '16.

11 Q Thank you.

12 MS. PULLEY: No further questions.

13 JUDGE CLARK: Thank you.

14 Ms. Mantoan.

15 MS. MANTOAN: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MS. MANTOAN:

18 Q Good afternoon, Ms. Hardman.

19 A Hello.

20 Q I'd like to turn your attention first to an exhibit  
21 that's already in evidence as D-447.

22 JUDGE CLARK: I'm not sure -- it may be in this  
23 folder.

24 Do you know if it's up here, Ms. Mantoan?

25 MS. MANTOAN: I thought it would come up on the

1 screen. If a hard --

2 JUDGE CLARK: There you go.

3 MS. MANTOAN: -- copy's easier?

4 JUDGE CLARK: There you go. Even better, okay. I  
5 forgot about the screen, it's new.

6 BY MS. MANTOAN:

7 Q And I'd like you to just take a look at that, Ms.  
8 Hardman, and let me know if that looks like a letter that you  
9 received in April of this year?

10 A Yes.

11 Q And did you contact the Office of the Solicitor in  
12 response to that letter?

13 A Yes. I did.

14 Q Okay. You've never been a manager at Oracle, is  
15 that correct?

16 A Correct.

17 Q So you've never been involved in making  
18 compensation decisions for others?

19 A Correct.

20 Q You've never been involved in allocating budget?

21 A Correct.

22 Q You've never been involved in approving a transfer  
23 decision, correct?

24 A Correct.

25 Q You've never hired anyone at Oracle?

1 A No.

2 Q You've never prepared performance appraisals for  
3 anyone else, correct?

4 A Other than giving feedback on peers, but I've never  
5 done any performance appraisals.

6 Q You've never been involved in promoting other  
7 Oracle employees, correct?

8 A Correct.

9 Q And you've never been involved in a focal review,  
10 is that correct?

11 A Just my own. Yeah.

12 Q You've never been involved in allocating focal  
13 budget?

14 A Correct. Correct.

15 Q Okay. And you said that you joined Oracle as part  
16 of the Sun acquisition in 2010?

17 A Yes.

18 Q And prior to that you were working as a managing  
19 editor on the Sun BluePrints program, is that correct?

20 A Correct.

21 Q And that involved managing publications of various  
22 technical materials, correct?

23 A Correct.

24 Q But you weren't actually authoring the technical  
25 materials, correct?

1           A     No.  That's correct.

2           Q     And were you doing anything that you would consider  
3 a software development role at Sun?

4           A     No.

5           Q     Okay.  Do you know how many employees joined Oracle  
6 as part of the Sun acquisition?

7           A     Not specifically, no.

8           Q     Okay.  And you testified earlier about your pay  
9 grade at Sun.

10          A     Yes.

11          Q     Do you have any knowledge of how the pay grade  
12 structure at Sun relates to the pay grade structure at  
13 Oracle?

14          A     Other than that as I could see what my structure  
15 was as an E8 at Sun and I knew I was not maxed out.  And when  
16 I came over to Oracle, my first round of -- my first review  
17 -- my focal review with opportunity for a raise, they said I  
18 was maxed out and there was nothing they could do to give me  
19 money until I got a promotion of some sort.

20          Q     Okay.  But aside from that particular information  
21 about -- so your particular pay grade at Sun and at Oracle  
22 you don't have any other information about how pay grades at  
23 Sun relate to pay grades at Oracle, correct?

24          A     No.  Not specifically.

25          Q     Okay.  Your educational background is in

1 communications, is that right?

2 A Correct.

3 Q So you don't have a computer science degree, is  
4 that correct?

5 A No. I do not.

6 Q And you don't have any kind of an advanced degree  
7 in any field, is that correct?

8 A That's correct.

9 Q Okay. And prior to joining Oracle, you had never  
10 at any point in your career had a position that was a  
11 software development position, correct?

12 A True.

13 Q And when you joined Oracle in 2010, you joined as  
14 part of the marketing function, is that right?

15 A As a technical marketing group versus --

16 Q And do you have an understanding that, that was in  
17 a job function at Oracle called the marketing job function?

18 A No. I wasn't aware of that.

19 Q Do you have a --

20 JUDGE CLARK: I'm sorry. I didn't hear your  
21 answer.

22 THE WITNESS: No. I was not.

23 JUDGE CLARK: Okay.

24 BY MS. MANTOAN:

25 Q Do you have an understanding of what a job function

1 is at Oracle?

2 MS. PULLEY: Objection. Lack of foundation.

3 JUDGE CLARK: Overruled. If you can answer the  
4 question.

5 BY MS. MANTOAN:

6 A No. I don't particularly.

7 JUDGE CLARK: So Ms. Hardman, would you maybe slide  
8 in just a little bit.

9 THE WITNESS: Okay. Sorry.

10 JUDGE CLARK: And maybe pull the microphone back  
11 just a little bit, and then there we go.

12 THE WITNESS: Okay.

13 JUDGE CLARK: See if we can pick you up a little  
14 bit better.

15 BY MS. MANTOAN:

16 Q And do you know what your -- well do you know what  
17 a system job title is at Oracle?

18 A A system job title, no.

19 Q Do you know what a job code is at Oracle?

20 A Other than maybe an IC3 or 4 whatever individual  
21 contributor code.

22 Q Okay. And when you joined Oracle, you were in the  
23 systems web presence group, correct?

24 A I was in systems technical marketing, my job was  
25 systems web presence.

1 Q Okay. And was that a software development job?

2 A No. It was technical marketing, developing best  
3 practice with subject matter experts and technical writers.

4 Q So it sounds like it was similar to what you were  
5 doing at Sun perhaps just with broader scope with respect to  
6 publications?

7 A Yes. And it was Oracle branding, rebranding all of  
8 the Sun equipment and everything for Oracle.

9 Q Okay. But otherwise, similar to your work at Sun?

10 A Similar, yes.

11 Q And you testified on direct that your understanding  
12 is that you were an hourly employee when you first joined  
13 Oracle. For how long do you understand yourself to have been  
14 an hourly employee?

15 A I was like six weeks, maybe. Because when I came  
16 in my manager found out and said, that's not appropriate you  
17 should be a salaried employee. So he went to his director  
18 and -- I started in January -- I think before the end of  
19 February it had been changed so I was a salaried employee.

20 Q Okay.

21 A But the pay was the same, it was just a difference  
22 of how I reported. I didn't have to do a time card anymore.

23 Q Okay. You testified a little earlier about a  
24 transfer that you did in January of 2012 internal to Oracle,  
25 correct?

1 A Correct.

2 Q And you applied for an open posted position at that  
3 time, correct?

4 A Correct.

5 MS. PULLEY: Objection. Misstates the testimony.

6 JUDGE CLARK: Overruled. Your answer will stand.

7 BY MS. MANTOAN:

8 Q And would that position posted as an IC3 position?

9 A I don't know.

10 Q You just don't recall one way or another?

11 A I don't recall.

12 Q Okay. But you were hired onto that new team at an  
13 IC3 level position, correct?

14 A I believe so. Seven or three or -- yeah.

15 Q Well the pay grade that you were talking about  
16 earlier, that was the thing that started with E, right?

17 A Oh.

18 Q Whether it was E7 or E8.

19 A Okay.

20 Q Here I'm trying to focus in on the global career  
21 level.

22 A Okay.

23 Q So do you understand that your transfer happened at  
24 an IC3 level?

25 A Yes.

1 Q And you had been at an IC3 level before, correct?

2 A I believe so.

3 Q Okay. Do you recall what your performance review  
4 scores when you were working on systems web presence in that  
5 marketing role?

6 A Always meets expectations or -- and I think there  
7 were codings from 1 to 4 and I was always a 3 or a 4.

8 Q Okay. So do you have any reason to disagree that  
9 in 2010, while you were on that marketing team, you got a  
10 performance review score of a 4?

11 A No.

12 Q Okay. And do you have any reason to disagree that  
13 in 2011, while on that systems web presence team, your  
14 performance review score was a 4?

15 A No. I don't.

16 Q And the team you transferred to in 2012 that was  
17 the Configuration Engineering team, correct?

18 A Correct.

19 Q Had you worked on configuration engineering at any  
20 point prior in your career?

21 A Yes.

22 Q When?

23 A I worked for the first 10 years of my career doing  
24 configuration management for high-rail industry in the  
25 Defense Department in San Diego.

1 Q Okay. Had you been doing any configuration  
2 management work at Sun?

3 A I started out in Sun doing configuration work at  
4 Sun Fed.

5 Q When was the last time prior to your joining the  
6 Configuration Engineering team at Oracle that you had done  
7 configuration engineering work?

8 A I left Configuration Management to do the Sun  
9 BluePrints program. So I think I did that for about three  
10 years at Sun, and then I did some systems reporting and then  
11 I went back -- they revitalized the BluePrints program, they  
12 brought me back to do that, so it was, I don't know maybe  
13 five or six years where I was doing other work.

14 Q Okay. Prior to your transfer in 2012, had you  
15 worked on the Configuration Engineering team at Oracle?

16 A Had I worked on the engineering team?

17 Q The Configuration Engineering team at Oracle.

18 A No. I had not.

19 Q Okay. Did you at any point learn that your system  
20 job title on this Configuration Engineering team was software  
21 developer 3?

22 A Yes.

23 Q Okay. Do you consider yourself to be someone who  
24 works as a software developer?

25 A No.

1 Q Okay. So your job doesn't involve coding, correct?

2 A No. I coordinate the coding as a program manager.

3 Q And you don't do the coding?

4 A No. I do not. No.

5 Q So do you think of your role more as a program  
6 management role not as a software development role, correct?

7 A Correct.

8 Q Okay. I have a few questions about P-499 --

9 A Okay.

10 Q -- which you had talked about.

11 MS. MANTOAN: If we could pull that back up?

12 BY MS. MANTOAN:

13 Q And you testified before that your understanding  
14 based on your read of this e-mail was that your transfer had  
15 to go all the way up to Larry Ellison's office, correct?

16 A Yes. Based on this e-mail and the discussion with  
17 my offering manager.

18 Q And this e-mail says Larry Ellison's office, not  
19 Larry Ellison, correct?

20 A It does say that.

21 Q Okay. Do you have any personal knowledge of what,  
22 if any, involvement Larry Ellison's office had in the  
23 transfer?

24 A Personal knowledge? No.

25 Q Okay.

1           A     Other than what Gary said, you know, had to go up  
2 to Larry Ellison.

3           Q     Right. So separate apart from what you may have  
4 heard or may have read, do you know who if anyone in that  
5 office reviewed any information related to your transfer?

6           MS. PULLEY: Objection. Asked and answered.

7           JUDGE CLARK: Overruled. You can answer the  
8 question.

9 BY MS. MANTOAN:

10          A     No.

11          Q     And do you know what the scope of the review that  
12 anyone in that office may have done was related to your  
13 transfer?

14          MS. PULLEY: Objection. Speculation.

15          JUDGE CLARK: Overruled. You can answer the  
16 question.

17 BY MS. MANTOAN:

18          A     No.

19          Q     Your current role is an E-Knowledge program  
20 manager, correct?

21          A     Yes.

22          Q     EKPM, is that an acronym you sometimes use?

23          A     That's the acronym that's used, correct.

24          Q     Am I correct that there are no other EKPM's in your  
25 team in the Bay Area?

1 A No.

2 Q Who else is an EKPM?

3 A There are several other employees, do you want  
4 names?

5 Q No. That's fine. Do you have any personal  
6 knowledge of how your pay compares to any of those other  
7 EKPM's?

8 A No. I do not.

9 Q Okay. Do you know the career level of any of those  
10 other EKPM's?

11 A I know that they were software developer 3s or 4s  
12 based on what used to be in Aria.

13 Q So you could see in Aria the career level of those  
14 different individuals?

15 A Yes.

16 Q And some of them are IC3s?

17 A Well it said software developer 10530 or 40 or  
18 whatever, and that correlated to the 3 or the 4.

19 Q Right. So I just want to make sure I'm clear in  
20 understanding you. Some of these EKPMs on your team were  
21 software developer 3s?

22 A Yes. And some were 4s.

23 Q Okay. Now you testified earlier that at the time  
24 you transferred onto this team, you did not receive a raise,  
25 correct?

1 A Correct.

2 Q You did receive a raise later that same year in  
3 2012, correct?

4 A Correct. In June.

5 Q And that was a \$2,000 raise, correct?

6 A Yes. Around there.

7 Q And you received a bonus in 2012, correct?

8 A Correct.

9 Q Do you know what your next performance review score  
10 was after you transferred onto the configuration engineering  
11 team?

12 A I don't know the specific number but it was meets  
13 all expectations.

14 Q Okay. That would be a three, correct?

15 A Okay. Probably. Yeah.

16 Q Okay. So do you have any reason to disagree that  
17 over the next six years, while you were on that team, you  
18 received a performance review of a three -- performance  
19 review score of three, meets expectations every year?

20 MS. PULLEY: Objection. Lacks foundation.

21 JUDGE CLARK: Overruled. You can answer the  
22 question. She did answer it.

23 BY MS. MANTOAN:

24 A Yes.

25 Q You have a reason to disagree or you agree --

1 A No.

2 Q -- that, that's probably true?

3 A That's probably what I got.

4 Q Okay. And did you gain experience on the  
5 Configuration Engineering team as you continued to work on  
6 that team?

7 A After the first couple of years, it was pretty much  
8 -- you know, there was a year or so of learning curve and  
9 then it was responsible for the products.

10 Q So there was a learning curve when you first joined  
11 the team?

12 A The first. Yeah. The first year, year-and-a-half.

13 Q And over time you took on responsibility for  
14 additional products?

15 A Correct.

16 Q And you took on responsibility for more complex  
17 products?

18 A Correct. Well not necessarily more complex but  
19 more volume.

20 Q Okay. Now during your time on the Configuration  
21 Engineering team, you received a number of pay raises,  
22 correct?

23 A I think I've received four.

24 Q And you received a stock grant, as well, in 2015,  
25 correct?

1 A That's correct.

2 Q And you cashed in some of that stock in 2016, is  
3 that right?

4 A Yes.

5 Q And you cashed in some of that stock in 2017?

6 A Correct.

7 Q And you cashed in some of that stock in 2018,  
8 correct?

9 A Correct.

10 Q And you received a bonus in 2017, correct?

11 A Yes.

12 Q And after a series of those performance reviews of  
13 three, do you recall that in 2018, you got a performance  
14 review score of four?

15 A Yes.

16 Q Okay. And in the very next year you were promoted  
17 to IC4, correct?

18 A It was over a year later. Yeah.

19 Q The following year?

20 A Yeah. Yeah.

21 Q And at that time you received a raise, correct?

22 A Yes.

23 Q And am I correct that though you're now an IC4  
24 you're still not doing any coding work in your job, correct?

25 A Correct.

1 Q And you're not doing anything you would consider  
2 software development work in your job?

3 A Correct.

4 Q Okay. You testified earlier that you couldn't see  
5 the pay ranges for any position at Oracle, do you recall that  
6 testimony?

7 A Yes.

8 Q Did you ever ask to see the pay ranges for any  
9 position?

10 A Not specifically. No.

11 Q You've never worked in the support job function at  
12 Oracle, correct?

13 A No.

14 Q Sorry. Have you ever worked in the support job  
15 function at Oracle?

16 A No.

17 Q Have you ever worked in the IT job function at  
18 Oracle?

19 A No.

20 Q Do you understand yourself to work in the Product  
21 Development job function or you just don't have an  
22 understanding?

23 A Well I work with the product teams, so for, you  
24 know, it's a team effort, so there's people from all the  
25 different areas engineering, materials, compliance, you know,

1 marketing and I belong to the product teams of the different  
2 products that I work on. I attend weekly meetings, so  
3 it's --

4 Q But with respect to the job function  
5 categorization, you just don't know --

6 A I don't know.

7 Q -- one way or another what yours is, correct?

8 A I don't.

9 Q Okay. You said that you worked from home  
10 primarily, correct?

11 A Yes. For the last two years.

12 Q And was that pursuant to your request?

13 A They laid off so many people that they just let --  
14 there was only four of us left to go to the office and they  
15 said we're going to make you work from home. So they wrote  
16 us up all contracts and said if there's meetings, we have to  
17 go in for the meetings, but other than that there was no --  
18 to drive two hours to sit with people that you didn't  
19 interact with was silly.

20 Q So it's your preference to work from home?

21 MS. PULLEY: Objection. Misstates testimony.

22 JUDGE CLARK: Overruled. You can answer that  
23 question.

24 BY MS. MANTOAN:

25 A It's not necessarily a preference, it's what they

1 did.

2 Q And just so I'm clear, in your time at Oracle  
3 you've worked on two different teams, correct?

4 A Yes.

5 Q So you don't know what employees working on other  
6 teams do on a day-to-day basis?

7 A Not specifically necessarily.

8 Q Okay.

9 MS. MANTOAN: Just a minute, Your Honor.

10 JUDGE CLARK: Thank you.

11 MS. MANTOAN: Nothing further. Thank you.

12 THE COURT: Anything further, Ms. Pulley?

13 MS. PULLEY: Just a few questions.

14 REDIRECT EXAMINATION

15 BY MS. PULLEY:

16 Q Ms. Hardman, you mentioned that you received stock  
17 grant?

18 A Yes.

19 Q Do you recall how many stocks you received?

20 A I believe it was 500 restricted stock units to vest  
21 over a four year period.

22 Q And you mentioned that you cashed those in?

23 A Yes.

24 Q At what frequency?

25 A As soon as they vested the first three years, I

1       cashed them in.

2           Q       And do you recall any monetary income you received  
3       form those?

4           A       It was a few thousand dollars each year.

5           Q       You also mentioned you received bonuses?

6           A       Yes. I received two bonuses.

7           Q       Do you recall what years?

8           A       I believe the first one is in 2012 and then I  
9       received another one in 2014, I think.

10          Q       Do you recall what you received in 2012?

11          A       I think it was 2,000.

12          Q       You also testified about interactions with people  
13       in your group?

14          A       Yes.

15          Q       And you said that you didn't know what others did?

16          A       What my teammates do?

17          Q       Yes.

18          A       Well they just do the same thing I do but for  
19       different products.

20          Q       So you do have some understanding?

21          A       Yeah. Yeah.

22          Q       And Ms. Hardman, why are you here today?

23          A       Just I received the letter and wanted to give my  
24       story and see, you know, if it's not compliant -- or if  
25       Oracle is not being compliant with what they've agreed to

1 through the federal regulations then I think that should  
2 change. If they are, I don't know. Just wanted to tell my  
3 story.

4 MS. PULLEY: No further questions, Your Honor.

5 JUDGE CLARK: Anything further, Ms. Mantoan?

6 MS. MANTOAN: Just very briefly.

7 JUDGE CLARK: Go ahead.

8 RECROSS-EXAMINATION

9 BY MS. MANTOAN:

10 Q You mentioned that you got 500 RSUs?

11 A I believe that's the number, I'm not a 100 percent  
12 sure.

13 Q RSU is restricted stock unit?

14 A Stock units, yes.

15 Q And did you have an election between RSUs and stock  
16 options?

17 A Yes.

18 Q And you elected RSUs?

19 A I did.

20 Q And you chose yourself when or if to cash those in?

21 A I did.

22 Q Okay.

23 MS. MANTOAN: No further questions.

24 JUDGE CLARK: Ms. Pulley.

25 MS. PULLEY: No further questions.

1           JUDGE CLARK: Okay. Ms. Hardman, thanks so much  
2 for your time. You're free to go, your excused as a witness,  
3 thanks again for being here today.

4           MR. GARCIA: Your Honor, we have to go down to get  
5 the next witness.

6           JUDGE CLARK: And the next witness is Mr. Ratliff?

7           MR. GARCIA: Yes, Your Honor.

8           JUDGE CLARK: Okay. So before -- if somebody can  
9 do that and go down and grab him, but we're going to go ahead  
10 and just take care of the issue about whether -- there was a  
11 motion to strike his testimony, I believe, that's under  
12 submission.

13           I have reviewed the three cases supplied by Mr.  
14 Parker and considering the argument of the parties, I'm going  
15 to allow Mr. Ratliff to testify on the limited areas that  
16 you've outlined, Mr. Garcia.

17           So you can lay the foundation for the document  
18 P-71, and how it relates to the other document P-60. And he  
19 can testify in a general way about what, you know, his work  
20 is with snapshots, but he can't testify about anything he  
21 doesn't have personal knowledge related to this case and  
22 it'll be very limited areas of testimony, understood?

23           MR. GARCIA: Understood, Your Honor.

24           JUDGE CLARK: Okay. We'll be off the record until  
25 Mr. Ratliff comes up.

1 (Off the record at 2:32 o'clock p.m.)

2 JUDGE CLARK: -- new witness. There he is, you can  
3 come forward, sir. Just go ahead step right up here. And  
4 before you have a seat if you face me and raise your right  
5 hand?

6 Whereupon,

7 SEAN RATLIFF,  
8 having been first duly sworn by the Administrative Law Judge,  
9 was examined and testified as follows:

10 JUDGE CLARK: Have a seat please. And then if you  
11 would state your name and spell it for our record, please?

12 THE WITNESS: It's Sean Ratliff. S-E-A-N  
13 R-A-T-L-I-F-F.

14 JUDGE CLARK: Okay. Mr. Ratliff this proceeding's  
15 a little bit different because we're recording everything  
16 that's said as opposed to a court report that you might be  
17 used to. So make sure you speak out loud and let the lawyers  
18 ask the complete question and they'll let you give a complete  
19 answer because we can't record two people at once, all right.

20 THE WITNESS: I understand.

21 JUDGE CLARK: If someone makes an objection, you  
22 just stop talking and I'll let you know whether you can  
23 answer the question, sound good?

24 THE WITNESS: Sounds good.

25 JUDGE CLARK: All right.

1 Mr. Garcia, this is your witness?

2 MR. GARCIA: Yes, Your Honor.

3 JUDGE CLARK: Go ahead.

4 MR. GARCIA: Thank you, Your Honor.

5 DIRECT EXAMINATION

6 BY MR. GARCIA:

7 Q Good afternoon, Mr. Ratliff.

8 A Good afternoon.

9 Q Who's your current employer?

10 A The Department of Labor, Office of Federal Contract  
11 Compliance Programs.

12 Q How long have you worked for OFCCP?

13 A Almost four years.

14 Q What is your current title?

15 A I'm the district director for the San Diego  
16 district office.

17 Q How long have you had that title?

18 A I have been there since January 2016.

19 Q So almost four years?

20 A Yes.

21 Q What are your duties and responsibilities as a  
22 district director?

23 A I oversee all the operations of the San Diego  
24 district. So I supervise the employees there, I supervise  
25 all the compliance reviews that happen in that office, the

1 compliance assistance that happens in that office. I  
2 occasionally get pulled in to work on cases elsewhere in the  
3 region, but mostly everything that happens out of San Diego.

4 Q How many OFCCP investigations were conducted during  
5 your time as the district director, approximately?

6 A I'd say at least 50, maybe 60, 70.

7 Q Were you involved in those investigations?

8 A Yes.

9 Q How so?

10 A I get involved at the very beginning with  
11 scheduling cases. So I assign the scheduling letters. As a  
12 compliance review progresses, I'm going to be involved in  
13 reviewing any requests for information that come out of our  
14 office. I kind of just oversee things as they go along, help  
15 make decisions about where a case should go, if a case goes  
16 to an on-site, I almost always go to the on-sites and  
17 participate in those. As the case progresses even beyond  
18 that, I'm involved in decisions about whether or not to  
19 pursue the case further or close it down. And, in cases of  
20 closing one down, I would sign those closure papers.

21 Q Thank you. I'm now going to bring in an Exhibit,  
22 Exhibit P-171. Do you recognize, Exhibit P-171?

23 A I do.

24 Q What is it?

25 A It is a chart that I created.

1           Q     Did you use an existing Excel spreadsheet to create  
2     it?

3           A     I did. I used this one that's in the title there,  
4     the 3616 Bate Stamp.

5           Q     I'm now going to bring up Exhibit P-260. Do you  
6     recognize P-260?

7           A     I do.

8           Q     What is it?

9           A     It's the spreadsheet that I used to create the  
10    prior exhibit.

11          Q     And it has the Bates Stamp No. 3616 in it's title,  
12    correct?

13          A     Yes.

14          Q     Okay. I'm now going to go back to Exhibit P-171.  
15    Please walk us through how you started with Exhibit P-260,  
16    Bates Stamp No. 3616, till you get to the Exhibit at P-171,  
17    please?

18          A     Sure. The first thing I did was rename the  
19    spreadsheet so that I didn't save over the original. I  
20    created a pivot table based on the entirety of the original  
21    spreadsheet, that way I could cross reference certain numbers  
22    as I went along. I then cut and paste the original  
23    spreadsheet into a new tab and that became sort of the  
24    working copy.

25                    So first thing, I think, I did with the working

1 copy is I deleted all this extraneous columns so that we only  
2 had the job function, the specialty area, the global career  
3 level, the job title and the salary grade, the things that  
4 you're seeing in A through E of this Exhibit P-171. Once I  
5 had those columns narrowed, I did a filter for the job  
6 functions that are at issue in this case, so that's the  
7 information technology, the product development, and the  
8 support function.

9           So once I had those done, I then did a sort by job  
10 title so that I would group all the job titles together.  
11 Column F then was added to be able to get a sum of the  
12 individual job titles and I started going through all the job  
13 titles and putting the number of people that existed in those  
14 job titles in the final sort of row of those job titles and  
15 started deleting the ones above it. There were a couple job  
16 titles that were in different salary grades and so I created  
17 different lines for each of those noting the number of people  
18 in those titles within the salary grade.

19           And then once I got done with all of that and  
20 deleting the extra rows, you would essentially have something  
21 similar to what's in A through F of this exhibit, only it  
22 wasn't quite sorted like this.

23           So at that point, I did another copy and paste into  
24 a new sheet, because I didn't want to have to redo everything  
25 if I made a mistake later. Before doing that, I did a

1 cross-reference as well using the pivot tables, so that I  
2 could see the number of people in each job title there  
3 looking at how it looked in my newly created chart if you  
4 will.

5           And so then once I had created the new one, I  
6 sorted things by first salary grade, and then job function  
7 and then specialty area, and then job title and that put  
8 things in the order that you're seeing in the exhibit. I  
9 added the new columns for the number of functions in salary  
10 grade, the specialty areas within the salary grade, the  
11 career levels and the titles within the salary grade, and  
12 then finally the total number of employees in each salary  
13 grade.

14           I believe I highlighted the different salary grades  
15 so it was easy for me to distinguish between each one. And  
16 then I just started going through and looking at it to add up  
17 the numbers, so, you know, noting the number of functions or  
18 the number of specialty areas within each salary grade. I  
19 was able to do a lot of cross-checking using the pivot tables  
20 to make sure that the numbers were correct. And then, you  
21 know, I played with the colors and added a header and a  
22 footer and you see what you see here.

23           Q     Thank you.

24           MR. GARCIA: Your Honor, I move for P-171 to be  
25 entered into evidence.

1 (Plaintiff Exhibit No. 499  
2 is offered into evidence.)

3 JUDGE CLARK: This is who's witness?

4 MS. CONNELL: It's my witness.

5 JUDGE CLARK: Ms. Connell?

6 MS. CONNELL: Yeah. I mean we would object to it's  
7 entry into evidence. It was clearly -- I haven't had a  
8 chance to cross-examine him on it so I would at least request  
9 that you wait until ruling on that. Otherwise I can ask some  
10 questions now.

11 JUDGE CLARK: I can wait. We can take it up again  
12 after cross.

13 MR. GARCIA: Very good, Your Honor.

14 BY MR. GARCIA:

15 Q Mr. Ratliff, I'm going to direct your attention to  
16 the medium purple color starting at row 29 for salary grade  
17 ABBE on page 1 of Exhibit P-171. Do you see that?

18 A I do.

19 MS. CONNELL: Your Honor, I'm going to object to  
20 him testifying. It's not in evidence.

21 JUDGE CLARK: So, I think, he can testify about  
22 this document based on what he said. It's not been admitted  
23 into evidence but I believe he can still testify. What's  
24 your other objection.

25 MS. CONNELL: Well, I think it lacks foundation and

1 I think that it's at best a demonstrative it's not -- I mean,  
2 among other things the parties had an agreement to exchange,  
3 but he's not an expert witness also. So I think it goes  
4 beyond his personal knowledge of the case, he's just  
5 testifying about this document that he created.

6 JUDGE CLARK: Okay.

7 MR. GARCIA: Your Honor, this is a summary. It's a  
8 summary of another exhibit that is 7,000 rows, it has over 80  
9 columns. And so what Mr. Ratliff did was to put the  
10 information about the relationship between job functions, job  
11 specialties, job titles, and salary grades into an easy to  
12 view format. So as a summary it should be able to come in.

13 The other thing in terms of demonstrative exhibit,  
14 they had knowledge of this exhibit as of in and around  
15 November 21st when we provided the exhibits. So for Ms.  
16 Connell to say that she did not receive notice of this  
17 demonstrative exhibit. She did. She received it on November  
18 21st.

19 JUDGE CLARK: Ms. Connell, anything further?

20 MS. CONNELL: Well we objected to it so and we  
21 didn't know who created it, where it came from.

22 JUDGE CLARK: No. I understand. That's one of the  
23 exhibits that was part of the evidentiary rulings today and  
24 it was for the foundation to come in. I have heard  
25 sufficient foundation. So I am satisfied that this document

1 at this point that I was going to take under submission and  
2 allow you to cross-examine him about this document. So ask  
3 your questions about the document, and then Ms. Connell you  
4 can do your cross-examination --

5 MS. CONNELL: Thank you.

6 JUDGE CLARK: -- we'll take it up again if need be  
7 at that time, so Mr. Garcia go ahead.

8 Your objection's overruled at this point.

9 MR. GARCIA: Thank you, Your Honor.

10 BY MR. GARCIA:

11 Q So again to recap Mr. Ratliff, I asked you to look  
12 at the medium purple color starting, g at row 29, for salary  
13 grade E09 on page 1 are you at that location?

14 A Yes.

15 Q What results did you find for the E09 salary grade  
16 in terms of the number of job functions, job specialties, and  
17 job titles associated with it?

18 A So of the 3 job functions that we were looking all  
19 3 are represented within the E09 salary grade, there's 11  
20 specialty areas and 17 job titles.

21 Q And without saying the specific number of  
22 employees, can you give us a general sense of how many  
23 employees were in that E09 salary grade?

24 A Over a thousand.

25 Q Thank you. And now I'm going to direct your

1 attention to the dark green color starting at row 60 for  
2 salary grade E11 on the first page of P-191 [sic], are you  
3 there?

4 A I am.

5 Q What results did you find for the E11 salary grade  
6 in terms of the number of job functions, job specialties, and  
7 job titles?

8 A Of the 3 job functions we looked at, all 3 were  
9 represented in E11, there were 10 specialty areas, and 15 job  
10 titles.

11 Q Again, in a general sense without specifically  
12 naming the number of employees in that salary grade, what did  
13 you find for employees in that salary grade of E11?

14 A Well it's the second biggest employee group on the  
15 chart is over a thousand still.

16 Q Thank you. I'm now going to direct your attention  
17 to page 2 of P -- I said 191 earlier, my mistake, it's 171.  
18 The lightest pink color starting at row 74 for salary grade  
19 E12, please let me know when you're there.

20 A Yes.

21 JUDGE CLARK: What line number did you say, I'm  
22 sorry?

23 MR. GARCIA: 75, at the very top, Your Honor.

24 JUDGE CLARK: Okay.

25 BY MR. GARCIA:

1           Q     So what results did you find in terms of job  
2 functions, specialty areas, and job titles for salary grade  
3 E12?

4           A     So in E12 of the 3 job functions we looked at all 3  
5 were represented, there were 9 specialty areas, and 12 job  
6 titles.

7           Q     Again, in a general sense, how many employees were  
8 listed or identified for that salary grade?

9           A     it's not as big as the other, it's hundreds.

10          Q     Thank you. I'm now going to direct your attention  
11 back to the first page, salary grade E10, which is in a light  
12 green color and starts at row 46, please let me know when  
13 you're there.

14          A     I am.

15          Q     What results did you find for that salary grade in  
16 terms of job function, job specialty, and job titles?

17          A     In this instance there were 2 job functions  
18 represented, there were 9 specialty areas, and 14 job titles.

19          Q     And how many employees, again in a general sense,  
20 were for that salary grade? I mean --

21          A     Hundreds.

22          Q     Right. E10 salary grade.

23                   Now Mr. Ratliff, after you've gone through and  
24 identify the job functions, the job titles, and the  
25 specialties areas associated with each salary grade, why did

1 you build P-171 that displayed that result?

2 A To show that composition, how many functions,  
3 specialty areas, levels, job titles fell within a particular  
4 salary grade.

5 Q And why did you want to show those relationships?

6 A Because --

7 MS. CONNELL: Objection. Calls for speculation.

8 JUDGE CLARK: Overruled. You can answer the  
9 questions.

10 BY MR. GARCIA:

11 A Because there's trainings that we saw that Oracle  
12 has that talk about how jobs --

13 MS. CONNELL: Objection.

14 BY MR. GARCIA:

15 A -- within a particular --

16 JUDGE CLARK: What's your objection?

17 MS. CONNELL: My objection is that he doesn't have  
18 any personal knowledge of this case, and he's speaking now as  
19 to documents that were clearly provided to him by counsel as  
20 an expert witness. I mean he does not have percipient  
21 knowledge in this case.

22 JUDGE CLARK: So, Mr. Garcia, why would this not be  
23 beyond the scope of what I was allowing him to testify to.  
24 Why would this not be straight hearsay to this witness, who I  
25 understood you say today did not participate in the

1 investigation at all.

2 MR. GARCIA: I will withdraw the question, Your  
3 Honor.

4 JUDGE CLARK: Okay. The objection is sustained.

5 BY MR. GARCIA:

6 Q Mr. Ratliff, I'm going to change directions now and  
7 I'm going to look at Exhibit P-260, that's -- and I'll wait  
8 for that to come up on the screen. Earlier, Mr. Ratliff, you  
9 identified that you used P-260 to build P-171, correct?

10 A Correct.

11 Q What is P-260 to your knowledge?

12 A It's a compensation snapshot.

13 MS. CONNELL: Again, I'll --

14 JUDGE CLARK: And there's an objection.

15 MS. CONNELL: -- object as he doesn't have  
16 percipient knowledge of this. It was provided to him by  
17 counsel, he didn't participate in the underlying audit. I  
18 mean, this is -- he's testifying as an expert, he's  
19 testifying as an extension of counsel.

20 JUDGE CLARK: Mr. Garcia?

21 MR. GARCIA: Your Honor, if I can be allowed to lay  
22 the foundation of how he knows what it is?

23 JUDGE CLARK: You can ask a few more questions for  
24 the foundation.

25 BY MR. GARCIA:

1           Q     Mr. Ratliff, how do you know what the document is  
2 at Exhibit P-260?

3           A     Well the most obvious thing is the title itself, it  
4 says 2014 Comp Snapshot.

5           Q     And when you were building the Exhibit at P-171,  
6 did you have a chance to look at the contents of P-260, when  
7 you were looking at job functions, job specialties?

8           A     Sure. I mean, I had to delete the other columns.

9           Q     And did you see what the other columns were  
10 included in any of the columns?

11          A     Generally, yeah.

12               MR. GARCIA: Your Honor, so he knows from what it  
13 is based upon his reading of the title of the document and  
14 him looking at the contents of the document.

15               JUDGE CLARK: Ms. Connell.

16               MS. CONNELL: It's still hearsay to him. I mean he  
17 doesn't know where the document came from except what counsel  
18 told him, I mean, he wasn't involved in the underlying audit,  
19 he doesn't work at Oracle.

20               JUDGE CLARK: I understand.

21               So, Mr. Garcia, your correct, he appears to know  
22 what this document is, but why would this not be -- he didn't  
23 -- did he participate in the investigation here?

24               MR. GARCIA: No, Your Honor. But he's a OFCCP  
25 director.

1           JUDGE CLARK: Okay. I did not allow him to testify  
2 as an OFCCP Director, you said there were two specific areas  
3 you were going to offer him for. One was to lay a foundation  
4 for PX-171 which I've indicated, I've found sufficient at  
5 this point, but we're going to wait for cross. And the other  
6 thing you mentioned was his general knowledge of workings of  
7 OFCCP but nothing specific to this case as I understood it,  
8 and that's what I limited it to.

9           So if you've got some questions about his general  
10 knowledge about investigations or something along those  
11 lines, I will let you ask those questions, but I'm not going  
12 to let you ask questions about the particulars of a document.

13           MR. GARCIA: Fair enough, Your Honor.

14           JUDGE CLARK: Okay.

15           MR. GARCIA: I will ask for the document to be  
16 removed from the monitor.

17 BY MR. GARCIA:

18           Q     So I'm going to ask about your general experience,  
19 you know, in terms of conducting investigations just like the  
20 Court identified. During your course of the investigations  
21 that you've been involved with, have you been involved with  
22 snapshots?

23           A     I have.

24           Q     And how have you been involved with snapshots to  
25 lay a foundation?

1           A     Well since I've been with the agency anyway, we ask  
2     for them as part of every compliance review as part of the  
3     itemized scheduling listing as item 19.

4           Q     Thank you. And have you seen snapshots before?

5           A     I have.

6           Q     Okay. So in terms of, if a snapshot is dated  
7     1/1/2014, and it has information in it regarding performance  
8     evaluations, bonuses, possibly stock, would that information  
9     come from what specifically happened on January 1st, 2014?

10           MS. CONNELL: Objection. Lacks foundation.

11           JUDGE CLARK: Overruled. I think there's  
12     sufficient foundation for the question, you can answer that  
13     question.

14     BY MR. GARCIA:

15           A     So a compensation snapshot is a snapshot of, at a  
16     certain time, the number of employees that are part of an  
17     affirmative action program. So that particular establishment  
18     has a number of people associated with it. The compensation  
19     snapshot shows their salaries and a number of other things  
20     about those people at that time, but it also sometimes has  
21     things from -- that occurred during the prior year. So not  
22     everybody's evaluated on the date of the snapshot, for  
23     example, but their prior years performance evaluation might  
24     be part of that spreadsheet.

25                     Likewise, if they received a bonus or if they've

1 received some sort of other compensation overtime, something  
2 like that during that prior year, that might be included as a  
3 separate column within the snapshot.

4 JUDGE CLARK: Mr. Garcia.

5 BY MR. GARCIA:

6 Q So if a snapshot -- so if the fields that OFCCP was  
7 looking for in a snapshot dated January 1st, 2013, and it was  
8 looking for fields such as performance evaluations, the  
9 bonuses awarded, the stock awarded, would that include --  
10 what year would that information come from for a snapshot  
11 dated January 1st, 2013?

12 MS. CONNELL: Objection, calls for speculation and  
13 lacks foundation as to what every snapshot out there that is  
14 not in evidence might include.

15 JUDGE CLARK: So I'm going to have you lay just a  
16 little more foundation about how he might know what a  
17 standard snapshot would be.

18 MR. GARCIA: Okay.

19 BY MR. GARCIA:

20 Q You identified that OFCCP in it's initial  
21 scheduling letter in line 19, would ask for one year of  
22 snapshot information, do you remember that?

23 A I do.

24 Q Are there occasions where OFCCP would ask for  
25 another year of snapshot data?

1           A     Yes.  So usually the scheduling letter itself has  
2     item 19, it's the 19th of an itemized list of things that are  
3     provided to us, sort of, in every compensation review.  When  
4     we see any sort of red flags or indicators, it's not uncommon  
5     at all that we might ask for additional compensation  
6     snapshots.

7           So, if we're asking for an additional compensation  
8     snapshot, then we're asking not just for what happened on  
9     that date, but just like with the original and perhaps an  
10    expansion, sometimes when we do a -- the original snapshot  
11    that might come to us, might have a limited number of  
12    columns, and so we might ask for additional information  
13    related to those people.  And that might be their prior  
14    performance, it might be, you know, additional merit  
15    increases or something that they had.

16           So, if we then ask for another snapshot year, by  
17    extension, we're asking for all those things that happened  
18    during the year prior to the snapshot date itself.

19           Q     So you said there are a number of reasons why  
20    another snapshot could be requested.  Do any of them relate  
21    to the number of people available to conduct the statistical  
22    analysis from the first snapshot?  If so, how?

23           MS. CONNELL:  Objection.  Calls for speculation and  
24    lacks foundation.

25           JUDGE CLARK:  I'm not sure I understand the

1 question, so the objection's sustained. Lay a further  
2 foundation or rephrase your question.

3 BY MR. GARCIA:

4 Q So is there a certain thresholds that OFCCP needs  
5 to conduct a statistical analysis of the number of people?

6 MS. CONNELL: Objection. Lacks foundation.

7 JUDGE CLARK: Overruled. You can answer the  
8 question, if you know.

9 BY MR. GARCIA:

10 A Well our general practice is for a regression  
11 analysis, anyway, we want to have at least 30 people within  
12 whatever the pay analysis group is that we're looking at. We  
13 also like to see that there be a certain number of people  
14 within the sort of factors that we control for within that  
15 analysis.

16 Q So, if there is insufficient number of people in  
17 the first snapshot, what does OFCCP do?

18 MS. CONNELL: Same objections.

19 JUDGE CLARK: Overruled. You can answer the  
20 question.

21 BY MR. GARCIA:

22 A We may ask for another snapshot by having  
23 additional employees, additional people to look at, we can  
24 run additional analysis that we might not otherwise have been  
25 able to do.



1           A     I wasn't.

2           Q     So you were not working for OFCCP during the time  
3 of the audit in this case, correct?

4           A     I don't know exactly what the audit dates are off  
5 the top of my head right now.

6           Q     Okay. Well you did not personally participate in  
7 the audit in this case, correct?

8           A     I was not involved in the Oracle audit.

9           Q     Okay. And your only involvement in either the  
10 audit or in this litigation has been to testify on behalf  
11 OFCCP as a 30(b)(6) witness on two occasions and to create  
12 this exhibit P-171, correct?

13                   MR. GARCIA: Objection. Assumes facts not in  
14 evidence.

15                   JUDGE CLARK: Sustained. Lay a little more  
16 foundation.

17                   MS. CONNELL: Okay.

18 BY MS. CONNELL:

19           Q     Mr. Ratcliff [sic] did you testify on behalf of  
20 OFCCP in this case?

21           A     I did.

22           Q     Did you testify as a 30(b)(6) witness on two  
23 different occasions?

24           A     Yes.

25           Q     And did you -- as you testified you created Exhibit

1 P-171, correct?

2 A That is correct.

3 Q Have you had any other involvement in either the  
4 underlying audit or in the litigation in this matter?

5 MR. GARCIA: Objection. Attorney client privilege  
6 and work product.

7 JUDGE CLARK: Overruled. You can answer the  
8 question.

9 BY MS. CONNELL:

10 A I was not involved in this case at any point prior  
11 to it becoming part of litigation.

12 Q So you have been involved in the litigation?

13 A Well to the extent that I was a 30(b)(6) deponent  
14 and created a chart.

15 MR. GARCIA: And I would object to the witness  
16 communicating any communication that the witness had with  
17 counsel and any work product that counsel asked the witness  
18 to work on besides P-171.

19 JUDGE CLARK: Okay.

20 Ms. Connell.

21 BY MS. CONNELL:

22 Q Have you performed any other work on behalf of  
23 OFCCP on this case, other than what you've already testified  
24 to?

25 A Not sure what you would call work in this sense.

1           Q     Have you spent any additional time on this case at  
2     the request of OFCCP's counsel other than to create P-171 and  
3     to testify as a 30(b)(6) witness.

4           A     Outside of things requested by counsel, no.

5           Q     Including things -- I'm not asking about  
6     discussions but has counsel made other requests of you to  
7     facilitate this litigation against Oracle?

8           A     I have done other things at the request of counsel.

9           Q     Can you give me an estimate of how much time you've  
10    spent working on this litigation at the request of counsel?

11          A     Including all the 30(b)(6) preparation?

12          Q     Correct.

13          A     It's hard to say just because the 30(b)(6)  
14    preparation was pretty extensive, so definitely dozens of  
15    hours, I don't know that it would go over a 100, I don't  
16    know.

17          Q     Okay. You created Exhibit P-171 at the request of  
18    counsel for OFCCP, correct?

19                MR. GARCIA: Objection. She's invading the  
20    attorney client privilege, Your Honor, and work product.

21                MS. CONNELL: Is this work product, that your -- is  
22    that OFCCP's --

23                JUDGE CLARK: Mr. Garcia --

24                MR. GARCIA: For instructions -- for whatever  
25    instructions that we gave him to do, Your Honor, she's

1 invading that if she's asking what we did. If she's asking  
2 did she [sic] simply make -- did Mr. Ratliff make P-171 he's  
3 already admitted that he did. To go into discussions about  
4 whatever communications Mr. Ratliff had regarding P-171, then  
5 I would say that invades the attorney work -- or attorney  
6 client privilege.

7 I would also say that she has now opened the door,  
8 if she's asking more questions about the creation about  
9 P-171, and why it was created. So her previous objections  
10 about why it was created, Your Honor, she's just opened the  
11 door for that.

12 JUDGE CLARK: I'm not sure I understand either.

13 Ms. Connell, any response?

14 MS. CONNELL: My only question was whether or not  
15 -- it's a yes or no question -- whether or not he created  
16 P-171 at the request of counsel. I don't believe that  
17 invades the privilege. I haven't asked any further questions  
18 at this point, so.

19 MR. GARCIA: If that's the only question, Your  
20 Honor, he can -- we have no objection to it's answer.

21 JUDGE CLARK: Overruled, you can answer that  
22 question.

23 BY MS. CONNELL:

24 A Yes. I made it because counsel asked for a chart.

25 Q And when did you create Exhibit P-171?

1           A     A month or so ago.

2           Q     Do you have any understanding as to why it was  
3     created?

4           A     I do.

5           Q     What is your understanding?

6           A     My understanding is there's a number of Oracle  
7     trainings that talk about how a particular job title, job  
8     titles that fall in the same salary grade, are treated the  
9     same for -- Oracle views job -- that jobs within the same  
10    salary grade are viewed as having equal market value to  
11    Oracle.

12          Q     And your understanding of that testimony you just  
13    gave is based on documents that were provided to you by  
14    OFCCP's counsel, is that correct?

15          A     I reviewed a lot of documents as part of my  
16    30(b)(6) preparation.

17          Q     And that was at the request of counsel for OFCCP,  
18    correct?

19          A     Yes.

20          Q     Okay. And you understood that, when you created  
21    this document a month ago at the request of counsel, it was  
22    for purposes of this litigation, correct?

23          A     Yes.

24          Q     When you were describing how you went about  
25    creating this document, P-171, you obviously didn't include

1 -- you testified that it was based on Exhibit P-260, correct?

2 A Well the underlying, the 3616 I think is the Bates  
3 Number on it.

4 Q Correct. For the record, that's the Bates label  
5 that corresponds with P-260. The other exhibit that we  
6 looked at previously.

7 A Okay.

8 Q You didn't include all of the columns from P-260 in  
9 Exhibit P-171, correct?

10 MR. GARCIA: Objection, Your Honor. Asked and  
11 answered, he pointed out that he removed all the other  
12 columns and we previously showed that P-260 had more columns  
13 when it was up on the monitor than just the five he had. So  
14 asked and answered.

15 JUDGE CLARK: Overruled. You can answer the  
16 question.

17 BY MS. CONNELL:

18 A I removed columns, yes.

19 Q And was it your decision which columns to remove?

20 MR. GARCIA: Your Honor, I object. She's now  
21 getting into attorney client privilege and any instructions.  
22 And, I believe, that because she asked why it was done, she  
23 has not opened the door on that issue.

24 JUDGE CLARK: I'm still not quite sure I follow  
25 what you're saying, Mr. Garcia.

1           MR. GARCIA: Your Honor, I wanted to -- I started  
2 to ask questions about why it was important to arrange the  
3 columns in the way they were, and Ms. Connell objected and it  
4 was sustained because that was beyond the limited purview  
5 that you gave for Mr. Ratliff's testimony here today  
6 regarding P-171.

7           JUDGE CLARK: Ms. Connell.

8           MS. CONNELL: It was a different question, Your  
9 Honor. I was trying to establish, and I think I have  
10 established, that he created this document at the request of  
11 counsel for the purpose of this litigation. That was the  
12 only point that I was trying to make.

13          JUDGE CLARK: Okay. Then if you -- I think that is  
14 pretty -- I'm satisfied that, that's the answer, so --

15          MS. CONNELL: Yes.

16          JUDGE CLARK: -- why don't you ask another  
17 question.

18 BY MS. CONNELL:

19           Q     Okay. My question was, did you decide which  
20 columns to include on P-171?

21           MR. GARCIA: And I object to the extent that she's  
22 asking about attorney work product and attorney client  
23 privilege communications.

24           JUDGE CLARK: Okay. So, Ms. Connell. Go ahead,  
25 anything --

1 MS. CONNELL: It's a yes or no question. It's  
2 waived among other things. I mean, they're trying to put  
3 this in evidence.

4 MR. GARCIA: Your Honor, this is a summary --

5 JUDGE CLARK: So --

6 MR. GARCIA: I'm sorry.

7 JUDGE CLARK: No. Go ahead.

8 MR. GARCIA: Your Honor, this is a summary that he  
9 built. The parties agreed that the attorneys would not  
10 testify, so this is a person who took a spreadsheet that was  
11 over 7,000 rows long in terms and over 80 columns wide to  
12 distill the information as presented to provide this summary  
13 to the Court.

14 JUDGE CLARK: Okay. That's what I understand it to  
15 be.

16 MR. GARCIA: So therefore, it's just a summary that  
17 we lay the foundation by someone in terms of how the summary  
18 was built and what was the initial document that was used as  
19 source material to build the summary. Because there are over  
20 80 rows [sic] of data in spreadsheet Bates Stamp No. 3616,  
21 and there's over 7,000 rows of information, that's why we  
22 distilled it in an easy to read two page summary.

23 JUDGE CLARK: Ms. Connell.

24 MS. CONNELL: Your Honor, Counsel's trying to put  
25 this document into evidence as a summary. I think I'm

1 entitled to question the witness who's supposed to lay the  
2 foundation for the document as to how it was created to the  
3 extent they're going to say that's privileged, it's waived.

4 JUDGE CLARK: Okay. I'm going to allow a little  
5 more questioning, but I don't want to go into anything that  
6 talks about attorney client privilege. I don't find that's  
7 been waived at this point, but you can ask a few more  
8 questions about that foundation. I am satisfied regarding  
9 the foundation at this point, so if you have a few more  
10 questions, you can ask those questions about the foundation.

11 MS. CONNELL: Okay.

12 BY MS. CONNELL:

13 Q My question was, Mr. Ratliff, did you decide which  
14 columns to include on Exhibit P-171?

15 A Not exactly, no.

16 Q And in terms -- you talked about the various  
17 sorting that you had done to create P-171, did you decide how  
18 this document would be sorted and arranged?

19 A For the most part, I made the decisions about how  
20 to go about creating the document.

21 Q Okay. You also gave testimony about item 19 on the  
22 current scheduling letter, correct?

23 A Yes.

24 Q Have you seen the scheduling letter that was used  
25 for the audit in this case?

1           A     Probably.

2           Q     Well then you're aware that it doesn't create -- it  
3 doesn't contain an item 19, because it was an older version  
4 of the scheduling letter, correct?

5           A     I don't know, I don't have it in front of me.

6           MS. CONNELL: I don't have any further questions,  
7 Your Honor.

8           JUDGE CLARK: Mr. Garcia, anything further?

9           MR. GARCIA: Your Honor, I move for P-171 to be  
10 entered into evidence.

11          JUDGE CLARK: Do you have any further questions for  
12 this witness?

13          MR. GARCIA: No, Your Honor.

14          JUDGE CLARK: Okay.

15          Ms. Connell.

16          MS. CONNELL: No, Your Honor. We've made our  
17 objections to it's admissibility.

18          JUDGE CLARK: Okay. I am satisfied that this  
19 physical evidence, the foundation is sufficient under  
20 29-CFR-18.1006, I accept it as a summary of PX-260.

21          Mr. Ratliff, thank you for your time, you're free  
22 to go.

23          THE WITNESS: Thank you, Your Honor.

24          JUDGE CLARK: You're excused as a witness.

25          So 171 is admitted into evidence. Plaintiff's 171.

1 (Plaintiff Exhibit No. 171  
2 is received in evidence.)

3 JUDGE CLARK: Any further witnesses today from  
4 OFCCCP?

5 MR. GARCIA: No, Your Honor.

6 JUDGE CLARK: Okay. So it's 3:15, any other issues  
7 we need to take up today before we adjourn, Mr. Garcia or Ms.  
8 Bremmer?

9 MR. GARCIA: No, Your Honor.

10 JUDGE CLARK: Ms. Connell or Mr. Parker?

11 MR. PARKER: Nothing, Your Honor.

12 JUDGE CLARK: Okay. Regarding our schedule  
13 tomorrow, should we start earlier because Dr. Madden is  
14 expected to take the bulk of the day? Is anybody -- do you  
15 want to start at 8:30, do you want to start at 9:00, do you  
16 think we'll be done by 5:30 with Dr. Madden? Who's got Dr.  
17 Madden for you for --

18 MS. BREMMER: We can start earlier if you would  
19 like to start earlier, that would be fine.

20 JUDGE CLARK: Does that create any hardship for  
21 you, Ms. Connell?

22 MS. CONNELL: Our preference, Your Honor, would be  
23 to start at 9:00 just because people are coming from all  
24 areas of the Bay Area and we've got to get through security.  
25 So, you know, I don't know how long they anticipate that Dr.

1 Madden's going to go on direct. I would think that we could  
2 -- if we start at 9:00, we should be able to finish at 5:30,  
3 but you know, I mean --

4 JUDGE CLARK: It all depends.

5 MS. CONNELL: -- she's got two reports to testify  
6 about.

7 JUDGE CLARK: Okay. Given the logistics of getting  
8 in the building, even though I think hopefully they're  
9 simplified at some point. We'll start at 9:00, we'll plan to  
10 go to 5:30, and maybe later if we need to try to finish Dr.  
11 Madden in one day to keep on schedule.

12 You should have your witnesses ready to go on  
13 Thursday, which it sounds like you do already.

14 Anything further for the record?

15 Ms. Bremmer?

16 MS. BREMMER: No, Your Honor.

17 JUDGE CLARK: Ms. Connell?

18 MS. CONNELL: No, Your Honor.

19 JUDGE CLARK: Then we'll be adjourned until  
20 tomorrow morning 9:00 a.m. Thank you all.

21 (Whereupon, the proceedings concluded at 3:15  
22 o'clock p.m.)

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REPORTER'S CERTIFICATE

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TITLE: Federal Contract Compliance Programs v. Oracle  
America, Inc.

CASE NUMBER: 2017-OFC-00006

OWCP NUMBER: N/A

DATE: December 10, 2019

LOCATION: San Francisco, CA

This is to certify that the attached proceedings  
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