

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 V

Thursday,
December 12, 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

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I N D E X

<u>PROCEEDINGS:</u>	<u>PAGE:</u>
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<u>WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>ALJ</u>
Kuassi Mensah	979	1021	1037		
Steven Miranda	1064	1101	1148	1158	
Kate Waggoner	1161	1243			

<u>EXHIBITS:</u>	<u>IDENTIFIED</u>	<u>RECEIVED</u>	<u>REJECTED</u>	<u>WITHDRAWN</u>
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JOINT

(None identified, nor received.)

PLAINTIFF

88				1045
500				1021
501	1015	1015		
502	1006	1006		
503	997	997		
504	1020	1020		
505	1011	1011		

DEFENDANT

(None identified, nor received.)

ADMINISTRATIVE LAW JUDGE

(None identified, nor received.)

P R O C E E D I N G S

1 (9:00 o'clock a.m.)

2 JUDGE CLARK: Okay. We are on the record.

3 Good morning. Today is December 12th, 2019. We're
4 on the record in the matter of OFCCP versus Oracle America,
5 Incorporated, OALJ Case Number 2017-OFC-00006. Today is day
6 five of our hearing and we are in the Plaintiff's case,
7 still.

8 Ms. Bremer, do you have any witnesses to call this
9 morning?

10 MS. BREMER: Yes, Your Honor. And I did want to
11 make one objection to a witness that was on the list that we
12 received from Oracle yesterday. Ms. Yakkundi was not on the
13 list of the 10 people who they indicated would testify in the
14 hearing on the first day of trial. And so we were not
15 working on preparing Ms. Yakkundi over the weekend. So, we
16 would object to her being called.

17 JUDGE CLARK: Okay.

18 Ms. Connell?

19 MS. CONNELL: Yes, Your Honor. On the first day of
20 trial it was an oversight that we didn't include her on our
21 list. We candidly weren't expecting you to ask for the list
22 at that time, so as you might recall we were scrambling a
23 little bit. It was not intentional, it was an oversight. We
24 have also since learned that Ms. Yakkundi is not available

1 tomorrow, she is available to testify on Monday. And so we
2 did give OFCCP notice at 9:00 o'clock a.m. yesterday. And so
3 we would ask -- you know, we don't think that there's
4 prejudice, they still have ample time to prepare for her and
5 we would ask that she be permitted to testify, it was an
6 oversight on our part. We have also since learned that
7 Leslie Robertson will not be testifying, so she is no longer
8 on our list for trial testimony.

9 JUDGE CLARK: Ms. Bremer, anything else?

10 MS. BREMER: No, Your Honor.

11 JUDGE CLARK: Okay. I haven't heard any prejudice
12 by the fact that the witness wasn't included. The objection
13 is overruled. You can call your witness in due course.

14 MS. CONNELL: Thank you.

15 JUDGE CLARK: Monday sounds fine.

16 Anything else, Ms. Bremer, before we get started
17 with testimony?

18 MS. BREMER: No, Your Honor.

19 JUDGE CLARK: And Ms. Connell, anything further?

20 MS. CONNELL: No, Your Honor.

21 JUDGE CLARK: Okay.

22 Ms. Bremer, you may call your next witness.

23 MS. BREMER: OFCCP calls Kuassi Mensah and Hailey
24 McAllister will be conducting the examination.

25 JUDGE CLARK: Good morning, counsel, go ahead and

1 state your appearance for the record.

2 MS. MCALLISTER: Hailey McAllister for Plaintiff,
3 OFCCP.

4 JUDGE CLARK: Okay. Standard spelling?

5 MS. MCALLISTER: It's H-a-i-l-e-y,
6 M-c-A-l-l-i-s-t-e-r.

7 JUDGE CLARK: Thank you, counsel.

8 All right, step forward, sir. Good morning and
9 thank you for being here. Set your stuff down and if you
10 would turn and face me and raise your right hand?

11 Whereupon,

12 KUASSI MENSAH

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

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

18 THE WITNESS: First name is Kuassi, K-u-a-s-s-i,
19 last name Mensah, M-e-n-s-a-h.

20 JUDGE CLARK: Okay. Thank you, Mr. Mensah.

21 So, the lawyers are going to ask you questions.
22 You've probably seen it, much like you've seen on TV. We're
23 recording everything that's said here.

24 THE WITNESS: Okay.

25 JUDGE CLARK: So, you need to make sure you let the

1 lawyer ask the complete question and they'll give you time to
2 give a complete answer, because we can't record two people at
3 once, all right?

4 THE WITNESS: Okay.

5 JUDGE CLARK: And because we're recording, just
6 like you're doing now, you need to speak out loud, use yes,
7 no, not uh-uh or uh-huh, because we can't really take that
8 down. Okay?

9 THE WITNESS: Okay. Thank you.

10 JUDGE CLARK: If one of the lawyers makes an
11 objection, just stop talking and I'll let you know whether or
12 not you can continue to give the answer, okay?

13 THE WITNESS: Okay.

14 JUDGE CLARK: And if you don't understand
15 something, or you need anything, let us know and we'll have
16 them rephrase the question, okay.

17 THE WITNESS: Thank you.

18 JUDGE CLARK: All right. Thank you, sir.

19 Ms. McAllister, go ahead.

20 MS. MCALLISTER: Thank you.

21 DIRECT EXAMINATION

22 BY MS. MCALLISTER:

23 Q Thanks for being here, Mr. Mensah.

24 A Thank you.

25 Q Mr. Mensah, what race and gender do you identify

1 as?

2 A I identify as Black, male.

3 Q And did you go to college?

4 A Yes.

5 Q Did you obtain any degrees?

6 A Yes. I've got a degree from the Programming
7 Institute of the University of Paris, it's called Expert on
8 (Indiscernible, foreign language) -- I can translate into
9 Expert in Data Processing. Then I've got a national diploma,
10 and state diploma called the Diplome D'etudes Appofundies,
11 which translates into deep study diploma, it's equivalent to
12 a Masters's Degree in Computer Science.

13 Q Thank you. Are you currently employed?

14 A Yes.

15 Q Where do you work?

16 A I work at Oracle, Redwood Shores.

17 Q And what is your current position?

18 A I'm currently director of Product Management, job
19 code M4.

20 Q Do you know if this position is part of a
21 particular organization at Oracle?

22 A Yes. It is part of the Product Development.

23 Q And is that a manager position?

24 A Yes.

25 Q And Mr. Mensah, how long have you worked for

1 Oracle?

2 A It's been 30 years and a couple of months.

3 Q And prior --

4 JUDGE CLARK: I'm sorry -- you said 30 years?

5 THE WITNESS: Yes.

6 JUDGE CLARK: Thank you, sir.

7 BY MS. MCALLISTER:

8 Q Prior to working at Oracle did you work in the tech
9 industry?

10 A Yes.

11 Q And how long did you work in the -- or how long did
12 you work before coming to Oracle?

13 A Approximately five years.

14 Q And have you always worked at Oracle's Redwood
15 Shores facility?

16 A No.

17 Q Where else did you work for Oracle?

18 A I worked for Oracle in France.

19 Q And for what period of time did you work for Oracle
20 in France?

21 A I joined in October 3rd, 1989, until January 1999.

22 Q And what positions did you hold in France at
23 Oracle?

24 A I first joined as an engineer, as part of what is
25 called the Center of Expertise, it's a SWAT team for

1 (indiscernible) something. And then a few years later -- so
2 I joined in 1989 and in 1993 I became the manager of that
3 same Center of Expertise.

4 Q When you say SWAT team, can you explain what you
5 mean by this?

6 A It's a group of people who specialize in specific
7 area where the Oracle database and other products needs to be
8 sold, promoted, so we specialize in different areas of either
9 products or environments where we run our products.

10 Q And did you have any reporting employees?

11 A Yes. I have -- depending on the period of time, up
12 to four direct employees.

13 Q And what were your duties in the managerial
14 position?

15 A Two things. First is to help my report to
16 specialize in the different areas that we have to cover, and
17 I also specialize myself so as to be able to able to either
18 replace them or support them on large deals.

19 Q And Mr. Mensah, when did you leave Oracle France?

20 A I left Oracle France in January 1999.

21 Q And what was the last position you held at Oracle
22 France?

23 A I was manager of the Center of Expertise.

24 Q And where did you go after leaving Oracle France?

25 A I joined Oracle HQ.

1 Q And have you been working at Oracle's HQ in Redwood
2 Shores ever since?

3 A Absolutely.

4 Q When you first moved from Oracle France to Oracle's
5 headquarters in Redwood Shores, in '99, what position did you
6 transfer into?

7 A I transferred as senior principal consultant,
8 equivalent to IC5.

9 Q Is there a reason you think you were transferred as
10 an IC5?

11 A Yes, because in the Oracle job code senior
12 principal consultant is IC5.

13 Q And was that the highest level of consultant at the
14 time?

15 A At that time it was the highest individual
16 contributor position within the Consulting Organization.

17 Q And were you still a manager after you transferred?

18 A No, I was in an individual contributor capacity.

19 Q Briefly, what were your duties as senior principal
20 consultant?

21 A As a member of the Advanced Technology Solutions,
22 we have to engage with customers who would be using the
23 Oracle faculties, and help them in terms of architecture, in
24 terms of designing the applications, sometimes we will write
25 code with them, make sure they have a good design for the way

1 they will use the database in an optimal way.

2 Q Mr. Mensah, do you know how to write code?

3 A Yes.

4 Q And did you utilize your coding skills as part of
5 your role?

6 A I brought all the skill set I have brought when I
7 was in Oracle France. I brought this to the team.

8 Q And how long were you a senior principal
9 consultant?

10 A I would say approximately until I was told that I'd
11 been promoted to technical manager, I would say maybe a year
12 and a half after I joined the Advanced Technology Solutions.

13 Q And was the technical manager position still within
14 the Consulting Organization?

15 A Yes.

16 Q And at that time did your pay change?

17 A No.

18 Q And approximately how long were you a technical
19 manager?

20 A I would say approximately six months.

21 Q And did you continue to work in the Advanced
22 Technical Consulting Organization after that?

23 A No.

24 Q What position did you move to after technical
25 manager in Consulting?

1 A I moved into Product Management, position senior
2 product manager.

3 Q And how did that come about?

4 A I was approached by David Rosenberg, who was, at
5 the time, the vice president of the Java product of the
6 Oracle database, and he wanted me to join his team and serve
7 as a product manager.

8 Q Do you remember the approximate year that
9 conversation with Mr. Rosenberg occurred?

10 A I think it's approximately 2000, or maybe early
11 2001, but I cannot recall the exact period of time.

12 Q And I'm sorry, do you know what David Rosenberg's
13 position at Oracle was, at the time that he approached you?

14 A Yeah, David Rosenberg was vice president of the
15 Java Product Group.

16 Q And did you know, at the time Mr. Rosenberg
17 approach you about joining his team, what the exact position
18 in Product Development would be?

19 A No.

20 Q Did he give you any indication?

21 A During our conversation he said when you join your
22 next move will be director of Product Management.

23 Q And why was that significant to you?

24 A So, director of Product Manager is an evolution,
25 it's a promotion from the technical manager position I was

1 holding in the Consulting Organization. I understand that
2 wouldn't be the position I would be holding right
3 immediately. But my understanding is it will be something
4 that --

5 Q And did you know, at the time, what one step below
6 director was?

7 A Yes.

8 Q And what was that?

9 A It's senior group product manager or M3.

10 Q Was there a verbal job offer at that time?

11 A My understanding was that he was happy with our
12 conversation and then I'm going to get the job.

13 Q And was there an application process?

14 A He directed me to apply for the position.

15 Q And did you?

16 A Yes, I did.

17 Q Was there a job interview after that?

18 A No.

19 Q And was there any question in your mind, when you
20 filled out the application, that you would not get the
21 product management job?

22 A No. I think it was a formality, that was my
23 understanding.

24 Q And how long after David Rosenberg approached you
25 did you start working as product manager?

1 A I will say a few weeks, a very, very shortly, while
2 the transfer was going on very rapidly.

3 Q And when did you find out the precise position in
4 Product Development you were to move into?

5 A That was when I was applying for the job.

6 Q And what was the exact position?

7 A It was senior product manager.

8 Q Did that have an IC level?

9 A It's IC3.

10 Q Is that the position you expected, based on your
11 conversation with Mr. Rosenberg?

12 A Absolutely not.

13 Q And why?

14 A Well, one step below director of product management
15 is not IC3.

16 Q Prior to moving from Technical Consulting to
17 Product Management, what was your IC level?

18 A IC5.

19 Q Did you consider this a demotion?

20 A Absolutely.

21 Q Why?

22 A Well, I have never witnessed, at Oracle, people
23 moving from higher position to a lower position.

24 Q And how did that make you feel at that time?

25 A Bad. I was not happy about this position.

1 Q And what did you do, if anything, when you found
2 out you went from IC5 to IC3?

3 A I went to David Rosenberg and talked to him and I
4 said: "This is not fair, that's not what I understand from
5 what you were talking to me about."

6 Q And did he have a response?

7 A Yes. He said: "I'm going to fix it." He actually
8 said this was not the right thing to do and then he's going
9 to fix it.

10 Q And did he -- what did you understand that he meant
11 by "fix it"?

12 A I understand that he will correct the position and
13 that I will not join as a senior product manager, but as a
14 level one step below director of Product Development, which
15 at the time was senior group product manager or M3.

16 Q And did Mr. Rosenberg fix it, at that time?

17 A When the transfer was completed, six months later,
18 I realized he did not fix the position.

19 Q And what, if anything, did you do at that time?

20 A I went to see him, again.

21 Q And --

22 A He said, again, he's going to fix it.

23 Q And did he fix it at that time?

24 A No.

25 Q Did he ever fix it?

1 A He left the company and it was fixed a couple of
2 years later by his replacement.

3 Q And by "fixed," at that time what happened?

4 A By "fixed," a couple of years I was set at the
5 senior group product manager position or M3.

6 Q And do you recall approximately what year that was?

7 A I think it's probably 2003, but I don't have an
8 exact recollection of the date.

9 Q Okay. And was this the position you understood Mr.
10 Rosenberg was offering you at the time you --

11 A Absolutely, yes, absolutely.

12 JUDGE CLARK: I didn't hear the last part of your
13 question.

14 MS. MCALLISTER: I'm sorry.

15 Mr. Mensah, just allow me to finish my question.

16 THE WITNESS: Excuse me -- sorry.

17 BY MS. MCALLISTER:

18 Q Was that the position you understood Mr. Rosenberg
19 was offering you at the time of his offer in, I think you
20 said, approximately 2000 or 2001?

21 A Yes, that was the position I understood he was
22 proposing.

23 Q And how long was it from the time that you first
24 brought the issue of your lower IC level to Mr. Rosenberg's
25 attention, to the time that it was rectified?

1 A I will say two years or more.

2 Q Mr. Mensah, what were your duties as senior product
3 group manager, when you started as an IC3 in Product
4 Development?

5 A I and the person reporting to me were in charge of
6 all the responsibilities of product management for the Java
7 products in the database. And if you allow me to elaborate,
8 may I?

9 Q Sure.

10 A This includes inbound product management. Inbound
11 means discussing with the directors, discussing with internal
12 teams within Oracle, because you are the representative of
13 the product in the face of every other part of the company,
14 but also had this outbound component which consists in
15 engaging with customers, engaging with partners, producing
16 collateral to promote the product and also presenting at
17 events some travel, everything to help sell the bigger
18 product, which was the database. So, whichever products were
19 part of the database, our responsibility was to contribute to
20 the sale of the database.

21 Q And did your fundamental duties change as a result
22 of moving from IC3 to M3?

23 A Not at all.

24 Q And did your salary change as a result of moving to
25 M3?

1 A Not at all.

2 Q And you mentioned you had a report as an IC3, did
3 that change when you became an M3?

4 A No. I still have that person reporting to me when
5 I moved to -- when I got -- when I was sent to M3.

6 Q Did your title change when you moved to M3?

7 A Yes, it becomes senior group product manager.

8 Q And had you been expecting to get this position?

9 A Excuse me, can you --

10 Q Was this the position you expected at the time you
11 spoke to Mr. Rosenberg back in 2001?

12 A Yes, that was exactly the position I thought he was
13 proposing, yes.

14 Q And Mr. Mensah, how long did you remain an M3
15 senior group product manager?

16 A Okay. I would say until 2011.

17 Q So, 2003 to 2011?

18 A Yes.

19 Q During those years, did your duties ever increase?

20 A Yes. Oracle changed the strategy of Java products
21 and we now have this application server as a second product
22 in addition to the database. So, I was in charge of Java
23 products in both the database and the application server.

24 Q Do you recall approximately what year that was?

25 A I think it's probably around 2002.

1 Q Okay. And how did your duties compare when you
2 took on the new product application server to before that?

3 A Well, it was a significant increase, because now we
4 have to engage with a different population, different
5 customers, different collateral. It sort of doubled the
6 workload.

7 Q Now, let me draw your attention to 2007, did your
8 duties increase at that time?

9 A Yes.

10 Q How so?

11 A I was approached by Mr. Michael Hichwa proposing to
12 take over five other products in his organization, in
13 addition to the Java products.

14 JUDGE CLARK: So, Ms. McAllister, do you have the
15 name Michael -- what was the last name?

16 THE WITNESS: Hichwa -- Michael Hichwa.

17 JUDGE CLARK: Can you spell the last name for me?

18 THE WITNESS: H-i-c-h-w-a.

19 JUDGE CLARK: Thank you.

20 BY MS. MCALLISTER:

21 Q And do you know what Michael Hichwa's position was
22 at that time?

23 A Yes. Michael Hichwa was the vice president of what
24 is called Application Development Products for the database.

25 Q And can you tell us what additional products you

1 took on?

2 A Yes. I took on programming languages, additional
3 programming languages including PHP, Ruby, Python and C++,
4 and also the networking component.

5 Q Mr. Mensah, how did your workload compare to your
6 workload before Mr. Hichwa approached you to manage these
7 additional products?

8 A Well, I would say it tripled, if not more.

9 Q In total, how many products were you managing after
10 Mr. Hichwa approached you?

11 A So, I would say about 10 products overall.

12 Q Did you have help when you took on these extra
13 products?

14 A He promised to give me two headcounts.

15 Q And can you tell us what you mean by headcount?

16 A It means two people reporting to me, two direct
17 reports who will help me absorb the workload.

18 Q Were you ever provided this additional headcount?

19 A No.

20 Q Okay. Mr. Mensah, I'd like to draw your attention
21 to what has been previously marked for identification as
22 P-503. Can you see it on your screen?

23 A Yes.

24 Q Do you recognize this document?

25 A Yes.

1 Q What is it?

2 A It's an e-mail from Michael Hichwa addressed to me
3 and copies Santanu Datta.

4 Q Is the date sent indicated anywhere on this
5 document?

6 A Yes, on the top right side of this document.

7 Q Do you know who Santanu Datta is?

8 A Yeah, Santanu Datta reports to Michael Hichwa and
9 those products I was asked to take care of on the Santanu
10 Datta.

11 Q And do you know his position at that time?

12 A He was senior director of Product Development.

13 Q Did you draft any portion of what appears in this
14 exhibit?

15 A Yes.

16 Q Which?

17 A I drafted two parts, the first part is in the
18 middle where it says: "Kuassi Mensah wrote," and I was
19 talking to Mike Hichwa, and I say: "Mike, I wanted to talk to
20 you about this, I was too busy with one of my application."
21 And it ends with: "I hope this approach is agreeable to you,
22 Signed Kuassi Mensah." That's the first draft from me.

23 The second draft is at the bottom of this document,
24 it's a copy paste of what the recruiter in IDC was -- I mean
25 wanted from us, from the Development Organization.

1 JUDGE CLARK: So, when you say the bottom of this
2 document, which portion are you talking about -- what's the
3 first --

4 THE WITNESS: I'm talking about the portion on the
5 line when it says: "This relates to two PM position in IDC."

6 JUDGE CLARK: Okay, thank you. That's what I
7 thought you were talking about, I just wanted to make sure.
8 Thanks.

9 BY MS. MCALLISTER:

10 Q Do you know the approximate date of that bottom
11 portion that you just referenced?

12 A Oh, I think it's probably the same day. Those
13 e-mail chains are very fast, so it was probably the same day.

14 Q And in that section where it says: "two PM
15 positions," what does that refer to?

16 A It refers to two direct reports, two headcount or
17 two people we're going to hire to work with me.

18 Q And so we understand, what is IDC?

19 A IDC stands for India Development Center. So, those
20 people will be based in India.

21 Q And those letters inside, letters and numbers
22 inside parenthesis, what, if anything, does that indicate?

23 A Oh, the IRC, those are the job codes. When you
24 post a job, you need to -- it has an ID, this is an
25 identification or the code of the job, the opening, the job

1 openings.

2 Q And directing your attention to the very last
3 sentence in that section: "Can you please approve and forward
4 to Andy for his approval," do you know who Andy is?

5 A Yes. Andy is Andrew Mendelsohn, he is the boss,
6 the super chief of the Database Product.

7 Q Do you know his title at the time of this e-mail?

8 A He was senior vice president at the time.

9 Q Do you know what role he played, if any, in
10 approving headcount?

11 A I think he's the ultimate approver of any
12 recruitment within the Database Product Organization.

13 Q And Mr. Mensah, why did you initiate this
14 correspondence?

15 A Michael Hichwa, after our conversation we followed
16 up with the recruit team within Oracle and the recruiter
17 needed Andy Mendelsohn's preapproval before she can publicize
18 the job so people will apply to it.

19 Q Okay. And did you ever get the headcount discussed
20 in this e-mail?

21 A Absolutely not.

22 MS. MCALLISTER: Your Honor, I'd like to offer
23 P-503 into evidence at this time.

24 JUDGE CLARK: Any objection?

25 MS. MANTOAN: No objection, Your Honor.

1 JUDGE CLARK: Thank you, Ms. Mantoan.

2 P-503 is admitted into the record.

3 (Plaintiff Exhibit No.

4 503 was marked for

5 identification and

6 received in evidence.)

7 BY MS. MCALLISTER:

8 Q Mr. Mensah, did you believe that your pay reflected
9 the work you were performing after you took on these
10 additional products you referenced in 2007?

11 A Not at all.

12 Q And for how long did you manage all of these
13 products?

14 A For five years.

15 Q And did you ever get any additional headcount
16 throughout those five years?

17 A Absolutely not.

18 Q And what, if anything, happened after five years?

19 A After five years one of our VP, Denise Leone, said
20 this cannot go on longer, either they give you the position
21 or you stop working on those products.

22 Q And what happened after that?

23 A We asked them if they're going to give me the
24 headcount, they say no, and so I stopped working on those
25 products.

1 Q Mr. Mensah, did you ever seek a promotion after the
2 time you became an M3 in 2003?

3 A Yes.

4 Q Did you seek a promotion more than once?

5 A I would go to my VP, Steven Harris, every six
6 months.

7 Q And at that time, in your mind, what was the next
8 step for you, what promotion did you seek?

9 A I was seeking the position of director for that
10 management, which was my next move according to my
11 conversation with David Rosenberg.

12 Q Did your direct manager, Steven Harris, give you a
13 reason -- well, first of all, did you get that promotion at
14 that time?

15 A No.

16 Q Did your direct managers give you a reason why you
17 were denied a promotion?

18 A He will say -- he would say HR, yeah, he will put
19 up that HR will not accept that promotion.

20 Q Was there a reason, that you're aware of, for that?

21 A My understanding was that I did not have the two
22 headcount, the two direct reports to be able to be promoted
23 to M4 director for that management.

24 Q Are you aware of where this requirement of two
25 reports comes from?

1 A I can only say that according to Steve it's HR.

2 Q Mr. Mensah, did you have reports at anytime during
3 the time you were seeking promotion to M4?

4 A When I started working in the Java Product
5 Organization, I had one person reporting to me. But after a
6 moment, after awhile there was a change in the organization
7 and I no longer have any report at the time. I mean so over
8 the years I lost that report, this direct report, and I did
9 not have any report for some time.

10 Q And did you have a report ever again?

11 A Yes, in 2014 I have one report, one person
12 reporting to me.

13 Q And during that time you were an M3, were you ever
14 given any indication that the work you were doing should have
15 additional headcount?

16 A Absolutely.

17 Q When?

18 A I would say shortly after the strategy to have an
19 application server as a new product. My manager, Steven
20 Harris, asked me: "How many headcount would you need in order
21 to do your job correctly?"

22 Q What did you tell him?

23 A I draft a spreadsheet with three additional
24 headcount. I must say that at the time I still have the one
25 report working for me, so it will be four direct reports,

1 total.

2 Q I'm sorry, what year was this, approximately?

3 A Probably 2004.

4 Q And was there any other time you were given an
5 indication that the work you were doing required additional
6 headcount?

7 A When Mr. Hichwa approached me and asked me to take
8 over those five or six products.

9 Q To your knowledge did any of your managers ever
10 attempt to get you promoted, even though you didn't have two
11 reports?

12 A Yes.

13 Q When?

14 A Oh, several times. Each of our VPs -- because
15 Steven Harris left the company and then his successors,
16 several of them, all attempted to promote me.

17 Q Starting with Steven Harris, what did he do?

18 A So, he was attempting, informally, he was terminal,
19 he went to see some executive and asked if he can promote me
20 as an M4, and he was not successful. So, he decided to do
21 the formal way.

22 Q First, going back to something you said about
23 bringing that to an executive, do you know who that would be?

24 A That was Andrew Mendelsohn, the chief of the
25 Database Product.

1 MS. MANTOAN: Objection. The testimony lacks
2 foundation. He hasn't established how or if he knew which
3 executive was at issue.

4 JUDGE CLARK: Sustained.

5 Ms. McAllister, lay a little more foundation.

6 BY MS. MCALLISTER:

7 Q Mr. Mensah, do you know if Steven Harris brought
8 that request to anyone?

9 A Yes. He told me he spoke to Andy several times
10 about promoting me.

11 Q Do you know who Andy is?

12 A Andy is Andrew Mendelsohn, the chief of the
13 Database Product.

14 Q How do you know who Andy is?

15 A Because Andy pays our salaries and he is the chief
16 of the Database, and we are in charge of Java product in the
17 Database, as well, yes.

18 Q Okay. Thank you. Going back, you mentioned that
19 Steven Harris tried to do an informal process?

20 A Yes.

21 Q And did that result in a promotion?

22 A Not at all.

23 Q And what, if anything, happened after that?

24 A In 2009, he decided to do a formal promotion
25 process.

1 Q And what do you mean by formal promotion process?

2 A Formal means put together evidence, testimonies,
3 documents to prove that even though I don't have a direct
4 report, I have a broad influence and I am operating at the
5 level of director of Product Development.

6 Q And through that formal process that you're
7 referring to, was he successful in getting you the promotion?

8 A No.

9 Q Does Steven Harris still work at Oracle?

10 A No.

11 Q Do you know when he left?

12 A He left in 2011.

13 Q And at the time Mr. Harris was preparing to leave
14 Oracle, in 2011, did you discuss your promotion any further?

15 A Yes. When he announced to me that he's leaving the
16 company he said: "Rest assured I'll get your promotion done
17 before I leave."

18 Q Did that happen?

19 A No.

20 Q Mr. Mensah, I'd like to draw your attention to
21 what's been previously marked for identification as
22 Plaintiff's Exhibit P-502. Do you see it up on your screen?

23 A Yes.

24 Q Do you recognize this document?

25 A Yes.

1 Q What is it?

2 A It's an e-mail from Steven Harris to me.

3 Q Did you draft any portion of this document?

4 A Yes. I drafted the first spot where it says:

5 "Thanks for trying. Sorry to be a pest when you

6 need to finish up other things before

7 leaving."

8 Until the line where it says:

9 "I understand the deal, if it does not go through."

10 I drafted that portion. I also drafted the portion

11 at the bottom, I mean near the bottom where it says: "Yes, he

12 was principal PM but we likely retire soon," et cetera.

13 Q Is the date of this correspondence indicated

14 anywhere on this document?

15 A Yes, at the top right side.

16 Q What was the date?

17 A It's August 25th, 2011.

18 Q And drawing your attention to the very bottom of

19 the exhibit, after the very last time it says: "Steven Harris

20 wrote," do you see the words and numbers in the parenthesis?

21 A Yes.

22 Q What, if anything, does that indicate?

23 A Those are the code, the job code for senior product

24 -- senior principal product manage or IC5.

25 Q And going through that bottom part, do you know who

1 Hasan is?

2 A Yes. Hasan Rizvi was, at the time, Steven Harris'
3 manager. He was a senior or executive vice president of the
4 Fusion -- product.

5 JUDGE CLARK: Do you know how to spell his last
6 name?

7 THE WITNESS: Rizvi, it's R-i-z-v-i, Hasan Rizvi.

8 JUDGE CLARK: Thank you.

9 BY MS. MCALLISTER:

10 Q And below that, do you see where it says: "Corp
11 Comp"?

12 A Yes.

13 Q Do you know what that refers to?

14 A I think that refers to corporate compensation.

15 Q And going up to the first correspondence that you
16 said you wrote?

17 A Yes.

18 Q There's a name "Townsend." Do you know who
19 "Townsend" is?

20 A Yes. So, the late Mark Townsend was vice president
21 of Product Management, reporting to Andrew Mendelsohn.

22 Q And then in the line below that it says: "I even
23 have Juan's okay." Do you know who Juan is?

24 A Yeah. Juan is Juan Loaiza.

25 Q And do you know what his position was at this time?

1 A He was senior vice president reporting to Andrew
2 Mendelsohn.

3 Q And do you know who Tim Shelter is?

4 A Yes. Tim Shelter is vice president of Product
5 Management, reporting to Juan Loaiza.

6 Q Now, directing your attention to the middle of the
7 document where it says: "Steven Harris wrote," and then the
8 middle of that paragraph where it reads:

9 "What happens is that via HR it has to be
10 approved by Corp Comp and they are the
11 ones on a mission to prevent people
12 without reports from being provided
13 managerial titles."

14 What did you understand this to mean?

15 A It means -- my understanding of this is that HR and
16 Corp Comp are the one who are preventing my promotion as
17 director of Product Management.

18 Q Jumping back up to your correspondence where you
19 state: "When they dumped Santanu's product on me," what are
20 you referring to by that?

21 A I was referring to the fact that I was asked to
22 take on six products.

23 Q And the last sentence of that paragraph where you
24 write:

25 "After 22 plus years of hard work, I think I

1 approve, so you have the choice of remaining in your current
2 position, which was M3 senior group product manager or become
3 IC3 senior principal product manager.

4 Q Was it an IC3 --

5 A No, I was an IC5.

6 Q And what, if anything, did you decide?

7 A I asked -- okay -- first of all, I was very -- I
8 was not happy. But I asked what is the impact in terms of
9 office space, because there were office space reorganization.

10 And he said:

11 "You are more at risk of losing your
12 office by staying in your current
13 position than accepting IC5."

14 So, I understood that if I took the IC5 position, I
15 will keep my office.

16 Q So, what did you ultimately decide?

17 A Well, I took it, I was not happy, but I took it, I
18 accept it.

19 Q And by "it," what are you referring to?

20 A I accepted the IC5 position.

21 Q Did you consider this a demotion at that time?

22 A Absolutely, even though IC5 is, I won't say
23 equivalent to M3, maybe a little higher, I was -- I
24 transferred to the U.S. as IC5, and here we are 12 years
25 later I was back to IC5.

1 Q And how did that make you feel?

2 A Sad and I hate to say the word but I felt that that
3 was a discrimination.

4 Q Did your salary increase as a result of going to
5 IC5?

6 A No.

7 Q Did your title change?

8 A The title became director of Product Management.
9 That was a discretionary title, so, I could put that on my
10 business card. I can -- outside -- for the outside -- for
11 the outbound activities, I could say Kuassi Mensah Director
12 of Product Management, but in reality it was an IC5 position.

13 Q And after Steven Harris left Oracle in 2011, did
14 you continue to seek promotion to M4?

15 A Absolutely.

16 Q How so?

17 A Well, I will go to first my manager, my direct
18 manager, Paul Lo and also all his successive VPs, vice
19 presidents.

20 JUDGE CLARK: And you said your successive manger,
21 what was his name?

22 THE WITNESS: Paul Lo, L-o, Lo.

23 JUDGE CLARK: Thank you.

24 BY MS. MCALLISTER:

25 Q Were you ever made aware of any other possibilities

1 for promotion?

2 A Yes.

3 Q What was that?

4 A I happened to be in Andy Mendelsohn's office,
5 probably around 2015, I cannot recall the exact date, but we
6 were discussing and I mentioned my promotion to him and he
7 said:

8 "Oh, you looking for recognition,
9 well, we just opened up the IC6 position
10 for product managers, you can apply for
11 that."

12 Q Did you apply?

13 A Yes. I immediately went to see my direct manager,
14 Paul Lo, telling him I'd like to apply, this is what Andy
15 recommends so I'd like to apply to this position, IC6.

16 Q Did you get that promotion?

17 A No.

18 Q Mr. Mensah, do you believe there was a reason that
19 you weren't being promoted at that time?

20 A I don't know. I can honestly --

21 Q Did you ever complain to your management about
22 this?

23 A Absolutely. I would complain to my direct manager
24 and his VPs.

25 Q Mr. Mensah, I'd now like to draw your attention to

1 what has been previously marked for identification as P-505?

2 A Um-hum.

3 Q Do you recognize this document?

4 A Yes.

5 Q What is it?

6 A It is an e-mail that I sent to Paul Lo, my direct
7 manager, and also Anil Gaur, he's a VP, he's a superior, so
8 our VP.

9 Q And is the date you sent this indicated anywhere?

10 A Yes, on the top right corner.

11 Q What was that date?

12 A It's November 25th, 2015.

13 Q And directing your attention to the last sentence
14 before your signature line where you write:

15 "I'm not blaming anyone in particular,
16 just wanted you to realize how unfair and
17 discriminating this has been for me. I
18 feel very sad and will never make up for
19 the missed opportunities."

20 Why did you write this at that time?

21 A It was an accumulation of frustration over all
22 those years for being denied the promotion. When I said
23 "missed opportunities," it was not just financial
24 opportunities, because if you get promoted you get into -- I
25 mean there are financial repercussion, but I also missed

1 opportunities in terms of the benefits which come with your
2 position. For example, if I was promoted in a regular way,
3 for example let's say I became a senior director or IC6, I
4 would be entitled to travel business class. That is very
5 important for my health. I do significant travel for Oracle,
6 for my work, and without getting these promotions I miss
7 those opportunities to have a decent healthy working
8 condition. So, those are what I was referring to as missed
9 opportunities, not just financial.

10 MS. MCALLISTER: Your Honor, I would like to offer
11 P-505 into evidence at this time.

12 JUDGE CLARK: Any objection?

13 MS. MANTOAN: No objection.

14 JUDGE CLARK: Plaintiff 505 is admitted into
15 evidence.

16 (Plaintiff Exhibit No.
17 505 was marked for
18 identification and
19 received in evidence.)

20 BY MS. MCALLISTER:

21 Q Mr. Mensah, throughout the years you tried to move
22 to M4, were you aware of any other Oracle employees who were
23 promoted to M4 without two reports?

24 A Yes.

25 Q How did you become aware of them?

1 A I become aware either because that person told me
2 and told several other people, and also by looking up on
3 Aria, which is what I'll call our internal website, where you
4 can look up people and see their position, their job code, et
5 cetera.

6 Q Without providing any names, can you give us some
7 examples?

8 A Yes. I can talk about a female colleague around
9 2009, I think. She was promoted to IC5 with a discretionary
10 titled distinguished product manager. She did not like it,
11 she complained and she was moved to M4, director of Product
12 Management. That was one occasion. And she had zero report
13 at that time.

14 I also have witnessed several people in my VP's
15 organization, who were promoted without having either one or
16 zero headcount.

17 Q Do you know if their positions were comparable to
18 yours?

19 A Absolutely. Those people I was referring to, they
20 took over the responsibilities I was holding before.

21 Q And what responsibilities were those?

22 A The product management for Java components in the
23 application server.

24 Q Were any of the examples of the employees promoted
25 to M4, without two reports, black?

1 A No.

2 Q Did you ever bring these examples to your
3 management?

4 A Yes.

5 Q When?

6 A I think I wrote the e-mail to my direct manager and
7 his VP, in 2017.

8 Q Was that the only time you ever brought it to
9 management?

10 A No. I -- previous years, like 2015, I also brought
11 those to their attention.

12 Q Okay. Mr. Mensah, I'd like to draw your attention
13 to what has been previously marked for identification as
14 Plaintiff's Exhibit 501. Do you recognize this document?

15 A Yes.

16 Q What is it?

17 A It's an e-mail that I wrote to Anil Gaur, our VP,
18 and to Paul Lo, my direct manager.

19 Q And is the date indicated on this e-mail?

20 A Yes, it's January 5th, 2017.

21 Q Drawing your attention to the middle of the
22 document where it says: "Redacted"?

23 A Yes.

24 Q Are these some of the examples of employees who are
25 getting promoted with zero or one report, that you referred

1 to earlier?

2 A Absolutely.

3 Q And to be clear, the redactions -- where the
4 redactions are, are those names?

5 A Please, can you say it again?

6 Q Do you know what is redacted there?

7 A Yes. I know exactly who were those people.

8 Q And directing your attention to the bottom of the
9 e-mail where you write:

10 "I don't know why I am the only one not being
11 promoted in spite of having one report
12 since 2014. I hope you understand that I
13 cannot prevent myself from wondering if I
14 am being discriminated or not."

15 Why did you write that?

16 A Because that's exactly how I feel. I don't see any
17 other rationale for my situation, compared to my peers.

18 MS. MCALLISTER: Your Honor, I'd like to offer into
19 evidence P-505 at this time.

20 JUDGE CLARK: 501?

21 MS. MCALLISTER: I'm sorry -- 501, thank you.

22 JUDGE CLARK: Ms. Mantoan?

23 MS. MANTOAN: No objection.

24 JUDGE CLARK: All right. Plaintiff 501 is
25 admitted.

1 (Plaintiff Exhibit No.
2 501 was marked for
3 identification and
4 received in evidence.)

5 BY MS. MCALLISTER:

6 Q Mr. Mensah, after you sent this e-mail, Exhibit
7 P-501, what, if anything, happened?

8 A Shortly after that e-mail they managed to get one
9 developer reporting to me, in addition to the person who was
10 already reporting to me since 2014. So, I had the two
11 required headcounts and I got my promotion to M4, director of
12 Product Management, in June of that same year.

13 Q And when you say "they," who are you referring to?

14 A I was referring to my management, Anil Gaur and
15 Paul Lo.

16 Q And when you were moved to M4, did your duties
17 change from your previous position?

18 A Absolutely not.

19 Q Did your pay change as a result of this move to M4?

20 A No.

21 Q So, if there's no pay increase, why did you seek
22 this promotion?

23 A Well, there is no immediate pay increase, but when
24 you get promoted you change your salary bracket. So, for
25 example, if you move to M4 with the same salary, you find

1 yourself at the bottom of the M4 salary bracket. So, which
2 means you have more opportunity to grow to get the higher
3 raise, et cetera.

4 Q And overall, how long did it take you to get the
5 promotion from M3 to M4?

6 A So, I will say if we say 2004 or 2003, until 2017,
7 13 years.

8 Q Thank you. Shifting gears a bit, Mr. Mensah, are
9 you familiar with the term: "Cost Center," at Oracle?

10 A Yes.

11 Q What is it?

12 A It's an accounting bucket where you belong, so they
13 can account for everything on a specific product, and
14 everybody working on that product.

15 Q Do you know if you have a cost center?

16 A Yes.

17 Q To your knowledge what is your cost center?

18 A My cost center was JDBC.

19 Q To your knowledge, has that changed throughout your
20 tenure at Oracle?

21 A Absolutely not.

22 JUDGE CLARK: Did you say J-D-P-C?

23 THE WITNESS: J-D-B-C.

24 JUDGE CLARK: B-C. Thank you.

25 THE WITNESS: Yeah, J-D-B-C.

1 JUDGE CLARK: Okay.

2 THE WITNESS: It has not changed since I moved into
3 Product Development.

4 BY MS. MCALLISTER:

5 Q And over your nearly 30 years of experience at
6 Oracle, have you worked on different products?

7 A Absolutely, all the time.

8 Q Approximately how many?

9 A I would say 10 or more.

10 Q Did you ever work on multiple products at the same
11 time?

12 A Absolutely. And that has always been the case,
13 I've always worked on several products at the same time.

14 Q Did your pay ever change as a result of the product
15 you were working on?

16 A No.

17 Q And as a manager at Oracle, Mr. Mensah, were you
18 ever directed to do analysis of the fairness of your report's
19 pay?

20 A No, to the best of my recollection.

21 Q Did you have any authority to alter your report's
22 pay yourself?

23 A No. I can only give inputs to my manager.

24 Q And as a manager, do you recall taking any training
25 with respect to Oracle's Affirmative Action Policies, as they

1 relate to the compensation of your reports?

2 A Not to my recollection.

3 Q Mr. Mensah, I'd like to direct your attention to
4 what has been previously marked for identification as
5 Plaintiff's Exhibit 504, do you see that up there?

6 A Yes.

7 Q Do you recognize this document?

8 A Yes.

9 Q What is it?

10 A It's a photo of my compensation history on the
11 Oracle internal website.

12 Q Mr. Mensah, what is your current salary?

13 A One hundred seventy-nine thousand and three hundred
14 fifty-six U.S. dollars, annually. (\$179,356.00.)

15 Q How long has this been your salary?

16 A Since June 2019.

17 Q How much were you making prior to June 2019?

18 A I was \$162,856.00 -- yes.

19 Q Was this a typical increase?

20 A No, absolutely not.

21 Q What do you mean?

22 A Until that extraordinary raise, I never got more
23 than 4.8 percent in terms of salary increase.

24 Q And what was this particular increase in
25 percentage?

1 A Ten point 13 percent (10.13), more than 10 percent.

2 Q Do you know why you received this increase in June
3 of 2019?

4 A No. I can only speculate.

5 Q Mr. Mensah, have you received bonuses while working
6 at Oracle?

7 A Yes, I will receive random bonuses sometimes, some
8 years not, some other times yes.

9 Q Did you always get the same amount?

10 A No, not at all.

11 Q Were these bonuses guaranteed to you?

12 A Not at all.

13 Q If given a choice between a bonus and a salary
14 increase, what would you prefer?

15 A Salary increase is an acquired raise which you
16 carry on every time, I mean over the years, when I suppose
17 it's random and it's not an acquired compensation. What I
18 mean by that is you can lose it next year, you know, it's not
19 a guarantee.

20 Q Mr. Mensah, do you feel your pay is fair at Oracle?

21 A No.

22 Q Why?

23 A As I said in some e-mail, I have missed a lot of
24 opportunities for promotion and that has a consequence of my
25 compensation. So, the current salary is not I will have if I

1 was not subject to the denial of promotion.

2 MS. MCALLISTER: And also, Your Honor, I'd like to
3 offer Exhibit P-504 into evidence at this time.

4 JUDGE CLARK: Ms. Mantoan?

5 MS. MANTOAN: No objection, Your Honor.

6 JUDGE CLARK: Plaintiff 504 is admitted into
7 evidence.

8 (Plaintiff Exhibit No.
9 504 was marked for
10 identification and
11 received in evidence.)

12 BY MS. MCALLISTER:

13 Q Mr. Mensah, did you ever feel coerced by OFCCP to
14 participate in this case?

15 A Not at all.

16 Q Why have you decided to come forward and testify
17 today?

18 A I chose to testify because I think I have been,
19 over those years, subject to demotion, denial of promotion,
20 and it's not an isolated case. I can say that my wife also
21 worked at Oracle and has been subject to I would say worse
22 than me. And the last reason I'm doing this is I don't want
23 my children to experience the same situation I've been
24 through.

25 Q Mr. Mensah, what race does your wife identify as?

1 of the Solicitor --

2 A Yes.

3 Q -- in or around April of this year?

4 A Yes.

5 Q And you contacted the solicitor in response to this
6 letter, correct?

7 A Yes.

8 Q When you were talking about your career, you said
9 you first started working for Oracle in France, correct?

10 A That's correct.

11 Q And you said you worked there for about a decade?

12 A Yes.

13 Q Would you say that you gained experience with
14 Oracle products during that decade of work?

15 A Oh, absolutely.

16 Q And then you asked to transfer to a position in the
17 United States, correct?

18 A Yes.

19 MS. MCALLISTER: Objection, misstates prior
20 testimony.

21 JUDGE CLARK: Overruled. The answer will stand.

22 BY MS. MANTOAN:

23 Q And when you first transferred to a role in the
24 United States, I think you said it was a role in a Consulting
25 function, correct?

1 A It was a role in the Consulting Organization.

2 Q And shortly after your transfer to Oracle America,
3 you then applied to an open position in the Product
4 Development job function, is that right?

5 A No, I was approached and offered to apply for this
6 job.

7 Q And so after that approach, you then went and
8 filled out an application for that position, correct?

9 A Yes.

10 Q And that position was an IC3 level position,
11 correct?

12 A That's what I found out when I went to do the
13 application.

14 Q So, at the time you filled out the application, you
15 saw that it was an IC3 position?

16 A That's correct.

17 Q And prior to that, when you've been working in the
18 Consulting job function, you gave some testimony about the
19 level that you were at in the Consulting function, correct?

20 A Yes.

21 Q Okay. Do you recall, at that time, ever going, you
22 know, into any -- I don't know if it was called Aria at that
23 time -- any other system to actually look up your job title
24 and your job level?

25

1 A Yes, I've always known that I was at the IC5
2 position.

3 Q So, I'll represent to you that some Human Resources
4 records have been produced in this case, data about
5 employees. Those indicate --

6 MS. BREMER: Objection. There's nothing in the
7 record --

8 MS. MCALLISTER: Sorry. Let me confer with
9 counsel.

10 Objection, Your Honor. I'm sorry. There's nothing
11 in the record that this individual knows what those documents
12 are. Can he review them?

13 JUDGE CLARK: Overruled.

14 Ms. Mantoan.

15 BY MS. MANTOAN:

16 Q So, if those documents were to indicate that you
17 actually joined as an IC3 in the Consulting function, are you
18 saying you believe those records are wrong?

19 MS. MCALLISTER: Objection, calls for speculation.

20 JUDGE CLARK: Hang on, Mr. Mensah.

21 MS. MCALLISTER: Calls for speculation.

22 JUDGE CLARK: Overruled.

23 You can answer the question.

24 THE WITNESS: I have never seen, to the best of my
25 recollection, a document stating that I was in an IC3

1 position in the Consulting Organization.

2 BY MS. MANTOAN:

3 Q IC3 you said, correct?

4 A Yeah. I have never seen that position in -- as
5 corresponding to my job, my position in the Consulting
6 Organization.

7 Q Okay. After you completed that application and
8 moved to Product Development, you were in an IC3 role,
9 correct?

10 A Correct.

11 Q And I understood your testimony on direct to be
12 that you believe that you remained in that IC3 role for, I
13 think you said, several years, is that right?

14 A Yes, I said that until it was rectified to group --
15 senior group product manager or M3.

16 Q Okay. So, would it surprise you to learn that
17 those HR records indicate that you were actually moved to an
18 M3 role just six months after making that move into Product
19 Development?

20 A I cannot recall exactly when that rectification was
21 made.

22 Q Okay. And your discretionary title, once you moved
23 over to Product Development, was group product manager,
24 correct?

25 A When I moved to Product Development I was senior

1 product manager. Then it was rectified to senior group
2 product manager.

3 Q Senior group product manager?

4 A Senior group product manager.

5 Q I see.

6 A M3.

7 Q I see. And you were in that M3 role -- well, you
8 moved to Product Development in 2000, correct?

9 A Approximately, I could not recall the exact date.

10 Q And then you stayed in Product Development in the
11 M3 role until 2011, correct?

12 A Yes.

13 Q Okay. And during that time period, you received a
14 number of raises, correct?

15 A Yes.

16 Q Okay. Does it sound right that you received four
17 pay raises during that time?

18 A If I go back to the history of my compensation, I
19 would probably see how many it was. I did not look at the
20 number.

21 Q Right. I think that record started in 2007, so I'm
22 asking you to think back, maybe, you know, from the 2000 to
23 2011 time period. Do you have any reason to disagree that
24 you received four raises during that time?

25 A No, that's possible.

1 Q Okay. And you talked about sort of a shift in
2 responsibilities that happened around 2007, do you remember
3 testifying to that earlier?

4 A That's correct, yes.

5 Q And do you recall receiving a raise of \$6,000.00 in
6 December of 2007?

7 A I usually look at the percentage and yes, it could
8 -- that could be the right number.

9 Q Okay. And do you have any reason to disagree that
10 those raises, the series of raises that you received while
11 you were an M3 totaled over \$20,000.00?

12 A The accumulation, you are referring to the
13 accumulation of those raises?

14 Q Correct.

15 A Yeah, I do not disagree.

16 Q And you indicated that early in your time as an M3,
17 I believe you said you did have one report, initially,
18 correct?

19 A When I started to work in Product Development, even
20 as a senior product manager, I had a report.

21 Q And then at some point you no longer had that one
22 report, correct?

23 A That's correct.

24 Q And apologies if you said this on direct, but do
25 you recall approximately when that was, that you no longer

1 had that direct report?

2 A It was when it was after I took over Java products
3 in both the Applications Center and the Database, so it was
4 perhaps a year or two after, I cannot recall the exact date,
5 but it was in that area.

6 Q So, perhaps 2008, 2009, if I'm understanding
7 correctly?

8 A Or maybe sooner than that.

9 Q Okay. And at the time you no longer had any
10 reports, you still kept your M3 global career level, correct?

11 A That's correct. And if you allow me to elaborate,
12 Your Honor?

13 JUDGE CLARK: So, Ms. Mantoan, she's going to ask
14 the questions. Ms. McAllister will ask questions or follow
15 up, if she needs to, okay.

16 THE WITNESS: Okay.

17 JUDGE CLARK: Thank you.

18 Ms. Mantoan, go ahead.

19 BY MS. MANTOAN:

20 Q And while you were working in that senior group
21 product manager role, you talked about your job having like a
22 -- I think you said it had an outbound or a customer facing
23 component?

24 A Yes.

25 Q You also talked about travel. So, in this role

1 what kind of travel are you doing?

2 A I do travel to either customer meetings or
3 conferences. I attend several conferences to promote the
4 Java products.

5 Q Is that something that every senior group product
6 manager does, travel to those conferences and do those
7 promotions?

8 A Yes.

9 Q And when you say everyone, do you mean everyone in
10 your group?

11 A I mean every product manager as part of their
12 responsibility, at least if they have the outbound capacity,
13 they have to travel. It's part of the job assignment to
14 travel, to attend conferences, to meet customers, to go see
15 the field in other countries.

16 Q So, you said that's if they have that outbound
17 component. Am I understanding that there are other product
18 managers who have a more inward facing?

19 A Well, there are product managers who only have
20 inbound, there are product managers who only do outbound. In
21 my case, I was doing both inbound and outbound.

22 Q Okay. And you said you moved to an IC5 role, I
23 believe you said around 2011, is that correct?

24 A That's correct. That's when Steven Harris left and
25 could not get me to M4.

1 Q And per that e-mail that you looked at earlier, you
2 were given a choice to remain in your M3 position or to move
3 to an IC5, correct?

4 A Yes.

5 Q And you chose to move to an IC5 position?

6 A Well, I explained the reason.

7 Q Okay. And one of those was so that you could be
8 sure that you would keep your office space, correct?

9 A That's correct.

10 Q Okay. And you wanted a discretionary title change
11 at that time to director of product management, correct?

12 A No, that was the proposition from Steven Harris.

13 Q Okay. And you received that discretionary title,
14 director of product management?

15 A Yes, yes.

16 Q Okay. And do you recall getting a pay raise at
17 that time, when you moved from M3 to IC5?

18 A I don't recall.

19 Q Okay. So, do you have any reason to disagree that
20 you got a pay raise of \$6,000.00 in September of 2011?

21 A I need to elaborate on that question.

22 Q So, the question is just if you recall whether you
23 got a pay raise of \$6,000.00 in September of 2011?

24 A Probably, yes, I did.

25 Q And during the time you were in that IC5 role, you

1 got three additional pay raises, is that correct?

2 A As I said, I randomly get raises and if I look at
3 the history I will see that, what you say.

4 Q Okay. So, that history we looked at earlier, that
5 P-504, that would indicate the timing of the raises?

6 A Yes.

7 Q Okay. And you testified earlier that in 2014
8 someone did start reporting directly to you, correct?

9 A That's correct.

10 Q Okay. So, prior to that window, you know, from
11 maybe it was 2008 to 2014, you had no direct reports,
12 correct?

13 A That's correct.

14 Q Okay. And in 2014 you got a single direct report,
15 correct?

16 A Yes, yes.

17 Q And at that time you were interested in moving from
18 an IC5 role to an M4 role, correct?

19 MS. MCALLISTER: Objection, misstates prior
20 testimony.

21 JUDGE CLARK: Overruled.

22 You can answer the question.

23 THE WITNESS: Can you repeat? I could not get the
24 timeline that you were referring to.

25 MS. MANTOAN: Sure.

1 BY MS. MANTOAN:

2 Q So, you testified earlier that perhaps among other
3 times, but during that time you were in an IC5 role you were
4 interested in moving to an M4 role, correct?

5 A That was always -- that has always been my goal,
6 because that's what was promised when I joined the
7 organization.

8 Q And you testified that it was your understanding,
9 from your manager, that someone in HR had indicated that two
10 direct reports were required, before someone could become an
11 M4, correct?

12 A Yes.

13 Q Did your manager indicate who in HR had said that?

14 A Well, in one of those e-mails or evidences, Steven
15 Harris referred to Michelle Hillman.

16 JUDGE CLARK: What was the last name?

17 THE WITNESS: Hillman.

18 JUDGE CLARK: Hillman. Thank you.

19 BY MS. MANTOAN:

20 Q Do you know what Michelle Hillman's level is in the
21 company?

22 A At that time I think she probably was director of
23 HR, which was -- HR.

24 Q You mean a director within HR, correct?

25 A Yeah, director within the HR organization.

1 Q Okay. Did Mr. Harris tell you anything else other
2 than what you've testified to, about what someone from HR
3 said about this need to have two direct reports if you were
4 going to be promoted?

5 A Excuse me, can you please repeat the question?

6 Q Sure. Is there anything you haven't already told
7 us about, that you can recall, about what Mr. Harris said
8 about what someone in HR may have said about the requirement
9 that there be two direct reports if you were going to move to
10 an M4 role?

11 A No, I think I have told you everything I could
12 recall, I can recall.

13 Q Okay. And you spoke on direct about some specific
14 individuals who you saw moved into an M4 role, who you
15 understood not to have two direct reports, correct?

16 A Yes, they did not have those two reports.

17 Q Okay. And the names were marked out on the e-mail,
18 and I don't want you to say the names --

19 A No, I'm not.

20 Q -- of the individuals here --

21 A No, I won't.

22 Q But one of the individuals you reference in that e-
23 mail was an Asian woman, correct?

24 A That's correct.

25 Q Who had been promoted to M4?

1 A Yes.

2 Q And one of those individuals was an Asian man,
3 correct?

4 A That's correct.

5 Q Who had been promoted to M4?

6 A That's correct.

7 Q Okay. And your frustration was that they had been
8 promoted without, as you understood it, having two direct
9 reports, correct?

10 A It's not that what I understood, it was what I can
11 see on Aria, and I knew that we were part of the same
12 organization, we were reporting to the same vice president.
13 So, I know that we are colleagues, we talk, we know who is
14 getting promoted, who is not getting promoted, we know all
15 those details.

16 Q Okay. And neither of those individuals reported to
17 your same manager, correct?

18 A That's correct, but we were all reporting to the
19 same vice president.

20 Q Okay. And you didn't know what either of those
21 individual's performance evaluations were?

22 A No.

23 Q Okay. And do you know what either of those
24 individuals was paid?

25 A No.

1 Q So, you don't know if they made more or less than
2 you?

3 A No.

4 Q You were promoted to M4 in January of 2017,
5 correct?

6 A Yes. In June.

7 Q In June of 2017. And that was shortly after you
8 got a second report, correct?

9 A That was shortly after I wrote the e-mail and then
10 I got a developer reporting to me.

11 Q A second person reporting to you, correct?

12 A Right.

13 Q So, at the time you got the promotion, you had a
14 second direct report, correct?

15 A For a short time.

16 Q Okay. And you testified earlier that you did not
17 receive a pay raise at the time of that promotion, correct?

18 A Not to my recollection.

19 Q Okay. But you received a pay raise on January 1st
20 of the following year, correct?

21 A Probably, if I look at the record with my
22 compensation, I should see that, yes.

23 Q Okay. So, that record indicates -- you're
24 referring to P-504, correct?

25 A Okay.

1 Q If that indicates that you got a \$5,000.00 raise on
2 January 1st, 2018, that's correct, right?

3 A Yeah, that's correct.

4 Q Okay. And you said you recently got another pay
5 raise on June 1st of this year, correct?

6 A Yes, on June, yes.

7 Q And that was a significant raise, over \$16,000.00,
8 correct?

9 A That's correct.

10 Q And you said you don't have any knowledge as to
11 sort of why that raise was a different size than prior
12 raises, correct?

13 A That's correct.

14 Q You don't know what budget was available to your
15 manager for this raise, as opposed to other raises, correct?

16 A No.

17 Q Sorry. Am I correct that you do not know that?

18 A You are correct, I do not have the knowledge of the
19 budget, the -- the budget, yes.

20 MS. MANTOAN: If I could have just a moment, Your
21 Honor?

22 JUDGE CLARK: Yes.

23 MS. MANTOAN: No further questions at this time.

24 Thank you.

25 JUDGE CLARK: Thank you, Ms. Mantoan.

1 Ms. McAllister, anything further?

2 MS. MCALLISTER: Yes, Your Honor. Just one moment,
3 please.

4 REDIRECT EXAMINATION

5 BY MS. MCALLISTER:

6 Q Mr. Mensah, counsel has asked you about the race
7 and gender of two of those comparator employees that you
8 discussed as having one report and being promoted?

9 A Right.

10 Q Do you recall the race of the third?

11 A Yeah, he was a white male.

12 Q And how many reports did he have?

13 A I need to go back, but he did not have two. He has
14 either zero or one. If we look at the document, we should
15 see the exact number. I mentioned those -- the number of
16 reports -- in my e-mail in 2017.

17 Q So, in that e-mail it will say if he had zero or
18 one report?

19 A But I can guarantee he didn't have two. None of
20 them had two reports.

21 MS. MCALLISTER: Can I offer to put the name under
22 seal, Your Honor?

23 JUDGE CLARK: Whatever you work out with counsel.
24 I'm not sure what you mean by "under seal," so.

25 MS. MCALLISTER: I'll move on, Your Honor.

1 JUDGE CLARK: Okay.

2 BY MS. MCALLISTER:

3 Q And Mr. Mensah, you spoke about when you moved from
4 an M3 back to an M5 in around 2011?

5 A No, I moved to M3 to IC5.

6 Q Yeah, excuse me, I'm sorry. IC5, thank you.

7 A Right.

8 Q And did you feel that there was a choice there?

9 A Not really.

10 Q Why?

11 A Well, IC5, at least -- I mean the way it was
12 presented to me is you stay where you are. So, that could
13 take maybe 10 more years or whatever. I took the IC5 only
14 for this office benefit.

15 Q Did you understand that there was any -- that you
16 were ever going to get promoted from an M3 at that time?

17 A Say that again?

18 Q Did you feel you would -- you had the opportunity
19 to be promoted from M3, at the time you chose to go back to
20 IC5?

21 A I'm trying to understand the question.

22 JUDGE CLARK: We'll have her rephrase it.

23 Ms. McAllister, try again.

24 MS. MCALLISTER: I think you've answered my
25 question, Mr. Mensah.

1 THE WITNESS: Okay.

2 BY MS. MCALLISTER:

3 Q And when you moved -- you testified about when you
4 moved from Consulting into Product Development?

5 A Yes.

6 Q And you filled out an application?

7 A Correct.

8 Q How did you -- and that was at the direction of
9 someone?

10 A Of David Rosenberg.

11 Q Okay. And at that time you thought you were being
12 offered a higher position?

13 A At that time I assume he was offering me a position
14 right below director of Product Management.

15 Q Mr. Mensah, I'd like to draw your attention to
16 2017, when you received a second report?

17 A Okay.

18 Q What were the circumstances of receiving that
19 second report, if you recall?

20 A Following my e-mail to my management and my vice
21 president, and expressing my -- the concern, my frustration,
22 and asking whether I was discriminated or not, they asked one
23 developer to report to me for a short period of time, in
24 order to get the promotion.

25 Q And did that developer continue to report to you

1 after you got the promotion?

2 A No. Shortly after the promotion he was moved back
3 to his Development Organization.

4 MS. MCALLISTER: Just one moment, Your Honor. I
5 apologize.

6 JUDGE CLARK: No problem.

7 BY MS. MCALLISTER:

8 Q I believe you testified that at some point you had
9 a report and then that report was removed prior to 2017?

10 A That's correct.

11 Q And do you recall why that report was removed?

12 A So, I need to describe the context. So, Oracle
13 made the choice to have two products, to have an application
14 server in addition to database. And I was in charge of Java
15 in both products. But there were some, I will say, frictions
16 within the team and there were some problems in terms of who
17 is going to control Java in the application server.

18 I need to go back to the time I was hired into
19 Product Development, so that you understand why this friction
20 happening. David Rosenberg was given two headcounts to hire
21 product manager, by Thomas Kurian. Thomas Kurian was the
22 chief of everything at that time. So, when I was given this
23 position, one of Thomas' reports, named Rakesh Dupha, Rakesh
24 say:

25 "Kuassi, come here, I'm going to tell you how we're

1 going to work."

2 So, I ask David Rosenberg: "What should I do, what
3 should I do?" And David Rosenberg said:

4 "Java product management happens here
5 in my organization. In other words, you
6 don't talk to Rakesh about how you're
7 going to work, you work for me and you do
8 what I tell you to do."

9 So, that was the seed of the friction. So, when
10 the application server came, Rakesh was in charge of whole
11 product management of the application server, and I was in
12 charge of the Java products in the application server, as
13 well. So, the friction -- there was some friction between us
14 and they decided to sideline me and remove the direct report
15 I had at that time.

16 Q And at the time they removed the direct report,
17 were your duties decreased?

18 A I was in charge -- I was left to take over Java
19 products in the database, which has four products already.
20 It has decreased, but it's significant work, you know.

21 Q And was this the work that you requested headcount
22 for?

23 A No, those were -- yes -- okay -- so I will say the
24 job that was done in the Java products on the application
25 service side were the jobs for which I asked for headcount

1 and I was not given this headcount.

2 MS. MCALLISTER: No further questions, Your Honor.

3 JUDGE CLARK: Ms. Mantoan, anything further?

4 MS. MANTOAN: Just before Mr. Mensah leaves for the
5 day, I wonder if we could approach at side bar and have him
6 put -- have him state the names of those three individuals
7 and then we can work out with OFCCP how to get a stipulation
8 for that under seal.

9 JUDGE CLARK: Is that okay with you, Ms.
10 McAllister?

11 MS. MCALLISTER: Yes, Your Honor. Thanks.

12 JUDGE CLARK: Anything further for this witness?
13 Oh, we need the names, right -- sorry.

14 Counsel, you may approach.

15 MS. MANTOAN: Thank you, Your Honor.

16 JUDGE CLARK: We'll go off the record.

17 (Off the record at 10:29 o'clock a.m.)

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

19 Ms. McAllister, I understand you're going to show
20 the un-redacted version to our witness and he's just going to
21 confirm or not whether those three names are the correct
22 names, right?

23 MS. MCALLISTER: Correct.

24 JUDGE CLARK: Go ahead and do what you're going to
25 do. What are you showing him, what exhibit number?

1 MS. MCALLISTER: This is Exhibit P-501.

2 THE WITNESS: Okay.

3 JUDGE CLARK: Were you going to ask him the
4 question?

5 MS. MCALLISTER: Oh, I'm sorry.

6 BY MS. MCALLISTER:

7 Q Are those the -- the document that you're looking
8 at, are those the correct names of the examples you brought
9 to management?

10 A Absolutely, those were the names I wrote.

11 JUDGE CLARK: Thank you, Mr. Mensah.

12 THE WITNESS: Thank you.

13 JUDGE CLARK: Ms. McAllister, anything further?

14 MS. MCALLISTER: No further questions.

15 JUDGE CLARK: Ms. Mantoan?

16 MS. MANTOAN: Nothing further, Your Honor.

17 JUDGE CLARK: Okay.

18 Mr. Mensah, thank you so much for your time, you
19 are free to go.

20 THE WITNESS: Thank you.

21 (Witness excused.)

22 JUDGE CLARK: Okay. Any further witnesses for
23 OFCCP, Ms. Bremer?

24 MS. BREMER: No, Your Honor.

25 JUDGE CLARK: Okay. We're switching. I thank you,

1 Ms. McAllister. We'll switch.

2 So, I show two exhibits, Plaintiff 88 and Plaintiff
3 93, that were under submission. Are we withdrawing those? I
4 didn't hear any testimony about them, that I recall, anyway.

5 MR. GARCIA: Your Honor, I believe that one of them
6 is the statement for Mr. Loaiza.

7 JUDGE CLARK: Can you step a little closer to the
8 microphone, Mr. Garcia. Thank you.

9 One is a witness statement for Mr. Loaiza.

10 MR. GARCIA: For an interview statement that OFCCP
11 conducted, and it's my understanding that Mr. Loaiza will be
12 -- is on Respondent's or Defendant's witness list and is
13 scheduled for testimony tomorrow.

14 JUDGE CLARK: Okay. That's 88 or 93, do you know?

15 MR. GARCIA: I don't know off the top of my head.
16 I wasn't anticipating that question, Your Honor.

17 JUDGE CLARK: That's okay. And what's the second
18 one?

19 MR. GARCIA: The second one is for Ms. Cheruvu,
20 C-h-e-r-u-v-u.

21 JUDGE CLARK: And she's also scheduled as a
22 witness?

23 MR. GARCIA: She was initially on the initial
24 witness list that was produced on November 21st.

25 JUDGE CLARK: Okay. She's not on the list, that's

1 correct, okay.

2 MR. GARCIA: But she's no longer on the witness
3 list when it was condensed.

4 JUDGE CLARK: So, what is your request?

5 MR. GARCIA: We can withdraw that exhibit, Your
6 Honor.

7 JUDGE CLARK: Okay. So, I'm going to give you a
8 second to figure out which one that is, so we can make the
9 record clear.

10 MR. PARKER: I'll help out.

11 JUDGE CLARK: Oh, go ahead.

12 MR. PARKER: P-93 is Juan Loaiza's, P-88 is Ms.
13 Cheruvu's.

14 JUDGE CLARK: So, P-88 is Ms. Cheruvu's, and 93 is
15 Loaiza, okay. Thank you, Mr. Parker.

16 So, you're withdrawing Plaintiff's 88?

17 MR. GARCIA: Yes, Your Honor.

18 JUDGE CLARK: And then Plaintiff's 93 we're waiting
19 to see the testimony of Mr. Loaiza.

20 MR. GARCIA: Yes, Your Honor.

21 JUDGE CLARK: Okay. So, I'll show Plaintiff
22 Exhibit 88 as withdrawn. Plaintiff 93 is still marked, but
23 not admitted, under submission.

24 (Plaintiff Exhibit No.

25 88 was withdrawn.)

1 JUDGE CLARK: So, any further witnesses on behalf
2 of OFCCP today?

3 MS. BREMER: No, Your Honor.

4 JUDGE CLARK: Any further exhibits, other than what
5 we've just discussed here today, on behalf -- and the
6 deposition transcripts?

7 MR. GARCIA: Your Honor, we may bring further
8 exhibits during our cross.

9 JUDGE CLARK: Okay. In terms of your case in
10 chief, anything further today?

11 MR. GARCIA: No, Your Honor.

12 JUDGE CLARK: Okay. Does OFCCP rest?

13 MS. BREMER: Yes, Your Honor.

14 JUDGE CLARK: Okay.

15 It's 10:35 o'clock a.m., we're going to start our
16 -- we'll start with your case and take a 10-minute break,
17 we'll start at 10:45 o'clock a.m.

18 MS. BREMER: Your Honor?

19 JUDGE CLARK: Yes.

20 MS. BREMER: Before we go off the record, could we
21 know what the first witness will be, so that we have the
22 appropriate people in the courtroom?

23 JUDGE CLARK: Okay. I don't think I asked you
24 that. I would like to know who your witnesses are you're
25 calling today and tomorrow will be.

1 MR. PARKER: Okay. You're going to do a memory
2 test for me on today, but I know it's Steve Campbell -- I
3 mean Steve Miranda -- that's why it's a memory test.

4 JUDGE CLARK: Okay.

5 MR. PARKER: And Kate Wagoner.

6 JUDGE CLARK: Okay.

7 MR. PARKER: Then Carolyn Balkenhol, then Vickie
8 Thrasher and then Campbell Webb -- in that order.

9 JUDGE CLARK: And Mr. Miranda is first up?

10 MR. PARKER: Yes, sir.

11 MS. CONNELL: Yes.

12 JUDGE CLARK: And then tomorrow?

13 MR. PARKER: It is Juan Loaiza -- and I'm not going
14 to get this in the right order, I don't know for sure.

15 JUDGE CLARK: Okay.

16 MR. PARKER: It's Juan Loaiza, it is Balaji Bahyam,
17 and then there are some individuals who we've noticed, but I
18 can't remember.

19 Can you help me out?

20 Excuse me, one moment, Your Honor.

21 JUDGE CLARK: Yes. Thank you Mr. Parker.

22 MR. PARKER: There you go, I'm reading from -- Ms.
23 Chan, Janet Chan, Leor L-e-o-r Chechik, C-h-e-c-h-i-k,
24 Kristen Desmond and I already mentioned Juan Loaiza, and Know
25 Adjei, A-d-j-e-i.

1 JUDGE CLARK: Okay. Thank you, Mr. Parker.

2 Mr. Miranda is first up after break. Anything
3 further before we take our morning break this morning, Ms.
4 Bremer?

5 MS. BREMER: No, Your Honor.

6 JUDGE CLARK: Mr. Garcia, go ahead.

7 MR. GARCIA: Your Honor, I would only ask that for
8 tomorrow, so we can have the proper attorneys in the court,
9 that before we close today that we can have the order that
10 Defendant is going to use to call the witnesses for tomorrow.

11 JUDGE CLARK: So, I thought that would have been
12 disclosed, but -- so you want to know by the close of
13 business today, you want to know what order they're going to
14 call witnesses tomorrow.

15 MR. GARCIA: Right. So we can have the appropriate
16 people.

17 JUDGE CLARK: Okay. I understand. That's fair.
18 So, by the end of business today, tell them the order.

19 MR. PARKER: We will, Your Honor.

20 JUDGE CLARK: Thank you.

21 Anything further, Ms. Connell?

22 MS. CONNELL: Yes, Your Honor. If OFCCP has closed
23 with their case in chief, Oracle would like to bring a motion
24 at this time.

25 JUDGE CLARK: You want to be heard?

1 MS. CONNELL: I would like to be heard, yes.

2 JUDGE CLARK: Go ahead.

3 MS. CONNELL: Now that OFCCP has completed their
4 case, Oracle moves for a judgment on partial findings,
5 pursuant to Federal Rule of Civil Procedure 52(c). Rule
6 52(c) provides that if a party has been fully heard on an
7 issue during a non-jury trial, and the Court finds against
8 the party on that issue, the Court may enter judgment against
9 the party on a claim or a defense that under controlling law
10 can be maintained or defeated only with a favorable finding
11 on that issue. The Court may decline to render any judgment
12 until the close of evidence, and a judgment on partial
13 findings must be supported by findings of fact and
14 conclusions of law, as required by Rule 52(a).

15 Rule 52(c) further provides -- further authorizes
16 the Court to enter judgment at anytime. And it further
17 states and authorizes that the Court can appropriately make a
18 dispositive finding of fact on the evidence. The case
19 supporting that is Granite State Insurance Company versus
20 Smart Module Techs, Inc. 76 F. 3rd, 1023, 9th Circuit, 1996.

21 We do have a copy for opposing counsel and for the Court.

22 Additionally, under Rule 52(c), the Court is not
23 required to draw any inferences in favor of the moving party.

24 Instead, the Court may make findings in accordance with its
25 own view of the evidence. The case supporting that is

1 Ritchie versus United States 451 F. 3rd, 1019, 9th Circuit,
2 2006. Again, we have copies for the Court and for opposing
3 counsel. Additional authority is Mother versus Hawaii 283
4 Federal Appendix 514, 9th Circuit, 2008.

5 There are three bases, primary bases for Oracle's
6 motion. The first is that OFCCP has not come forward with
7 sufficient evidence to support its claim for intentional
8 discrimination, it's patter or practice claim.

9 Dr. Madden's testimony yesterday simply restated
10 what she says in her reports. We describe those flaws in our
11 Motion for Summary Judgment and the accompanying Daubert
12 motion, and now that you've heard her testimony she has
13 affirmed the flaws in her reports.

14 For example, she uses the wrong legal standard to
15 assess compensation discrimination under Title 7. She
16 testified yesterday her standard was to compare people who
17 are comparably qualified when they entered Oracle. This is
18 her column five. At best, she tried to argue yesterday it
19 might include column six, if one gives her job descriptor
20 variable a contorted and nonsensical interpretation that
21 contradicts the plain language in her own initial report.
22 But neither column five nor column six, in her models, even
23 attempt to compare the people -- people who perform similar
24 work -- as Title 7 plainly requires, for purposes of proving
25 compensation discrimination, Title 7 requires that

1 comparitors must be similarly situated in the work that they
2 perform at Oracle. The case cite for that -- and there are
3 many, but the case cite I have here today is: Vasquez versus
4 City of Los Angeles, 349 F. 3rd, 634, 9th Circuit, 2003, it's
5 a case we cited in our Summary Judgment papers. This
6 proposition is also supported by OFCCP's own regulation upon
7 which it has relied and which both parties have cited, 41 CFR
8
9 60-20.4(a), which states that OFCCP's statistics must compare
10 similarly situated employees.

11 Moreover, even if we look at column eight of Dr.
12 Madden's analyses, which she plainly argued yesterday that
13 you should not consider, because it includes endogenous
14 characteristics, column eight still does not compare
15 similarly situated employees. Dr. Madden testified that she
16 has no idea what people at Oracle do. It is not something
17 she studied, at all. In fact, she acknowledged the job codes
18 are accompanied by broad salary bands to reflect different
19 skills within the job codes. She further testimony and
20 acknowledged that employees who are paid differently within
21 the same job code would not accept those differences if their
22 work required similar skills.

23 She made clear that she simply assumes that people
24 who share a job code perform similar work, for purposes of
25 assessing compensation discrimination. But she saw no

1 documentation or other evidence confirming that such was the
2 case.

3 OFCCP's own witnesses confirmed that employees
4 performed very different work even within a job code. Take
5 Nicole Alexander -- Dr. Nicole Alexander, for example. She
6 testified that her Ph.D. in Geography is technical in nature
7 and extremely suited for work on Oracle's GeoSpace product,
8 because a coder without such a degree or another employee
9 would not know what they were doing on that product.
10 Similarly, Vicki Hardman has a software developer job code,
11 but she admitted that she does not perform the work of a
12 software developer and she testified that what she does is
13 vastly different from what Nicole Alexander testified that
14 she does. Another example is Kristen Klagenberg, she's a
15 software development vice president, who manages customer
16 escalation. She does not do coding or manage any products.

17 The anecdotal evidence also does not support a
18 product pattern or practice claim. Not a single witness
19 could confirm any universal centralized decision making as to
20 compensation discriminations. Two witnesses talked about a
21 single instance in which those witnesses claimed to receive
22 instructions on focal reviews, Mr. Pandey and Ms. Klagenberg,
23 but even they did not say that this happened in every single
24 instance. There's also no evidence that there is some
25 centralized hiring system. No one even suggested that, let

1 alone suggested that it is infected with discriminatory
2 intent. Only three witnesses -- Dr. Alexander, Mr. Pandey
3 and Mr. Mensah this morning -- even suggested that their race
4 or gender may have played any role in their compensation
5 decisions. Others talked about their individual experiences
6 with which they were dissatisfied, such as receiving a
7 promotion with no pay raise or they testified that they
8 thought they deserved more promotions or pay raises that they
9 received. But there is no evidence that this is widespread
10 or that it only applied to women or people of color.

11 OFCCP's counsel did not even ask their own
12 witnesses if they believed that they were victims of
13 discrimination. Instead, they repeatedly asked them if they
14 thought their pay was fair or how their pay made them feel.
15 These are clearly not the standard for providing pattern or
16 practice intentional pay discrimination under Title 7.

17 With respect to the three witnesses who testified
18 that they personally felt they experienced pay
19 discrimination, this handful of isolated incidents falls
20 woefully short of demonstrating intentional compensation
21 discrimination against thousands of current and former
22 employees or that compensation discrimination is Oracle's
23 standard operating procedure. There was only one allegation
24 of a bias comment by anyone in senior management, it was one
25 isolated allegation against a senior HR VP allegedly made 15

1 years ago, and it has nothing to do with OFCCP's claims.
2 There is no evidence in the record that this individual has
3 anything to do with the pay decisions at issue and, even if
4 she did, the single systemic -- the single isolated comment
5 does not demonstrate widespread bias against the thousands of
6 individuals involved.

7 With respect to OFCCP's assignment claim, there is
8 absolutely no evidence to sustain OFCCP's allegation of
9 discriminatory job assignments. Dr. Madden confirmed,
10 yesterday, she did not study how people came to hold the jobs
11 they do. Once again, she simply assumed that Oracle
12 controlled the jobs that people were hired into, without
13 studying it. She made clear that when she uses the word
14 "assign," she simply means "hold." Instead, all of the
15 models she described yesterday -- in all of the model she
16 described yesterday, the dependant variable was pay, not job
17 assignments, with one sole exception in her rebuttal report
18 that only showed a handful, but not a pattern, of meaningful
19 disparities at the IC levels 3 through 5. And she admits
20 that she ran analyses for other IC and M levels, but they
21 were not statistically significant and she did not include
22 those results in her report.

23 At the very minimum, the evidence does not sustain
24 a claim of discriminatory job assignments with respect to
25 Asians. Dr. Madden repeatedly confirmed, yesterday, that

1 there is no evidence that Asians experience promotions or pay
2 growth once they entered Oracle. And her analyses showed, at
3 best, that at the IC4 and IC5 levels only, there was a
4 showing that Asians -- a showing of statistical significance
5 as to Asians, but in no other IC levels or M levels.

6 The anecdotal evidence put on by OFCCP also
7 actively disputes the claim of assignment, not a single
8 witness claims to have been dis-assigned at all. To the
9 extent people talked about how they got their jobs, it was
10 either through acquisition or they got the job to which they
11 applied to or interviewed for. Some examples include Vicki
12 Hardman and Diane Boross, they both testified that they were
13 hired into the jobs to which they applied.

14 And finally, as to prior pay, there is no evidence
15 of any practice of basing starting pay on prior pay. Even
16 though a handful of witnesses, who were hired long ago, said
17 that they were asked about their prior pay in the interview
18 process, none of them have personal knowledge regarding how
19 their starting pay was actually determined. There has been no
20 documentation of any practice or policy of basing starting
21 pay on prior pay. And Dr. Madden confirmed yesterday that
22 the most she observed in the data she studied was a
23 correlation between prior pay and starting pay. But she
24 immediately confirmed, thereafter, that correlation does not
25 prove causation. And even in a scenario where an employer

1 does not ask about prior pay, one would expect to see a
2 correlation because both employers are looking at the same
3 skill set.

4 For these reasons, Oracle respectfully requests
5 judgment in its favor on all of the issues identified in the
6 Court's prehearing conference order.

7 JUDGE CLARK: Thank you, Ms. Connell.

8 Mr. Eliasoph, are you going to respond?

9 MR. ELIASOPH: Yes, Your Honor.

10 JUDGE CLARK: Go ahead.

11 MR. ELIASOPH: Your Honor, hundreds of exhibits
12 have been submitted to this Court. It is very notable here
13 that Ms. Connell has just ignored, entirely, the large volume
14 of exhibits that have been submitted to this Court. In
15 addition, we have submitted to this Court many depositions
16 and excerpts. So, the presentation of the facts that you
17 just received was based on a small portion of just what was
18 discussed in this Court in the last week.

19 Additionally, in our prehearing statement we
20 submitted dozens -- I think well over hundreds -- of facts
21 that we believe support our case. The evidence that has been
22 submitted into the record confirms most, if not all, of those
23 facts.

24 To the extent that a judgment as a matter of law
25 should be ruled on, while the department did not deem it a

1 fruitful exercise since we're here presenting evidence, to
2 ask this Court to restate what it has already stated in a
3 Summary Judgment Decision. If there was a party that should
4 win as a matter of law, we would submit that we are that
5 party based on the evidence that has been presented.

6 If I may consult my notes on Ms. Connell's motion.

7 Okay. So, Ms. Connell first began with the
8 proposition that Dr. Madden's report did not support
9 Plaintiff's position, because she's not a legal expert.
10 Quite frankly, Your Honor, we view that as a virtue. Dr.
11 Madden is a real social scientist. She testified based on
12 her social science background. She also was very explicit
13 that this Court -- that she did not -- that she continued to
14 do analyses that she did not think were the social science
15 approach, but might be helpful for this Court in analyzing
16 the claims at issue in this case.

17 Furthermore, Dr. Madden was very clear that her
18 analyses, all of her analyses looked at similarly qualified
19 candidates and that is directly responsive to the assignment
20 claims at issue here. So, her evidence submitted is robust,
21 proving the assignment issue. With respect to similarly
22 situated employees, she provided her rationales for
23 supporting that and we do not rely solely on Dr. Madden in
24 that regard. As I've stated, there is abundant evidence in
25 the record as to how Oracle structures its compensation

1 systems, including numerous training slides, et cetera, that
2 state the factors that Oracle considers. And these are the
3 exact same factors that Dr. Madden testified were included in
4 her analyses.

5 Your Honor, in response to Ms. Connell's statements
6 characterizing the anecdotal evidence in this case, we view
7 those statements -- we view the presentation quite
8 differently. Rather amazingly, Ms. Connell tells this Court
9 that when the HR director, who continued in their capacity
10 through the period that is at issue in this case, says: "You
11 should hire a woman" -- I am paraphrasing here -- "You should
12 hire a woman, she will work harder and for less pay" -- we
13 view it rather incredible to assert that that has nothing to
14 do with the claims at issue in this case. We think that
15 statement has everything to do with the claims at issue in
16 this case. In fact, your Court has acknowledged, in prior
17 orders, that the reason Plaintiffs typically rely on
18 statistics and indirect forms of proof is because most
19 employers will never say this type of thing out loud.

20 We presented a person who was in the room with a
21 high level decision maker and an executive, and that person
22 heard and got a window into the thinking of the HR -- the
23 head of HR.

24 In addition, this Court has heard from a variety of
25 witnesses who have told very personal stories about how they

1 were in Oracle, there was no explanation for how they got
2 stuck in a very low pay level. Their manager, their direct
3 manager kept saying I'd like to see you get higher, I know
4 this is not fair. Oracle has for months, if not years now,
5 said that those managers were the ones making the pay
6 decision. That is not true, according to the testimony this
7 Court has heard.

8 With respect to prior pay, the Department has
9 submitted evidence into the record that will show that Oracle
10 did have a policy and practice of relying on prior pay. And
11 whether there is a correlation in other employers is not at
12 issue in the case. The issue in this case is whether
13 Oracle's practice resulted in a disparate impact with its
14 workforce.

15 In addition, it's very notable that Ms. Connell
16 makes no reference, whatsoever, to the incredibly relevant
17 testimony that Oracle's director of Diversity Compliance
18 essentially did nothing to ensure that its Affirmative Action
19 requirements were met. In fact, the testimony, we would
20 submit, conclusively proves that Oracle has grossly ignored
21 its Affirmative Action obligations with respect to
22 compliance. As Your Honor knows, OFCCP had brought a motion
23 to amend. We understand the ruling on that. But this Court
24 has stated that this is relevant to intentional
25 discrimination.

1 In addition, this Court has heard testimony that
2 Oracle has received complaints, discrimination complaints,
3 and has made no attempt to rectify. Further, Your Honor,
4 should this Court be -- even in light of all this information
5 -- should this Court be inclined to grant Defendant's motion,
6 or any part thereof, OFCCP would request the opportunity for
7 further briefing. However, we strongly believe that this
8 motion should be denied right now and that the parties should
9 be able to finish their presentation of evidence on this
10 case.

11 MS. CONNELL: Thank you, Mr. Eliasoph.

12 Ms. Connell, anything further?

13 MS. CONNELL: Just very briefly, Your Honor. I
14 just want to emphasize, again, that the standard here is
15 different than the standard for summary judgment. You are
16 not required to give all inferences of the evidence to OFCCP,
17 the non-moving party and, therefore, I do not believe the
18 Court's prior rulings on summary judgment control.

19 Additionally, both parties submitted, with their
20 cross-motions for summary judgment, extensive documentation
21 that they believed was material to the substantive claims in
22 this case, which Your Honor has reviewed. So, to suggest
23 that the documentary evidence has not been reviewed, I think
24 is inaccurate.

25 Two final points. With regard to prior pay, I'll

1 again note that Dr. Madden did confirm, yesterday, that
2 correlation does not prove causation, so what happened at
3 other companies is not part of our argument. We believe
4 here, in this case, based on the evidence, there is no --
5 they cannot sustain that claim.

6 And finally, with regards to Mr. Eliasoph's
7 comments regarding 2.17 compliance, while I disagree with the
8 characterization, Your Honor can make its own assessment of
9 the evidence, but I will also note that there is no
10 substantive claim for 2.17 compliance. And to the extent
11 that the testimony of Ms. Holman-Harries is relevant to the
12 claim for compensation discrimination, it is certainly not
13 sufficient to prove the claim. And so we believe that even
14 taking that evidence into account, OFCCP, has not met its
15 burden.

16 JUDGE CLARK: Final word, Mr. Eliasoph, anything
17 further?

18 MR. ELIASOPH: Just to point out that the number of
19 exhibits grossly exceeds those that were exchanged in summary
20 judgment.

21 JUDGE CLARK: Thank you, Mr. Eliasoph.

22 So, I need to read or at least look the cases,
23 review Rule 52. I'm going to take the matter under
24 submission. We're going to take a 15-minute break. We will
25 start with testimony at 11:15 o'clock a.m. Until I have a

1 chance to review the evidence or decide whether or not I need
2 additional briefing.

3 We are off the record until 11:15 o'clock a.m.

4 (Off the record at 11:15 o'clock a.m.)

5 JUDGE CLARK: Okay. We are back on the record.

6 The motion is under submission.

7 MR. ELIASOPH: Your Honor, we have not had an
8 opportunity to consult the rule when we made our statement.
9 If I can just make one statement related to having consulted
10 the rule?

11 JUDGE CLARK: Go ahead, Mr. Eliasoph.

12 MR. ELIASOPH: Yes, Your Honor. 52(c) makes very
13 clear that it is only applicable once a party has been fully
14 heard. Our depo designations have not been entered into the
15 record at this time. We do not believe, unless this Court
16 has reviewed all of the exhibits, that the rule even applies.

17 If the rule does apply, the judgment must be supported by
18 findings of fact and conclusions of law. Thank you, Your
19 Honor.

20 JUDGE CLARK: Ms. Connell, anything further?

21 MS. CONNELL: No, Your Honor.

22 JUDGE CLARK: Okay. You may call your first
23 witness.

24 MR. PARKER: Your Honor, at this time Oracle calls
25 Steven Miranda.

1 JUDGE CLARK: Thank you, Mr. Parker.

2

3 And Ms. Connell -- I'm sorry -- on your witness
4 list, are you still intending to call all the witnesses other
5 than Ms. Robertson, any other witnesses at this point that
6 you're taking off the list?

7 MR. PARKER: No, I don't think so.

8 MS. CONNELL: I don't think so, yeah.

9 MR. PARKER: Why don't we check back in.

10 JUDGE CLARK: I'm fine, thank you, Mr. Parker.

11 Good morning. So, before you have a seat, if you'd
12 raise your right hand.

13 Whereupon,

14 STEVEN MIRANDA

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

17 JUDGE CLARK: Have a seat, please. And if you
18 would state your name and spell it for the record, please?

19 THE WITNESS: Steven Miranda, S-t-e-v-e-n,
20 M-i-r-a-n-d-a.

21 MR. PARKER: Good morning, Mr. Miranda, how are
22 you?

23 THE WITNESS: Good morning. Great.

24 JUDGE CLARK: So, normally I would give him a
25 little bit of an admonition.

1 MR. PARKER: I do and --

2 JUDGE CLARK: Have you already done that, have you
3 told him?

4 MR. PARKER: No. I'm going to let you do that,
5 that's your job.

6 JUDGE CLARK: All right. Thank you, Mr. Parker.

7 So, we're recording everything that's said here, so
8 make sure you let the lawyers ask the complete question and
9 then you give your complete answer, because we can't record
10 two people at once, all right.

11 THE WITNESS: Okay.

12 JUDGE CLARK: Any objections, you just stop talking
13 and I'll let you know whether you can answer the question.
14 Sound good?

15 THE WITNESS: Great.

16 JUDGE CLARK: And because we're recording, we have
17 to speak out loud, yes or no, not uh-huh or uh-uh, and no
18 head nods, because we can't really take that down, all right?

19 THE WITNESS: Okay.

20 JUDGE CLARK: And if you don't understand
21 something, let me know, I'll have them rephrase it for you.

22 THE WITNESS: Great.

23 JUDGE CLARK: Okay.

24 Mr. Parker.

25 MR. PARKER: Thank you.

1 A So, I lead the group that builds all of our
2 applications, our Cloud based applications and our on-premise
3 applications. We have design reviews, speak with customers,
4 manage the group product strategy, product direction.

5 Q Okay. I'm going to put a pin in that, I will put a
6 pin in it. I'm going to have you describe what applications
7 are, if you don't mind?

8 A Okay.

9 Q What was your first role at Oracle?

10 A My first role at Oracle?

11 Q I'm sorry. Your first job title at Oracle?

12 A I believe it was application developer.

13 JUDGE CLARK: So, Mr. Parker, why don't you drag
14 that microphone a little closer to you. Okay, now we're
15 good.

16 BY MR. PARKER:

17 Q And what job function are you in?

18 A I'm in development.

19 Q Okay. Could you do me a favor, just walk us
20 through, briefly, if you don't mind, your job history at
21 Oracle?

22 A I start off as an application developer and
23 engineer. I then was promoted to be a development manager,
24 basically leading a group of -- I don't remember, maybe five
25 to seven application developers. Then I was a group manager,

1 I believe, responsible for both Product Management and
2 Engineering and QA. Then I was a director responsible for a
3 couple of products, a vice president responsible for more
4 products, a senior vice president, and then my current role
5 as executive vice president.

6 Q Have you heard of a term: "Line of Business"?

7 A Yes.

8 Q What does that mean to you?

9 A It's a group within Oracle that we measure, you
10 know, profitability, go to market, you know, offering to our
11 customers, the HR Organization.

12 Q Can you tell me if you're in the Line of Business?

13 A Yes.

14 Q And what Line of Business is that?

15 A Applications.

16 Q Below you, are there any other -- Applications is
17 what you manage overall, correct?

18 A Correct.

19 Q Are there lines of business below the Applications
20 line of business?

21 A Yes. We would sub-line the business within
22 Applications, HR, Financial, CRM, for example.

23 Q Why don't you do me a favor, I think you just named
24 some applications, but HR would be ambiguous for people who
25 don't know Oracle, so why don't you give me the formal titles

1 of some of the lines of business that role up to you?

2 A HR would be probably either Human Resources or
3 Human Capital Management. CRM would be Customer Relationship
4 Management, or sometimes called Customer Experience.
5 Financials would be called just Financials, sometimes
6 referred to as ERP. We have Supply Chain and Manufacturing,
7 which is sometimes classified under ERP, or a separate line
8 of business, as well.

9 Q And again, just for clarification purposes, when
10 you refer to HR, you're referring to an application or are
11 you referring to Oracle's HR Department?

12 A No -- sorry -- in this context I'm referring to
13 applications we build for HR Departments.

14 Q And when you talk about Financials, is that an
15 application or are you talking about the Financial Group at
16 Oracle?

17 A No -- again, I'm talking about the application we
18 build, which happens to be used by people within that
19 function at Oracle, but it's the application that we refer
20 to.

21 Q And do you have an understanding of what the term:
22 "Cost Center" means?

23 A Yes.

24 Q Could you tell us what that means?

25 A Cost Center is the financial classification to

1 measure cost or profit, as it may be, or revenue, for a
2 particular line of business.

3 Q So, can you give me an example of what a Cost
4 Center is within Applications Development?

5 A Sure. We have a Cost Center for Financials and
6 people within the Financial Development Group are charged to
7 that Cost Center. We have separate Cost Center for Human
8 Resources or Human Capital Management, and people within that
9 line of business gets charged to that Cost Center.

10 Q And how many people do you manage?

11 A The entirety of my group?

12 Q Yes.

13 A Which is over 17,000 people.

14 Q And are those people that you manage assigned job
15 titles?

16 A Yes.

17 Q Can you give me -- give me a couple examples of job
18 titles?

19 A Application developer, quality assurance engineer,
20 product manager, you know.

21 Q How about software developer, is that one?

22 A Software developer would be one, yeah.

23 Q Now, are there other lines of business that you're
24 familiar with on the Product Development side at Oracle?

25 A Yes.

1 Q Can you give me an example?

2 A Database, Infrastructure or OCI, Cloud
3 Infrastructure, Metalware.

4 Q And again, just taking an example, are there
5 software developers or people with software developer job
6 titles that work in Database Infrastructure and Metalware?

7 A Yes.

8 Q Do they do the same thing as the software
9 developers in Product Development or something different?

10 MS. BREMER: Objection, lacks foundation, vague and
11 ambiguous.

12 JUDGE CLARK: Overruled.

13 You can answer the question, if you can.

14 THE WITNESS: Sure. Do they do the same thing as
15 people in application development?

16 MR. PARKER: Yes, sir.

17 THE WITNESS: No.

18 MR. PARKER: Okay.

19 BY MR. PARKER:

20 Q And let me ask this question, do the software
21 developers that work in Applications Development, are they
22 cross-managed in any way by Database, Infrastructure or
23 Metalware?

24 A No.

25 Q So, let's start with Database. First, can you tell

1 us what it is?

2 A Okay. So, the Database is software which
3 specializes in storing and retrieving information quickly,
4 what we called structured and unstructured.

5 Q How is that different than what Applications
6 Development does?

7 A So, an application sits on top of a database, or at
8 least our applications do, sit on top of a database, and
9 while it's storing information, it's purpose is to help
10 businesses either, you know, report their financials in
11 financial applications or track their people in Human
12 Resources, or track their sales in Sales.

13 Q And why are you of the opinion that someone -- a
14 software developer working in the Database line of business
15 would be doing something different than the software
16 developers that work in the Applications Development line of
17 business?

18 A Well, I mean a basic level they write in different
19 languages, so different programming languages, for one. But
20 you know, even more fundamental than that, the challenges
21 that the engineers face are very different.

22 Q Explain, please?

23 A So, the database -- and I'm simplifying quite a bit
24 -- it's storing or retrieving data. It is -- the technical
25 challenges there are how do you store lots of data, how do

1 you retrieve data very, very fast, how do you keep data
2 secure so that people who are supposed to see it can see it,
3 but who aren't supposed to see it can't see it. So, that's a
4 set of technical challenges that are there.

5 A financial application is concerned with, you
6 know, whether the rules for tax in, you know, in the United
7 States and Canada, and the U.K., and how do businesses report
8 their tax, and what's the format of those earnings, and how
9 do the end users, the finance people, get that information in
10 and out quickly, kind of the user interface. So, what you
11 might see, you know, on your computer screen as a user of,
12 say, QuickBooks or, you know, TurboTax or things like that.
13 Sometimes it's not only concerned about what it does, like
14 the rules, but also how an end user can use it. So, it's a
15 different technical focus.

16 Q And you know, we don't have a room of computer
17 programmers here, so when you tell me it's different program
18 languages --

19 A Yeah.

20 Q -- I don't know how profound a difference that is.
21 Could you explain?

22 A I mean it's just like a language, it's, you know,
23 it has some similarities, it has differences, right. And
24 sometimes the route is the same and the concepts are the
25 same, but Spanish is different from Italian, is different

1 from German, they're all languages and, again, the language
2 -- the computer languages tend to specialize in -- and are
3 chosen because they specialize in making something easy or
4 hard to program. So, if you're programming a user interface,
5 Java happens to be very good at that. If you're doing a back
6 end security, C is very good at that. Just like, you know,
7 romance languages reference gender or, you know, other
8 emotions in a verb or adjective -- I'm going to get his wrong
9 -- but you know, different actual languages that we think of,
10 like English, Spanish, Italian, it's easier to express
11 certain concepts or less easier to express certain concepts.

12 And this is very similar in programming.

13 Q Okay.

14 A I would hope that --

15 Q That's enough for me right now.

16 A Okay. That's about as good as I can do.

17 Q Now, let's talk about Infrastructure, you mentioned
18 that there are software developer in Infrastructure -- I'm
19 sorry -- let me back up.

20 Who manages Database?

21 A Andy Mendelsohn and Juan Loaiza.

22 Q Okay. Let's go to now Infrastructure, first, who
23 manages Infrastructure?

24 A Don Johnson.

25 Q And can you tell me -- you mentioned software

1 developers are in Infrastructure?

2 A Um-hum.

3 Q Similar question -- you've already said to me that
4 software developers in Infrastructure are not doing the same
5 thing as software developers in Applications Development,
6 correct?

7 A Correct.

8 Q Tell me why you were of that opinion?

9 A Similar, it's just a different focus. Again,
10 Infrastructure, we essentially rent or lease computing power,
11 so computers, storage and computer processors and certain
12 utilities and services on top of that. And so what Don's
13 team does, and the Infrastructure team, is develop software
14 programs that either facilitate the ease of use, allow
15 sharing so that different customers can share, you know,
16 storage or a compute processor, or segregate storage in
17 compute processors, so there are technical challenges to
18 that, a much lower technical level than, you know, tax rules
19 or, you know, SEC reporting rules, et cetera.

20 Q And now let's turn to Metalware. What is
21 Metalware?

22 A So, Metalware is sort of a tool layer in between
23 the database storage and the end user application. So, it's
24 tools to help us build front ends, you know, screens on the
25 web, if you will, or business intelligence reports, or what's

1 called: "Integration Services," like the help, you get data
2 from one database to the other. So, it's a set of tools that
3 sort of sit in between the database layer that sort of sit in
4 between the database layer, the storage, and the end
5 application that we present to users.

6 Q And how are the software developers who work in
7 Metalware different -- what skills are different between
8 Applications Development?

9 A Again, it's kind of --

10 MS. BREMER: Objection, lack of foundation.

11 JUDGE CLARK: Overruled.

12 You can answer the question.

13 THE WITNESS: Again, it's a different technical
14 challenge and a different end user. And so what they're
15 focused on is largely making it easy for a developer, an
16 engineering, to build an application on top of it. So,
17 they're concerned with, you know, things like code sharing
18 and how reusable things are, and how easy it is, efficient,
19 for a developer to build something or out-loud something,
20 yeah, it's a different technical challenge, yeah.

21 BY MR. PARKER:

22 Q Well, you've used the word "different technical
23 challenge," and so I'm wondering how when I used the word
24 "skills," you responded with "technical challenge," how do
25 those two things sync up, if they do at all?

1 A Yeah, they're probably analogous or synonyms, yeah.

2 Q Okay. Now, I want to just now focus now on
3 Applications Development.

4 MR. PARKER: And could we pull up this clip? And
5 this is something that we saw yesterday. You don't know
6 that, but I'm just telling you that.

7 THE WITNESS: Okay.

8 BY MR. PARKER:

9 Q And are these -- any of these products, are they
10 lines of business under Applications Development?

11 A Yes.

12 Q Okay. And there was some discussion about HR
13 applications and then Financial applications. So, let's look
14 at "Fusion 8CM Development," do you see that?

15 A Yep, that's at the top.

16 Q And could you highlight that for me? And then
17 let's look at "Fusion Financials," which is a little way
18 down, "PL05"?

19 A Yeah, in the middle, down a little lower.

20 Q There you go. Are these two lines of business that
21 report to you?

22 A Yes.

23 Q And are they in Applications Development?

24 A Yes.

25 Q Very good. Are the software developers in these

1 two lines of business doing the same thing?

2 A No.

3 Q Why don't you explain what you mean by that?

4 A So, first off, in Financials, our main customer are
5 usually large to medium companies, enterprises or public
6 sector institutions. And Financials tracks, you know, profit
7 and loss, it helps them pay their suppliers or pays their
8 suppliers. It helps them collect from their customers, order
9 management. It helps them report their taxes to different
10 countries. It helps them report their earnings, you know, if
11 they're public, to the SEC in the U.S., or to whatever the
12 regulatory group is. And so much of what Financials is,
13 there's some end user involvement, you know, entering
14 invoices and things like that, but it's usually heavier on
15 back end processing, like add up all your invoices, add up
16 all your payments, format them in a certain way for reports,
17 format in a certain way to report to the SEC, format in a
18 different way to report to the tax authority, et cetera.

19 So, most of the technical challenge there is in
20 getting the application to scale, because we have things like
21 banks who process millions of transactions, you know, on an
22 hourly basis, and we need that rolled up both for what we
23 call "statutory reporting," like tax and SEC, as well as
24 "management reporting," so your management could say, you
25 know, this product is doing well or this product isn't doing

1 well.

2 So, the technical challenges there, it's heavy back
3 end. It does have some user interface, but it's very heavy
4 back end. A lot is written in C, and technical challenge,
5 speed, scale-ability.

6 HR, one part of HR, payroll, has some of that,
7 which is a little bit analogous, but a lot of HR it's the end
8 users are managers, are people in the group, or the
9 individual employees. So, we build screens to let people
10 check their paycheck -- and that's for everybody to use. So,
11 it doesn't have like I've got to process one million invoices
12 in an hour, it has like I have to make it easy for every
13 employee to see and understand their paycheck.

14 We have things like benefits involvement, like when
15 you go and you sign up for, you know, medical care or vision
16 care, et cetera. So, again, we have to be able to present
17 the options there in an understandable way.

18 And then in HR, you know, the other technical
19 challenges is in security. So, if I'm a manager of somebody
20 and I'm in the same country as you, I can see your
21 information. Maybe I'm a manager, but I'm not in the same
22 country, there's information I can't see, because it's
23 illegal in the U.S. to collect information, but it's
24 mandatory in a different country to collect information. But
25 if I'm your benefits manger or your payroll manager, maybe I

1 have to see everything or, you know, somebody in the HR
2 function. So, we use different technical skills to solve
3 those problems, and you oftentimes need different what we
4 call "main expertise," meaning understanding the rules so you
5 understand what application you're building, to you build it
6 correctly.

7 Q And when you say rules, you mean the equivalent of
8 laws, as well, or no?

9 A Yeah, rules can be either laws or they can be best
10 practices, or they can be, you know, options that companies
11 commonly want to implement.

12 Q And then I'll just pick another one, "A-Team," it's
13 over in the right-hand side, "A-E-53"?

14 A Yeah.

15 Q Why don't you tell us what the A-Team -- that line
16 of business refers to?

17 A Well, so the A-Team is very different in that
18 A-Team is not an actual product that we sell to customers.
19 So, HCM is a collection of products we sell to customers,
20 Finance is a set of products we sell to customers. The
21 A-Team are experts mainly in metalware, and they help --
22 they're deep experts, usually, in one or two parts of the
23 metalware. And so they do two functions, one is they help
24 the application developers on HCM, or Finance, if we have a
25 question or we're trying to use some new technology to build

1 apps. So, they're kind of a go-to expert advisor, if you
2 will. Two, is they help our customers on outbound, if
3 they're implementing similar products, and they explain how
4 it works. It's kind of, as the name would imply, an A-Team,
5 you kind of drop them into like really critical either
6 customer implementations or customer help. So, they don't
7 actually align to an end product that we sell, at all. They
8 help with products that we sell, but they don't own any code
9 directly at all.

10 Q And maybe you've said this, are they -- with
11 software developers on the A-Team, are they doing different
12 things than on the Fusion HCM Development Team, or on the
13 Fusion Financials Development Team?

14 A Yeah. Yes, by definition that's what I mean, they
15 don't actually own the product, so they'll sometimes work
16 with HCM and/or Financials, kind of dive in, focus on one
17 piece of technology help. There's a little bit more
18 involvement directly with customers because the HCM Team, the
19 Financial Team, don't do nearly as much there, so now it's
20 very different.

21 Q Changing subjects a bit -- hiring. Do you have --
22 who does the hiring -- let me start it this way. Start at
23 the beginning, who does the hiring your Applications
24 Development Group?

25 A Hiring managers do hiring in the group.

1 Q And do you have a role, when your hiring managers
2 do the hiring, do you have a role in that?

3 A Yes. I allocate budget, initially, that allows
4 them to know they can hire. And I in the approval chain for
5 the hiring.

6 Q Okay. And are you familiar with the term: "Job
7 Posting" or "Job Requisition"?

8 A Yes.

9 Q Can you tell me what that means?

10 A When we have budget and we're looking for a role,
11 we put out a job post, job requisition, both internally and
12 externally, that describes the job we're trying to fill, the
13 opening that we have.

14 Q Now, you used the term "we," who does the -- who
15 completes the job posting?

16 A Who completes it? The hiring manager.

17 Q Okay, very good.

18 A I was using the "we" as in Oracle does this, yeah,
19 I think all of Oracle does it, certainly my group does it.

20 Q All right. Do you know whether or not HR writes
21 the job postings?

22 A No. The hiring manager writes the job post. I
23 don't know whether HR reviews it. The hiring manager writes
24 it.

25 Q Now, sticking with job postings, you've seen them

1 before, correct?

2 A Yes.

3 Q And were they job posting, in your experience,
4 where someone is hiring into the application -- I'm sorry --
5 the hiring manager -- is there a connection between the
6 hiring manager and one of the sub-lines of business?

7 A Yes. Well, the hiring manager is within one
8 sub-line of business.

9 Q Okay. And is the hiring manager, in your
10 experience, is the hiring manager just hiring a pool of, for
11 example, software developers, or is there a tie between that
12 job posting and a product or service that Oracle is seeking?

13 A No, it's a specific job within a specific line of
14 business/product that they're hiring for.

15 Q And you've reviewed job postings, correct?

16 A Yes.

17 Q And are you able to determine, from the language of
18 a job posting, as an example, whether it's looking for
19 someone in Database or looking for someone in Applications?

20 A Yes.

21 Q Tell me what the difference is that would be
22 obvious to you?

23 A Often it says "Database" or "Applications
24 Developer." Underneath it, it's the programming language
25 skills are listed, almost always I would say. I don't know

1 for sure always, but almost always. So, different languages,
2 as I described earlier. And then depending on the level of
3 the role, it will ask for expertise in, understanding whether
4 it's database algorithms or maybe it's HR software, or maybe
5 it's financial software, et cetera.

6 Q And algorithms would be on which side of the house
7 -- Database or --

8 A More on the Database side of the house.

9 Q And -- very good. Let me show you what we have
10 marked as Exhibit D-445.

11 MR. PARKER: And this is redacted, correct?

12 Okay. Very good. I'm going to -- if we could go
13 to the second page.

14 BY MR. PARKER:

15 Q Now, sir, we've redacted the name on this. Are you
16 familiar with this document?

17 A I'm not familiar with this specific one, but this
18 forma, this document, yeah.

19 Q All right. Let's do that. What is this document,
20 the format of a document that you see?

21 A It looks like it's an approval request for a job
22 offer. It's sort of cut off, I don't know what's on the next
23 page, it could be an approval for the job posting.

24 MR. PARKER: May I approach with the full document,
25 so the witness can have it?

1 JUDGE CLARK: Yes.

2 MR. PARKER: Thank you. May I approach?

3 JUDGE CLARK: Yes. That's okay.

4 BY MR. PARKER:

5 Q So, as I understand, the hiring manger posts the
6 job posting, correct?

7 A Yes.

8 Q Who makes the decision whether someone should be
9 hired?

10 A The hiring manager.

11 Q Who makes the decision as to what the compensation
12 should be?

13 A The hiring manager.

14 Q All right. And now let's talk about this document.

15 After the hiring manager makes the decision, can you explain
16 what then happens?

17 A So, when the hiring manager decides to extend an
18 offer, before the offer gets extended it goes up through an
19 approval process, which essentially goes up the management
20 chain. I believe it includes an HR review at some level -- I
21 can't remember where the HR review was in. In my group it
22 eventually gets to me and then it goes up to -- in my case --
23 it goes up to Mr. Ellison or the Board of Directors for
24 what's called a Board approval.

25 Q When you said it goes up to Mr. Ellison, are you

1 saying Mr. Ellison reads through every single one and
2 approves or not?

3 A No. There's a Board approver who does that.

4 Q Now, let's look at this document. At the very top
5 it has -- if you could highlight the very top -- in the very
6 top of the document -- I'm sorry -- there's a job title and
7 it says: "Product Manager Strategy 3, Prod Dev." Do you see
8 that?

9 A Yes.

10 Q Is that information included in the job -- posted
11 on the job posting or requisition?

12 A Yes. Well, usually a level is indicated in the
13 requisition, as far as where we believe it would be.

14 Q And then if we look at this document, is this on
15 the third page or fourth page of the document?

16 A (No audible response.)

17 Q You mentioned that there were approvals, correct?

18 A Yes.

19 Q Is this what the approval looks like to you?

20 A Yes.

21 Q What is your role with regard to approving, or not,
22 line manager suggestions or hires decisions?

23 A I would view and approve them. I mean mainly it's
24 -- I've already allocated the budget, but at times I confirm
25 that it's within the budget. And then I make sure, you know,

1 that there's nothing let's say egregious on the offer, to
2 make sure that it's within what I would expect for that area,
3 compensation wise and things like make sure we don't, you
4 know, the person is at a location where we actually have an
5 office, we're not like hiring somebody where we don't have an
6 office already, or things like that.

7 Q And when you were looking for something that may be
8 egregious, as you said, what is your -- how do you approach
9 that, do you talk to the hiring manager or do you just make
10 decisions on your own on that?

11 A No. Well, if it's nothing that looks egregious to
12 me, I approve. If it's something that does, I have a
13 question. So, if you see -- like in the comments here --
14 some would have "resubmit," or "return for correction," then
15 there's kind of comments -- so if I have a question, I type
16 the question in and it gets sent back to the hiring manager
17 and they come back either changing the offer or resubmit it,
18 answering my question, and then I approve.

19 Q Do you just reject by fiat?

20 A No. I mean -- no.

21 Q Okay. And if the hiring manager answers the
22 questions, do you then go ahead and approve, or are you
23 still --

24 A I mean it depends on the answer, but yes, I'll go
25 ahead and approve or ask more questions.

1 Q Okay. And is there an ability to -- when there's a
2 job posting, is there an ability for -- who makes -- is there
3 an ability for someone to decide whether to hire someone at
4 the IC level posted or higher or lower IC level?

5 A Yes, the hiring manager does that.

6 Q Okay. And do you know, looking at this document,
7 Exhibit 445.2, that bears your approval, whether there was a
8 decision to move the applicant up a career level or down a
9 career level?

10 A It looks like it was moved up a career level,
11 because the post was -- it looks like -- for IC3, and the job
12 offer was an IC4.

13 Q And do you know whether this was a man or a woman?

14 A I do not know.

15 Q Okay. Why don't we do this, could you look at -- I
16 think there are pronouns used -- go to 445.4 and look under
17 the last box, where it says: "Resubmit."

18 A Yeah, okay.

19 Q What pronouns are being used?

20 A "She."

21 Q What would that indicate to you?

22 A A woman.

23 Q And you talked about a headcount budget -- do you
24 receive, in your Applications Development, your own headcount
25 budget?

1 A Yes.

2 Q Is that a separate headcount budget than would be
3 received in Database or Metalware, or Infrastructure?

4 A Yes.

5 Q And so the headcount budget, how does it flow
6 within your organization, within Applications Development?

7 A I get my budget from Larry or Safra. I pass that
8 down to each of my direct reports, who own one or more of the
9 lines of business you described earlier, and they pass it
10 down. Then at a certain level managers may pass it down
11 directly to the line manager, or they may, you know, contain
12 the budget overall and then just let the line managers know,
13 you know, on a one by one basis, when they can hire.

14 Q Now, when the hiring decisions are made, do you
15 know whether everyone is offered the same precise salary if
16 they're a software developer -- as a software developer, for
17 example?

18 A No, they're not.

19 Q Why not?

20 A Because they have different background and
21 experience, they have different job skills. If they're
22 coming from another job they have different, you know,
23 existing pay, where we may have to, you know, convince them
24 to work for Oracle if we need that skill set, offer a
25 different role. Everyone is a different circumstance.

1 Q Does the market for skills, is it different
2 depending on what they're going to work on?

3 A Yes, oftentimes.

4 Q Can you give me an example of that?

5 A Well, sometimes -- one, it's just the number of
6 skills -- if it's a certain language or a certain skill set,
7 there are just fewer, so sometimes harder and longer for us
8 to find them. Sometimes they work for a competitor and some
9 product areas have lots of competitors and who are paid at a
10 certain rate, and some have fewer competitors who don't pay
11 at a certain rate. So, there's all kinds of reasons.

12 Q Now, was there a requirement or policy at Oracle,
13 at any point in time, where someone's prior pay had to be
14 requested?

15 A No.

16 Q Was it ever a policy at Oracle, at any point in
17 time, where there was a rule that whatever Oracle offered had
18 to be pegged to a prior pay?

19 A No.

20 Q Now, I want to talk to you for a moment about
21 lateral transfers. If someone is -- wants to transfer
22 laterally, is that possible in your organization?

23 A Yes.

24 Q Do they automatically -- that person automatically
25 receive an increased salary?

1 A No, the opposite, actually. It's a policy to not
2 give a raise during a lateral transfer?

3 Q Why?

4 A Because then we'd have different groups within
5 Oracle essentially competing, you know, inflating prices for
6 different people, to try to kind of get people to move over.

7 And so we don't want to compete against ourselves in terms
8 of the job market.

9 Q Is there a mechanism, after transfer, for someone
10 to have an increased salary?

11 A Yes, that's the standard Oracle process, just like
12 everybody.

13 Q Let's talk about the focal review, if you don't
14 mind. Do you receive -- does the budget for a focal review
15 come to you or someone different?

16 A No, it comes to me.

17 Q And does each line of business, for example,
18 Infrastructure, Database, Metalware, do they receive separate
19 budgets for focal review or is it all one same budget?

20 A It's separate.

21 Q And do you ever -- what do you do then with the
22 budget, with the focal review budget?

23 A Almost the same thing with the hiring budget. I
24 mean with the focal budget, I make -- I set aside a reserve
25 for my direct reports. I set aside a reserve, you know, in

1 case there's a question or I make a mistake if we allocate
2 down, but then I allocate down to the teams and they
3 subsequently allocate down.

4 Q Okay. And who makes the focal review decision?

5 A Again, the hiring managers.

6 Q And once that --

7 A The direct manager, not the hiring manager, because
8 I may be one -- whoever the direct manager of the people.

9 Q Who -- do you receive guidelines concerning how to
10 allocate focal review budget?

11 A Usually, yes.

12 Q Can you give me a sense of what those guidelines
13 would be?

14 A It will be anything from targets to what we call
15 the depth, so how many people we want to receive a focal, or
16 if we want it to be, maybe, 50 percent of the group or 80,
17 you know, some percent of the group. And then sometimes,
18 understanding I receive or would give guidelines so that the
19 teams have a rough sense, at different levels, how much we
20 want to allocate to different levels or really how much the
21 budget will support.

22 Q And when you're talking about these guidelines,
23 have you ever identified persons down at the hiring manager
24 and line manager level, where you said you must give this
25 person X amount in a focal review?

1 A I've never said "must give" that amount, but I have
2 had conversations with managers at levels, if I've had
3 experience with the person, to discuss what their focal
4 recommendation was.

5 Q Have you ever just simply said -- I know you don't
6 want to give this person a raise, so -- but I disagree and
7 that's going to happen?

8 A No.

9 Q Do you know a Ms. Klagenberg?

10 A Kirsten, yes.

11 Q And was she a direct report of yours or no?

12 A Yes, she was.

13 Q Have you ever, in a focal review process,
14 identified persons who reported to her and said this is how
15 it's going to go, this is how much they're going to get?

16 A No.

17 MS. BREMER: Objection, leading.

18 JUDGE CLARK: Overruled. The answer will stand.

19 BY MR. PARKER:

20 Q And then what happens once a manager divvies out
21 the focal review budget, what then -- do you have any
22 continuing role in that process?

23 A Similar to the hiring, I approve it. So, you know,
24 a manager, the line managers submit their review and then the
25 managers above them review and approve, and they allocate to

1 their direct. So then it moves forward and then it comes to
2 me to review and approve.

3 Q And again, do you simply disregard a manager's
4 decision in that approval process?

5 A What do you mean disregard it?

6 Q Overrule it?

7 A No.

8 Q With regard to bonuses, does Applications
9 Development receive a budget for bonuses?

10 A Not every year, but sometimes yes, sometimes no.

11 Q And is that budget for bonuses, is it Applications
12 Development's own budget or do you share it with, for
13 example, Metalware, Infrastructure or Database?

14 A No, it's our own budget, my own budget.

15 Q And how do you flow that budget down, if you do?

16 A Identical process to the focal, again I allocate or
17 reserve what I'm going to give to my directs and then pass
18 down for their teams.

19 Q And are you involved after it's been allocated by
20 the managers?

21 A In the exact same way, yeah, exact same way as
22 focal.

23 Q Which means?

24 A It moves up -- it starts at the line manager
25 allocating the bonus, that moves up to their management who

1 allocates their directs and reviews, and then it comes up to
2 me and I review and approve.

3 Q And with regard to equity, is the process similar
4 or different than what you've described?

5 A The process is identical.

6 Q Let me show you what is already marked as Exhibit
7 P-146. And if you need the full copy of it, I can provide
8 that to you. Do you recognize this document?

9 A Yes. I mean I don't remember this exact one, but
10 I've seen -- yes -- I've seen many like it, yeah.

11 Q And what is it?

12 A This is a note from Thomas to his staff, and it
13 looks like it's stamped with a time, and it looks like HR, on
14 the guidelines -- this is Oracle stock -- sorry -- equity --
15 stock. It looks like equity only, yeah.

16 Q And there appears at the bottom, if you see under
17 Michelle Hillman, there's a thing that says -- there's a word
18 called: "Guidelines," do you see that?

19 A Yes.

20 Q Are there guidelines given with regard to equity?

21 A Yes.

22 Q And would this document be an example of the kind
23 of guidelines given?

24 A Yes.

25 Q All right. If you turn to the next page, it says:

1 "Distribution," do you see that -- I'm sorry -- yes, do you
2 see the word: "Distribution"?

3 A Yes.

4 Q And one below that is: "Maximum Distribution
5 Penetration Guideline by Region." Do you see that?

6 A Yes.

7 Q And it says: "U.S. plus high cost ROW countries."
8 Do you see that?

9 A Yes.

10 Q And then there's a colon and there's some words.
11 Are those the type of guidelines given?

12 A Yes.

13 Q Now, there is a separate guidelines that says below
14 that, immediately below: "Given the large employee population
15 in India." Do you see that?

16 A Yes.

17 Q And it says: "Please, allocate shares at the target
18 levels below for your top performing employees." Do you see
19 that?

20 A Yes.

21 Q And there's actually a designation of shares that
22 should be given by career level, correct?

23 A Yes.

24 Q Why would that type of -- is that the same type --
25 why would that guidance be given regarding India?

1 MS. BREMER: Objection, lack of foundation.

2 JUDGE CLARK: Overruled.

3 You can answer.

4 THE WITNESS: Okay. I'm sorry. So, in India we
5 believe, we feel that just culturally it's a much more --
6 there's much more open discussion sharing of not only equity
7 but salary, et cetera, and so -- than maybe, typically, in
8 other parts of the world -- and so we want to be very
9 specific, in terms of the management, that, one, they're just
10 guidelines, so you can vary if we believe that the
11 performance is above or below, but in these settings some
12 guidelines so that, you know, if there is or how we see like
13 a lot more sharing amongst employees, we make sure that
14 that's equitable. And especially like we're not off, you
15 know, somebody gave 490 shares and somebody else gave -- I'm
16 not saying it's money, but like, you know, minimal
17 differences, which would just cause more concern with the
18 employee base rate necessary. So, there are guidelines for
19 that.

20 Q And let's go back up to the guidelines regarding
21 the equity, which is the "Maximum Distribution," do you see
22 that?

23 A Yes.

24 Q Is it true or not true that with focal reviews
25 sometimes you don't get even that level of guidelines?

1 A Sometimes.

2 Q Now, we were talking about how the budget flows and
3 I want to just go back to that for a moment. When you're
4 flowing the budget down for focal reviews, bonuses, equity,
5 do you distribute that budget evenly, so that each manager
6 will have exactly the same amount to distribute?

7 A No.

8 Q Okay. And what are considerations for you in
9 making that decision?

10 A Are we talking about focal or --

11 Q Let's start with focal?

12 A Well, with focal, you look at -- well, first of all
13 you look at the geographic distribution of the piece. Then
14 you look at the -- let's say the job role that they do and
15 sort of the competitive landscape. We'll consider things
16 like attrition, particularly if we have, you know, attrition
17 that's being caused by one company in that space, you know,
18 recruiting a lot of our top talent. We consider performance
19 of the group, whether that group has been performing well or
20 not well, in terms of the market. And then for focal we'll
21 do things like consider, you know, where we believe maybe
22 there's compression issue or you have maybe people who have
23 been around at Oracle for longer in that group and have been
24 kind of salaried compressioned to adjust. And so all of
25 those factors weighed in.

1 MR. PARKER: One moment, please, Your Honor.

2 BY MR. PARKER:

3 Q And sir, again, directing your attention to
4 Plaintiff's Exhibit, Plaintiff's Exhibit P-146, when I asked
5 you about the document, I also noticed that this has a 35
6 percent number in it, for the guideline. Is focal ever
7 compressed that small, in your experience?

8 A Rarely. No, very rarely. I don't remember one, I
9 won't say never, but no, usually.

10 Q And again, regarding Ms. Klagenberg, did she report
11 directly to you or no?

12 A She did for several years. I mean she was in my
13 group and she didn't report directly to me, I think, you
14 know, one level below or maybe it was a matrix and then she
15 reported directly to me for several years. And then she's
16 still in my group, just doesn't report directly to me,
17 anymore.

18 Q Are you aware of anytime where Ms. Klagenberg was
19 assigned 2,000 shares, RSU or options, and then someone took
20 them away from her?

21 MS. BREMER: Objection, leading.

22 JUDGE CLARK: Overruled.

23 THE WITNESS: Absolutely not.

24 BY MR. PARKER:

25 Q Now, I want to talk about "Dive and Saves," for a

1 moment, if I may. What are they?

2 A "Dive and Saves" are one-off, generally speaking,
3 focal, but sometimes equity adjustments midyear during the --
4 as opposed to in the regular focal cycle.

5 Q All right. And how are "Dive and Saves," can you
6 tell me the process by which "Dive and Saves" happen?

7 A So, it gets raised -- it's not part of normal
8 cycle, so it's an exception. So, the direct manager raises
9 an issue to their management chain, and then ultimately to
10 HR, and then it comes to me, either based on an external
11 competitive offer that we feel we need to respond to, to try
12 to keep the person at Oracle, or sometimes proactively where
13 they see somebody in their org and, you know, performance is
14 exceptional, or under circumstances where we don't want that
15 opportunity for somebody to get approached with another
16 offer.

17 Q And what is the purpose of a "Dive and Save"?

18 A To retain our top talent.

19 Q Is it required that an employee complain about
20 their salary in order to start a "Dive and Save" process?

21 A No.

22 Q Do you ever -- is there ever any consideration
23 about whether or not, when the "Dive and Save," comes,
24 whether that person is below market or not competitive with
25 the market?

1 A I mean almost always that's what we're trying to do
2 is address those issues.

3 Q Is there ever an instance when a "Dive and Save" is
4 done, for example, when an employee hasn't received a focal
5 review raise and there's some consideration about that?

6 A Sometimes. I mean when we've had a focal, and if
7 we had a focal reasonably recently, let's say, and the person
8 didn't get, you know, any raise, and it's being raised up, to
9 me, as a "Dive and Save," as a top talent, I mean the first
10 question I have is, well, you know, we just had a budget and
11 during the normal process we didn't give anything, so I'd
12 certainly consider that as to, you know, why didn't we do
13 something at that point in time to go forward. So, yes, it's
14 considered.

15 Q And who makes the recommendation for a "Dive and
16 Save"?

17 A The direct manager.

18 Q And do you have any role in that process?

19 A I approve those.

20 Q Now, a question for you. You've been talking about
21 compensation issues, who is responsible, within your
22 organization, to assure that compensation decisions, bonus
23 decisions, focal review raise decisions, equity decisions,
24 are equitably distributed or decided on?

25 A The direct managers.

1 Q And have you taken non-discrimination training at
2 Oracle?

3 A Yes.

4 Q And does Oracle have a non-discrimination policy?

5 A Yes.

6 Q And does that non-discrimination policy apply as
7 well to compensation decisions?

8 A Yes.

9 MR. PARKER: One moment, Your Honor.

10 BY MR. PARKER:

11 Q Does the non-discrimination training cover
12 non-discrimination as to pay decisions?

13 A Yes.

14 MR. PARKER: Give me a moment. I'm just going to
15 check my notes.

16 JUDGE CLARK: Thank you.

17 MR. PARKER: Give me just a minute.

18 JUDGE CLARK: Yes, Mr. Parker, no problem.

19 MR. PARKER: I'm done for now, Your Honor.

20 JUDGE CLARK: Thank you, Mr. Parker.

21 Ms. Bremer?

22 CROSS-EXAMINATION

23 BY MS. BREMER:

24 Q Good morning, Mr. Miranda.

25 A Good morning.

1 Q You indicated that you started your career at GE
2 Aerospace, is that correct?

3 A Correct.

4 Q And your first job there was Database
5 administrator?

6 A That was my second job. I was a developer first
7 and then a Database administrator.

8 Q And currently you lead the group that develops
9 Cloud applications, correct?

10 A Correct.

11 Q When did you start working on Cloud applications?

12 A Maybe nine years ago.

13 Q So, you haven't worked on Cloud applications your
14 entire career?

15 A No. But they didn't exist when I started. There
16 was no Cloud, so.

17 Q In your Database administrator job, that was
18 different from Applications Development, correct?

19 A Yes.

20 Q Are you currently the leader of the Applications
21 Development Group at Oracle?

22 A The Applications Development, yes.

23 Q And you're not personally familiar with the work of
24 all the employees that fall under your management authority,
25 correct?

1 A Do I know what every individual does all the time
2 -- no.

3 Q Employee performance appraisals may be conducted in
4 your group, correct?

5 A Correct.

6 Q Is there a particular time of year when they're
7 conducted?

8 A No.

9 Q And performance appraisals are not mandatory, are
10 they?

11 A No, they're not.

12 Q And when they do occur, part of the process entails
13 that the employee summarize their accomplishments and sends
14 that summary to their manager?

15 A I don't know, all the time. Different parts of the
16 group will either have the manager document their view, and
17 sometimes we have the employee initiate and document that.
18 So, I'm not sure that that's 100 percent of the case, but
19 sometimes, yes.

20 Q And you talked about the other lines of business,
21 Database, Infrastructure, Cloud, Metalware and Applications
22 Development. Do all of those lines of business report to --
23 or all the leaders report to Larry Ellison?

24 A Yes, all those do, yes.

25 Q And you talked earlier about Thomas Kurian, who is

1 he?

2 A He was my manager previous to Mr. Ellison.

3 Q And was he a leader of particular lines of business
4 at Oracle?

5 A Yes.

6 Q Which lines of business?

7 A He led the Database, Metalware, Infrastructure and
8 Applications. There was a piece that's combined now with
9 Java, that was not under him, that's a subset of Tools.

10 Q So, as I understand it, he was the leader of
11 Database, the Infrastructure, Cloud, Metalware and
12 Applications, all of those groups?

13 A Correct.

14 Q And he reported to Larry Ellison, correct?

15 A Correct.

16 Q And when did Mr. Kurian leave Oracle?

17 A Just over a year ago, maybe 13 months ago,
18 thereabouts.

19 Q And how long did he work at Oracle?

20 A I don't know.

21 Q Since before 2013, though, right?

22 A Yes. Certainly, yes.

23 Q You talked a little bit about the hiring process.
24 Some people -- some applicants applied to Oracle -- let me
25 just ask first. Sorry.

1 Are you familiar with the College Recruiting Group?

2 A Yes.

3 Q And does -- let me show you --

4 MS. BREMER: I'd like to pull up P-508, please.

5 BY MS. BREMER:

6 Q Are You familiar with this type of document?

7 A It's a little bit unclear what it's referring to.

8 Q If you look at the top, it says: "TK Master List"?

9 A Yes.

10 Q "FY '13."

11 A Yes.

12 Q Are you familiar with a TK Master List?

13 A No, I'm just not sure it's a master list -- what is
14 it a master list of?

15 Q If you go down -- take a look at sheet number --
16 look at sheet 1 with the parenthetical (2), please? Okay.

17 I'm sorry. Go back to sheet 2. Do you see the first column
18 here, it's: "Campus Hired"?

19 A Right.

20 Q Does this --

21 A Yes.

22 Q -- give you more information about what type of TK
23 Master List this is?

24 A Yes. So, it looks like it's an allocation of
25 campus hires, university hires.

1 Q And does "TK" refer to Thomas Kurian?

2 A Yes, I'm sure it does.

3 Q And so this is a list of -- if we go back to sheet
4 number one -- this is a list of all college hires under
5 Thomas Kurian in 2013, correct?

6 MR. PARKER: Lacks foundation.

7 JUDGE CLARK: Sustained. Lay a little more
8 foundation on how he would know that.

9 BY MS. BREMER:

10 Q If you look at the "TK Directive" provided
11 information -- Miranda -- back to where you were -- do you
12 see your name there?

13 A Yes.

14 Q Did you provide information to Thomas Kurian in the
15 2013 time-frame, in connection with college hires?

16 A Well, I wouldn't have directly have provided it,
17 but similar to the budget allocation, I allocate budget down
18 to -- by direct to cascade it down -- this looks like --
19 because it has the people associated, it looks like the final
20 result of that -- of those hiring decisions.

21 Q If you look at column C, it says: "HC," does that
22 refer to headcount?

23 A Yes.

24 Q And column F has the candidates' names?

25 A Correct.

1 Q What does "RPM" stand for?

2 MR. PARKER: Lacks foundation.

3 JUDGE CLARK: If you know? Overruled.

4 If you know?

5 THE WITNESS: I don't know. I don't know -- sorry.

6 BY MS. BREMER:

7 Q Are you aware that Thomas Kurian kept a list of
8 college recruits being hired into his organization?

9 MR. PARKER: Assumes facts, lacks foundation.

10 MS. BREMER: I asked if he was aware.

11 JUDGE CLARK: Rephrase the question.

12 MR. PARKER: It assumes -- with the predicate --

13 JUDGE CLARK: Rephrase your question, Ms. Bremer.

14 BY MS. BREMER:

15 Q And in 2013, you were one of Thomas Kurian's direct
16 reports?

17 A Yes.

18 Q And college recruiting -- there was a separate
19 college recruiting group within Oracle, correct?

20 A Correct.

21 Q And the college recruiting group would recruit
22 college students for jobs within Product Development, right/

23 A Correct.

24 Q And those college recruits were recruited into
25 various jobs within Product Development, including

1 Applications Development, correct?

2 A Correct.

3 Q And the college recruits who would apply did not
4 apply to a requisition, correct?

5 A Correct. They would -- correct.

6 Q Instead, there was a completely separate process
7 for college recruits being hired into Product Development
8 jobs?

9 A Yes. It was different.

10 Q And the college -- for college recruiting, the line
11 of business would be given particular headcount for college
12 recruits, correct?

13 A Correct.

14 Q And so, there would be a certain number of college
15 hires that would -- well -- who would ultimately determine
16 the headcount, would that come from Larry Ellison?

17 A The overall headcount at this time, that we --
18 would go from Larry to Thomas. Thomas would distribute
19 across myself and my peers a different budget, and then I
20 would pass down to my lines of business.

21 Q And then as far as the particular offer for
22 candidates being hired into college recruiting, that would be
23 set by the college recruiting group, correct?

24 A I don't know that the formal offer went out, but
25 the recruits then would interview with Applications and

1 Database, and other, and then, you know, managers would
2 extend the offer or not -- would extend the role in their
3 group.

4 Q And the amount -- but you're not sure how the
5 amount of the offer was determined?

6 A Sorry. The amount of the offer was determined by
7 the college recruiting group.

8 Q Okay. And then with respect to requisitions, you
9 talked about how -- well -- first of all, have you completed
10 requisitions for jobs?

11 A Have I written requisitions for a job?

12 Q Have you entered that -- requisitions are entered
13 into the computer, right?

14 A Yes.

15 Q And have you completed one of those yourself?

16 A I'm sorry -- when you say -- I've written a
17 requisition.

18 Q Yes.

19 A When you say complete it -- to publish it -- yes, I
20 have.

21 Q Okay. So, when you are putting in the job
22 description, you testified that whoever is writing the
23 requisition could include certain information, right?

24 A Correct.

25 Q But there's also information, if you put in the job

1 code, there's certain information about the job description
2 that automatically populates, correct?

3 A Okay. I'm not sure what you're referring to.

4 Q You have no reason to dispute that certain
5 information automatically populates when you're completing
6 the requisition?

7 MR. PARKER: It's vague and ambiguous and right now
8 it lacks foundation, but it's particularly vague and
9 ambiguous.

10 JUDGE CLARK: Overruled.

11 You can answer the question. I think, as phrased,
12 it's fine.

13 THE WITNESS: I have no reason to dispute that.

14 JUDGE CLARK: So, Ms. Bremer, it's 12:30 o'clock
15 p.m., do you anticipate finishing this witness in the next
16 few minutes or do you --

17 MS. BREMER: No.

18 JUDGE CLARK: Okay. It's 12:30 o'clock p.m., is
19 this a good place to take a break?

20 MS. BREMER: Yes, Your Honor.

21 JUDGE CLARK: Okay.

22 Then we'll be off the record until 1:30 o'clock
23 p.m.

24 (Whereupon, at 12:30 o'clock p.m., the hearing was
25 recessed for lunch.)

1 AFTERNOON SESSION

1:30 O'CLOCK P.M.

2 JUDGE CLARK: Okay. We are back on the record.

3 All parties are present.

4 Mr. Miranda has retaken the stand. We're on
5 cross-examination. Ms. Bremer?

6 CROSS-EXAMINATION RESUMED

7 BY MS. BREMER:

8 Q Mr. Miranda, you talked about, during focal
9 reviews, the factors that you would consider, correct?

10 A The factors that I would consider -- are you
11 referring to when I would allocate budget?

12 Q Yes, yes.

13 A Okay.

14 Q You mentioned the geographic area, the job role and
15 competitive landscape, attrition, performance of the group in
16 the market, and where there's a compression issue. Are those
17 all the factors that would be considered in allocating the
18 budget?

19 A I think so. I mean I may be missing -- yeah -- I
20 think so, as far as -- yes, I think so.

21 Q And you would not consider race in allocating the
22 budget, correct?

23 A Race -- no.

24 Q Or correcting any disparities in compensation,
25 based on race, when you're allocating the budget?

1 A No. I mean I think it's illegal to consider race.

2 Q And you would not consider correcting disparities
3 in compensation based on gender, when you're allocating your
4 budget?

5 A Not based on gender. We consider compression and
6 any disparities there, generally.

7 JUDGE CLARK: So, Ms. Bremer, I know it's probably
8 awkward, but if you could pull the microphone just a little
9 closer to you. I know you've got all your papers in front of
10 you, but --

11 MS. BREMER: Okay. Is that good?

12 JUDGE CLARK: -- we're having a harder time -- I
13 think it's improved a little, yeah. As close as you can get
14 it without messing up your notes, I think would be helpful.

15 MS. BREMER: Okay.

16 BY MS. BREMER:

17 Q You're aware that Oracle is a government
18 contractor, correct?

19 A Correct.

20 Q You're aware that Oracle was a government
21 contractor, correct?

22 A Correct.

23 Q And as a government contractor, Oracle was required
24 to have an Affirmative Action Plan?

25 A I was not aware of that.

1 Q And do you know if Oracle's Affirmative Action Plan
2 covers compensation?

3 A I'm not -- I would assume so, but I'm not aware.

4 Q So, in making employee compensation decisions, you
5 do not take Affirmative Action Plan requirements into
6 account, correct?

7 A Can you restate the question? I don't take
8 Affirmative Action what?

9 Q Requirements into account?

10 A I'm not aware of Affirmative Action requirements.

11 Q Okay. And so those are not considered, by you, in
12 allocating the budget, correct?

13 A Correct.

14 Q And they're not -- Oracle's Affirmative Action Plan
15 is not considered by you in approving compensation decisions,
16 correct?

17 A Correct.

18 Q You talked about training that you had received.
19 Do you specifically remember receiving training regarding
20 compensation discrimination?

21 A It's part of the overall manager training and
22 discrimination training or Affirmative Action training, yes.

23 Q And what was said during the training regarding
24 compensation discrimination?

25 A I don't remember the words that were said.

1 Q What guidance was given during the training?

2 A To not discriminate based on gender, race,
3 ethnicity, sexual orientation. I may be missing one
4 category, but the categories -- to not discriminate, based on
5 those categories, in compensation.

6 Q And when did you receive that training?

7 A I don't remember when I took it.

8 Q Do you recall the first year that you received it?

9 A I don't recall, no.

10 Q Do you recall if there was any training
11 specifically discussing how not to engage in compensation
12 discrimination?

13 A How not to?

14 Q Yes.

15 A No, I'm not sure what that would be, but no.

16 Q Okay. And you are at the top of your line of
17 business, correct?

18 A Yes.

19 Q And you expect people to follow your guidelines,
20 correct?

21 A Yes.

22 Q You talked about salary compression as one of the
23 factors considered in budget allocation. Do you run any
24 reports of people who have salary compression in their salary
25 band?

1 A No. Usually I don't have formal reports done.
2 It's usually the knowledge of the group.

3 Q And do you run any reports of people in your
4 organization based on COMPA Ratio?

5 A No.

6 Q And you said usually you don't run reports
7 regarding salary compression, have you run any reports on
8 salary compression that considered gender as a factor?

9 A No.

10 Q And have you considered -- have you run any reports
11 on salary compression considering race as a factor?

12 A No.

13 Q During the focal review and also setting budgets
14 and equity, the managers always see the pay of the people who
15 are below them in the organizational hierarchy, correct?

16 A Correct.

17 Q And they can't see the pay of the reports of their
18 peers, correct?

19 A Correct.

20 Q The budget for focal reviews, who sets that?

21 A Well, I get the budget, it comes from either Larry
22 and/or Safra. And then I allocate down to my directs and
23 they allocate down.

24 Q So, you don't set the budget, correct?

25 A I don't set the total budget for my group, no.

1 Q So, it's Larry Ellison and/or Larry Ellison and
2 Safra Catz who decide the budget to provide to applications
3 developers?

4 A Correct. To Applications Development, to my group,
5 Applications Development.

6 Q Okay. And they also set the budget for Metalware?

7 A Yes.

8 Q And they set the budget for Cloud?

9 A Yes.

10 Q And Database, as well?

11 A Yes.

12 Q And during -- when setting -- when approving
13 compensation offers for hires, you consider the pay that the
14 candidate received at their prior employer, correct?

15 A Sometimes.

16 Q And prior to 2017, was that -- was prior pay always
17 a factor that was considered?

18 A Sometimes we didn't know and no, it wasn't always
19 considered -- sometimes considered.

20 Q And when you say we didn't always know, does that
21 mean you wouldn't always know on the approval screen?

22 MR. PARKER: Vague and ambiguous.

23 JUDGE CLARK: Sustained. Ask him or explain a
24 little foundation about the approval screen -- what you're
25 talking about.

1 BY MS. BREMER:

2 Q Are you familiar with Workflow?

3 A Yes.

4 Q And is that a computer program that you used in
5 approving compensation decisions?

6 A Yes.

7 Q And so when you would review compensation offers
8 for people being hired into your organization, that would
9 appear in the Workflow, correct?

10 A If the manager put it in.

11 Q And so if prior pay was a data field that the
12 manager put in, that is something that would show up, that
13 you would see in the Workflow, as you were deciding whether
14 to approve or not approve the compensation offer, correct?

15 A They would be in there, yes.

16 Q And the pay provided to Oracle's competitors would
17 be factored into -- let me ask you -- are you aware of the
18 Radford Study?

19 A No.

20 Q And HR is in the approval chain for compensation
21 offers in your organization, correct?

22 A Yeah, you use the term "compensation offers," I
23 think you mean just offers?

24 Q Would offers include compensation?

25 A Yes.

1 Q Okay.

2 A Okay. It's just nothing specific -- I just wanted
3 -- yes -- there are approvals for offers, yes.

4 Q Okay. And is HR also in the approval chain for
5 approving stock grants to people in your organization?

6 A Yes.

7 Q And HR is also in the approval chain for approving
8 bonus, bonuses, correct?

9 A Correct.

10 Q You've altered -- when you review offers, for
11 example, that are made in the Compensation Workbench, have
12 you ever returned an offer?

13 A So, we use the Comp Workbench for raises or
14 bonuses, or stock. We don't use it for a job offer. So, I
15 don't --

16 Q Okay.

17 A -- I don't understand the question.

18 Q Okay. For raises, bonuses or stock, have you ever
19 not approved a compensation request?

20 A Yes, I have -- sorry, it's a double negative -- I
21 have, sometimes, not approved.

22 Q Talking again about the guidelines, when Thomas
23 Kurian was at Oracle, he was -- what was his title, before he
24 left?

25 A Before he left, right before he left, I believe he

1 was president.

2 Q And did you feel obligated to follow his
3 guidelines?

4 A Yes.

5 Q And did the people -- you would expect that the
6 people below you, in your organization, would feel obligated
7 to follow Thomas Kurian's guidelines?

8 A Yes, but I want to be careful with the word either
9 "follow" or "guidelines." They were guidelines, so it wasn't
10 a strict measure, it was guidelines. So, yes, we followed
11 it.

12 Q Do you have User Interface under you, someone in
13 User Interface?

14 A Yes.

15 Q Okay. What language does someone working in User
16 Interface use, or what computer languages?

17 A On the User Interface team, itself, or User
18 Interface Developer?

19 Q User Interface Developer?

20 A The User Interface Developer we use either Java or
21 our internal Java tool called "ADF."

22 Q And --

23 A Sorry -- and some of our acquired products use C++
24 and C Sharp -- or maybe -- I've forgotten, but some -- those
25 are generally speaking, most of them.

1 Q And do developers, software developers in Cloud use
2 Java?

3 A In the Cloud Infrastructure team?

4 Q Yes.

5 A Some of them might.

6 Q And what about software developers in Metalware?

7 A Some, probably fewer.

8 Q And what about software developers in Database?

9 A Very few of them, very few.

10 Q But more than one line of business uses Java,
11 correct?

12 A Yes.

13 Q Can people transfer between Applications
14 Development and other lines of business?

15 A Sometimes.

16 Q And do people transfer between products in the
17 Applications line of business?

18 A Sometimes.

19 Q When you receive a budget for stocks, it doesn't
20 get allocated all the way down to the line manager, does it?

21 A For certain groups it does. It depends on the size
22 of the team.

23 Q But not for all?

24 A No.

25 Q Do you think the applications developers could

1 design -- well, let me -- one of your products in
2 Applications Development is Taleo?

3 A Yes.

4 Q And you also have HCM?

5 A Yes.

6 Q These are Human Resources applications?

7 A Yes.

8 Q To track information for Human Resources?

9 A Yes.

10 Q And do you think that you could -- that your
11 applications developers could design an application that
12 would track the products that people work on?

13 A That they could track the products that people work
14 on? Potentially, yes.

15 Q Okay. Back to focals --

16 A I'm sorry -- back to what?

17 Q Focal reviews.

18 A Okay.

19 Q So, one of your duties related to focal reviews is
20 to approve the pay recommendations of the managers under your
21 authority?

22 A Correct.

23 Q And your approval is required in order for the pay
24 recommendations to take effect, correct?

25 A Correct.

1 Q If one of your reports wants to do something
2 egregious with respect to pay recommendations, you would ask
3 questions about that, right?

4 A Yes.

5 Q And you might return the recommendation to them,
6 correct?

7 A Correct.

8 Q Which is basically a denial, right?

9 A Yes. I've never had the case where -- we would
10 always finish the process, so I've never had a case where
11 it's denied and no one gets anything.

12 Q Right. But you might change the amount?

13 A No, I don't change the amount.

14 Q Or the amount would be -- you would send it back
15 and the hiring manager, front-line manager, would change the
16 amount?

17 A Either the front-line manager, some manager in the
18 approval chain, yes.

19 Q And that would be based on comments that you
20 provided?

21 A Or very rarely, if it's that case, comments that I
22 provided, more discussion of why it was submitted the way it
23 was and why I had my questions.

24 Q But those would be based on comments that came from
25 people higher in the chain, the approval chain?

- 1 A You said people higher than me?
- 2 Q No. Higher than the front-line manager?
- 3 A Sure.
- 4 Q When does the focal review typically take place?
- 5 A After they're done allocating the budget.
- 6 Q Okay. And that's not in every year, though, right?
- 7 A No.
- 8 Q Do you know what years there were not focal reviews
- 9 at Oracle?
- 10 A I don't remember.
- 11 Q Okay. You used the term: "Dive and Save," right?
- 12 A Yes.
- 13 Q Have you ever instigated a "Dive and Save"?
- 14 A Yes.
- 15 Q And "Dives and Saves" are also -- can be initiated
- 16 by employee complaints, correct?
- 17 A Employee complaints? I mean I was going to say it
- 18 could be by a complaint, but it's not a -- it's usually an
- 19 employee has another offer, an employee is talking about an
- 20 offer -- I don't know if I'd call that a complaint or not.
- 21 Q Is there a "Dive and Save" budget?
- 22 A No.
- 23 Q If a "Dive and Save" is -- do you approve "Dive and
- 24 Saves"?
- 25 A Yes.

1 Q Okay. If you approve a "Dive and Save" to increase
2 someone's pay, where does the money come from?

3 A Well, so there's an overall budget that I manage
4 the year to, so if I approve a "Dive and Save" there's no
5 explicit sort of use it or lose it for a "Dive and Save", I
6 have an overall budget and so if we change comp through that,
7 I have to make up the budget someplace else.

8 Q And what is that overall budget for -- what other
9 things?

10 A Computers, other software we buy, space that gets
11 allocated we use, T&E, royalties, a bunch of -- I mean --

12 Q So, it comes out of the budget for Applications
13 Development, for the whole organization?

14 A Yes.

15 Q So, each organization -- so Database would have a
16 separate budget that could be used for various items,
17 including "Dive and Saves"?

18 A Yes.

19 Q And that budget, again, is provided by or set by
20 Larry Ellison and/or Safra Catz?

21 A Correct.

22 Q Do you have -- is there any headcount budget for
23 "Dive and Saves"?

24 A No, I don't know what that would mean, no.

25 Q Do you have a certain -- does your organization

1 have a certain number of "Dive and Saves" that it can do in a
2 year?

3 A No.

4 Q I want to show -- so managers in your organization
5 must seek approval from you to do a "Dive and Save," correct?

6 A Correct.

7 Q Okay. Let's pull up -- I'd like to draw your
8 attention to P-191. Okay. If you can look at the
9 highlighted --

10 JUDGE CLARK: I'm sorry, Ms. Bremer, could you move
11 the microphone with you?

12 MS. BREMER: Sorry.

13 JUDGE CLARK: The fan is really blowing right over
14 my head now, so I'm --

15 MS. BREMER: Okay. I'm sorry.

16 JUDGE CLARK: That's helpful, thank you.

17 BY MS. BREMER:

18 Q Could you look at the highlighted line, please?

19 A Yes.

20 Q Does "D&S" stand for "Dive and Save"?

21 A Yes.

22 Q This says that this "D&S" has already been approved
23 by Steve Miranda and Thomas Kurian -- the e-mail. Is that
24 something that you discussed in advance with whoever is
25 recommending a "Dive and Save"?

1 MR. PARKER: Vague and ambiguous as to what this
2 is, and also I'm not sure a foundation has been laid for this
3 document.

4 JUDGE CLARK: Rephrase your question, Ms. Bremer.

5 BY MS. BREMER:

6 Q Have you -- what's the process for a "Dive and
7 Save" approval?

8 A What's the process for the approval?

9 Q Yes.

10 A I receive an e-mail, then I approve it or not. And
11 then if I'm the final approver, it gets submitted via the
12 Workflow, or if Thomas is the final approver it would have
13 been submitted once he approved it.

14 Q And is that something that's often discussed -- so
15 it's discussed prior to the "Dive and Save" being entered
16 into the Workflow?

17 MR. PARKER: Vague and ambiguous.

18 JUDGE CLARK: Overruled.

19 You can answer the question.

20 THE WITNESS: It's either discussed via e-mail or
21 in person, almost always it's a sudden context.

22 BY MS. BREMER:

23 Q So, you would have an advanced -- you'd have
24 information about that before a "Dive and Save" was submitted
25 into the Workflow?

1 A Usually.

2 Q Do you consider the gender of an employee in
3 deciding whether to approve a "Dive and Save"?

4 A No.

5 Q And what about race?

6 A No.

7 Q And the reason that Oracle has a procedure for
8 "Dive and Saves" is because the focal raise pools are too
9 small to keep up with the market, correct?

10 A That's not necessarily true, no.

11 Q But there are issues with -- it's to address salary
12 compression, correct?

13 A That's also not necessarily true.

14 Q But it can -- "Dive and Saves" can be used to
15 address salary compression?

16 A They're used to retain top talent.

17 Q I'd like to draw your attention to P-198. This is
18 an e-mail from Thomas Kurian, correct?

19 A That's what it says, yeah. I've never seen it
20 before.

21 JUDGE CLARK: You said you have seen this before?

22 THE WITNESS: I said, no, I've never seen it
23 before.

24 JUDGE CLARK: Okay.

25 BY MS. BREMER:

1 Q Have you ever -- this e-mail is from Thomas Kurian
2 to Larry Ellison and Safra Catz, which is already in the
3 record. It says:

4 "We've tried our best with targeted 'Dive and
5 Save' requests, for which we are
6 grateful, but we continue to see
7 significant pressure on our development
8 teams."

9 Do you know what that significant pressure --

10 MR. PARKER: Lacks foundation.

11 JUDGE CLARK: Overruled.

12 If he knows?

13 THE WITNESS: I don't know. I mean I've never seen
14 that, I don't know what he meant. And it was six years ago.

15 BY MS. BREMER:

16 Q Have you ever discussed the pressure on development
17 teams with Thomas Kurian?

18 A I don't know in this context. I discuss pressure
19 with him on development teams all the time. Pressure --
20 there's pressure to get code out better, you know --

21 Q What about pressure on compensation?

22 A Sure, at times. I don't know if I'd refer to it as
23 "pressure."

24 Q Let's look at P-101, page 7, which is Bates
25 numbered 414385. At Oracle the focal raise pools are often

1 too small to keep employees within their compensation band
2 for their jobs, correct?

3 A Could you restate the question?

4 Q At Oracle the focal review budgets are often too
5 small to keep all employees within their compensation bands
6 for their jobs, right?

7 A Too small to keep them? I don't believe that to be
8 the case.

9 Q Are you aware of the term: "compensation
10 compression"?

11 A Yes.

12 Q And what does that mean?

13 A The way I use the term is when you are bringing in
14 new people to the organization, and those people have a
15 salary, though maybe with less experience, that is close to
16 or equal to, or slightly above people with more experience.

17 Q Are you aware of people in your organization having
18 salaries that are lower than the salary range for their job?

19 A Yes.

20 Q And if you look at Exhibit P-101, that's an example
21 of that, correct?

22 MR. PARKER: Lacks foundation, and vague and
23 ambiguous.

24 JUDGE CLARK: Sustained.

25 BY MS. BREMER:

1 Q Have you seen a document like this before?

2 A You're talking about this screen shot?

3 Q Yes, the screen shot?

4 A Yes. A very old product, but yes.

5 Q You've seen a screen like this before?

6 A Yes.

7 Q And what product is it?

8 A It looks like the HR product.

9 Q And is that something that your team developed?

10 A Yes.

11 Q And so if you look at the -- where it says the
12 annual salary is \$91,800.00, correct?

13 A Yes.

14 Q And is that how much money this individual earned
15 per year, as of November 16th, 2014?

16 A Yes.

17 Q And do you see where it says: "Minimum Salary"?

18 A Yes.

19 Q Do you understand that to be the minimum salary for
20 the pay range?

21 A Correct.

22 Q And it's \$98,060.36, correct?

23 A Yes.

24 Q So, it would be correct to say that this individual
25 was not kept within the band for that individual's job,

1 right?

2 A Yes.

3 MR. PARKER: Your Honor, I just realized something
4 late, and it's my fault. I think there's some PII on this
5 that should be taken down, and I don't mind if the name is
6 redacted, but it shouldn't appear like this.

7 MS. BREMER: We have no more questions about this
8 exhibit, Your Honor .

9 JUDGE CLARK: Okay. So, we can take it down?

10 MS. BREMER: Yes.

11 MR. PARKER: And my apologies for not noticing
12 sooner.

13 JUDGE CLARK: That's okay. Thank you. Thank you
14 for bring it up.

15 MS. BREMER: I have a question, Your Honor. For
16 the next exhibit does have some PII, but it's someone who
17 submitted a declaration in support of the Summary Judgment
18 motion, so -- on behalf of Oracle -- so we believe that
19 they've waived their privacy rights with respect to their
20 compensation.

21 JUDGE CLARK: Is it an exhibit?

22 MS. BREMER: Yes.

23 JUDGE CLARK: Okay. Why don't you go ahead and ask
24 your question. If there's an objection we'll take it up.

25 MR. PARKER: I'm sorry, Your Honor, I don't know

1 who the person is, so I'm going to object, because I don't
2 know the contents of the declaration and I think it depends
3 on what is said internally, and the question -- I'll wait for
4 that, but --

5 JUDGE CLARK: Okay. Your objection is overruled
6 for now.

7 MS. BREMER: I'll go ahead and tell you the name,
8 all right?

9 MR. PARKER: Okay.

10 JUDGE CLARK: So, I'm sorry, you're going to show
11 counsel the name, is that what you said, Ms. Bremer?

12 MS. BREMER: I'm going to tell them the name, yes.

13 MR. PARKER: We have all the exhibits, Your Honor,
14 so if they can tell us what exhibit number it is, I'll be
15 happy to get up and get it.

16 JUDGE CLARK: Okay.

17 MS. BREMER: And Your Honor, we'd like to talk
18 about this individual, so if we could go ahead and share the
19 name with the witness, or counsel could share the name with
20 the witness so that we can use an alias.

21 JUDGE CLARK: Okay. So, you've built it up pretty
22 big, so show it to Mr. Parker and then we'll take it one step
23 at a time. So, that sounds like a good way, we've done a
24 Jane Doe, so I'm sure we can do a John Doe or something.

25 MS. BREMER: Exhibit 105, P-105.

1 MR. PARKER: Okay.

2 JUDGE CLARK: We're going to go off the record
3 while we get this resolved and then we'll go back on.

4 We're off the record.

5 (Off the record at 2:11 o'clock p.m.)

6 JUDGE CLARK: We are on the record.

7 MS. BREMER: Okay. Mr. Miranda, I'm going to call
8 this individual "Employee X."

9 THE WITNESS: Okay.

10 JUDGE CLARK: So, we're talking about Plaintiff's
11 Exhibit 105, that's what this witness is reviewing right now?

12 MS. BREMER: Yes.

13 JUDGE CLARK: Okay. And it's referring to a person
14 X, okay.

15 BY MS. BREMER:

16 Q Employee X is an employee under your management,
17 correct?

18 A Correct.

19 Q And Employee X holds the position of Product
20 Management senior director, Product Development, right?

21 A I believe that's her title now, I'm not 100 percent
22 certain.

23 Q Was that the -- that's the position that she held
24 on September 11th, 2019, right?

25 A Okay -- I say that I believe, I don't remember, I

1 don't know the exact title.

2 Q Do you know if she's at an M5 career level?

3 A I don't know where she is now.

4 Q Do you know that Employee X was not always happy
5 about her pay?

6 A I don't know that.

7 Q Do you know one way or the other whether she was
8 dissatisfied with her pay?

9 A I know she's been at Oracle a long, long time, so
10 she's -- at some phase must have been happy with it.

11 Q Did you receive any indication that she was unhappy
12 with it?

13 A I haven't had a chance to read this whole thing, so
14 I don't know if it says it in here or not, but --

15 JUDGE CLARK: So, Mr. Miranda, if she wants you to
16 read it, she will.

17 THE WITNESS: Okay.

18 JUDGE CLARK: So, your knowledge at this point, you
19 don't know if this particular person was unhappy with pay.

20 THE WITNESS: No, I don't remember.

21 BY MS. BREMER:

22 Q Okay. Let's take a look at page 2, the first full
23 sentence?

24 A The first full sentence?

25 Q Yes, on page 2.

1 A Okay.

2 Q It says: "Employee X has been compressed for
3 several years now."

4 A Yes.

5 Q That's referring to her pay being compressed,
6 correct?

7 A Yes.

8 Q And the term "job hopping" is used in this e-mail,
9 what does that refer to?

10 A Moving from job to job.

11 Q And what about "RM," that's another term that's
12 used in the e-mail?

13 A I don't -- oh -- release manager -- I don't see
14 "RM" used, but --

15 Q But "RM" stands for "release manager"?

16 A Well, where do you see "RM" used? Oh, yes, I see
17 it. Okay. Yes, release manager, yes.

18 Q Okay. And this document, P-105, it's an e-mail
19 from M. Cheruvu, that's Maddie Cheruvu, correct?

20 A Yes.

21 Q And it's to you?

22 A Yes, the final, yes.

23 Q And Ms. Cheruvu is the HR partner, business partner
24 for Thomas -- she was, for Thomas Kurian, during this time,
25 correct?

1 A Correct.

2 Q And this document relates to a "Dive and Save,"
3 correct?

4 A Correct.

5 Q And this was approved by Thomas Kurian?

6 A Yes.

7 Q And it was also approved by you?

8 A Correct.

9 Q Is this the type of e-mail that you were talking
10 about before, where there would be e-mail communications
11 about a "Dive and Save" before the approval -- before the
12 information about the "Dive and Save" would be entered into
13 the Workflow?

14 A Correct.

15 Q And your approval for "Dive and Saves" is
16 necessary, correct?

17 A Correct.

18 Q And up until the time that Thomas Kurian left, he
19 would also have to approve "Dive and Saves" for people within
20 Product Development, correct?

21 A Correct.

22 Q And you also have to approve bonuses for the
23 employees under your management, correct?

24 A Yes.

25 Q And without your approval, bonuses can't be

1 distributed to employees, correct?

2 A Correct.

3 Q And stock allocations are one of the benefits that
4 Oracle gives to its employees?

5 A To some employees, yes.

6 Q And Oracle is a public corporation with a Board of
7 Directors, right?

8 A Correct.

9 Q And the total amount of stock to be allocated to
10 employees must be approved by the Board of Directors, right?

11 A I believe so.

12 Q And then the CEOs and Larry Ellison determine how
13 to allocate the stock budgets among the lines of business?

14 A Correct. Well, to -- when you say lines of
15 businesses, is that a flavor to let's say the top line of
16 business, whether it would have been Thomas or, in this case,
17 down the org separately, you know, Applications versus
18 Database.

19 Q Oracle does not reserve any stock allocation
20 budget, right?

21 A I don't know -- I wouldn't know.

22 Q Let's bring up Exhibit P-146.

23 A Okay.

24 Q Okay. This is an e-mail from --

25 A It's not showing --

1 Q Oh, I'm sorry. Okay. Go ahead and take a look at
2 that. So, this is an e-mail dated May 30th, 2013, regarding
3 "Stock Process FY '14," do you see that?

4 A Yes.

5 Q And the message being forwarded was from Thomas
6 Kurian, correct?

7 A Yes.

8 Q And you were one of the recipients?

9 A Not of the final e-mail, but yes, of the one below.

10 Q The message that was forwarded?

11 A Well, no, but I mean the last five I'm not -- but
12 the one below, yes.

13 Q Okay. The one that is from Thomas Kurian to
14 Michelle Hillman, and then you're the second name, correct?

15 A Correct.

16 Q And who are the other people, do you recognize the
17 names in the "To," that this e-mail is to?

18 A Yes. They were certainly some of Thomas' directs.
19 I don't know if they were all Thomas' directs or they
20 weren't -- some of them were Thomas' directs. They may have
21 been Thomas' directs at the time.

22 JUDGE CLARK: You're referring to the May 30th,
23 2013, e-mail at 6:03 o'clock, in the middle of the page?

24 THE WITNESS: Yeah, I'm sorry. That's what I'm
25 referring to, yeah. The one above, I don't know -- I don't

1 know those people.

2 JUDGE CLARK: Okay. Thank you.

3 BY MS. BREMER:

4 Q And M. Cheruvu underscore directs underscore ww
5 (m.cheruvu_directs_ww), do you understand that to refer to --
6 who do you understand that to refer to?

7 A Those would be Maddie Cheruvu's direct reports.

8 Q And it says the e-mail -- the body of the e-mail in
9 number one says: "Our timeline is very tight." Timeline for
10 what?

11 A To submit the recommendations.

12 Q Okay. And then number two says:

13 "There's no reserve budget at any level. So,
14 assume that you have to take care of your
15 people within the pools allocated to you
16 in the system."

17 What did you understand that to mean?

18 A That Thomas didn't have any reserve, so we had to
19 allocate what we were given.

20 Q And this is stock, correct?

21 A Yes. That's the subject line, so that's a yes.

22 Q So, that meant he wasn't reserving any stock to
23 allocate later?

24 A That's what it said, yes.

25 Q So, the only authority that you had for

1 distributing stock was the stock that was allocated to you
2 with the budget?

3 A Correct.

4 Q And then if you look at the e-mail below the one
5 that we were just discussing in this chain dated May 30th,
6 2013, at 12:39 o'clock p.m., that was also addressed to you,
7 correct?

8 A Correct.

9 Q And what is this list of people in the "To" line?

10 A It's the same as above, so certainly it's a subset
11 of Thomas' directs, they may have been all of Thomas' directs
12 at the time.

13 Q Okay. And under "Budget" it says: "The budget is
14 in CWB." What does that refer to?

15 A That's our Compensation Workbench application, the
16 tool that we use.

17 Q Okay. And then if you look at the second page of
18 this e-mail --

19 A It's not on the second page.

20 JUDGE CLARK: Are we having technical difficulties?

21 MS. BREMER: Actually, I do have a hard copy of
22 this document.

23 JUDGE CLARK: It would be nice to see the second
24 page, so we can all see it together.

25 MS. BREMER: Oh, there it is, okay.

1 JUDGE CLARK: Okay.

2 MS. BREMER: I had five hard copies, but --

3 JUDGE CLARK: Okay.

4 MS. BREMER: -- this is easier.

5 JUDGE CLARK: Thank you.

6 BY MS. BREMER:

7 Q If you look at where it says in bold: "Maximum
8 Distribution/Penetration Guidelines by Region"?

9 A Correct.

10 Q Were those the guidelines provided for the
11 allocation of stock?

12 A Correct.

13 Q And when we were looking at P-156, you indicated
14 that you needed to be more careful with the guidelines for
15 India, because people have more information about their pay,
16 is that correct?

17 A I just said -- are you referring to the earlier
18 question?

19 Q Yes, when Mr. Warrington was talking to you about
20 the other -- another guideline, which was P-165.

21 MR. PARKER: I'm sorry, Your Honor, these are the
22 same document.

23 THE WITNESS: Yeah, I think they're the same.

24 MS. BREMER: Oh, it's the same document.

25 THE WITNESS: Yeah.

1 MS. BREMER: Okay.

2 JUDGE CLARK: Okay. Thank you.

3 THE WITNESS: I'm sorry, is there --

4 JUDGE CLARK: So, let's go ahead and ask the
5 question again, Ms. Bremer?

6 BY MS. BREMER:

7 Q When we previously discussed this document, I
8 understood your testimony to be that the guidelines for India
9 were more detailed, because people had more information about
10 their pay in India, is that correct?

11 A I believe what I said is that people tend to share
12 more information with each other.

13 Q Share more information about their pay?

14 A Yes.

15 Q And then if you look at the underlined statement in
16 bold: "Ratings should be entered for all employees," what
17 does that mean?

18 A Oh, so along with the -- in this case -- stock
19 allocation, there's a one to five rating based on
20 performance.

21 Q And ratings are to be entered for all employees in
22 the organization?

23 A Correct.

24 Q And if you look below at the timeline, where it
25 says: "Timeline"?

1 A Yes.

2 Q So, the timeline that was provided down through
3 Thomas Kurian was one week to allocate all of the stock
4 within all of the organizations below him, correct?

5 A Correct. Well, sorry, I don't remember the date it
6 was sent, but --

7 Q Well, if you look here it says: "Friday," it says
8 the schedule?

9 A No, I see that the end date is Friday, June 7th,
10 just on this page I don't see when it was sent, so.

11 Q The e-mail is from May 30th, 2013, correct?

12 A Okay, okay, then a week, uh-huh.

13 Q Okay. That's it for this document. Okay. So, if
14 an employee complains of a discriminatory allocation of
15 stock, Oracle can't remedy that complaint with a stock
16 allocation, can it?

17 A If a -- you're saying if an employee complained
18 about a stock allocation based on what?

19 Q Discrimination.

20 A Could Oracle allocate?

21 Q That can't be remedied with -- through this stock
22 allocation process?

23 A Through this stock allocation process?

24 Q Through this type of stock allocation process?

25 MR. PARKER: Now it's vague and ambiguous.

1 JUDGE CLARK: Overruled. I think the follow up
2 question is clear. Ask your question again, Ms. Bremer.

3 BY MS. BREMER:

4 Q So, if an employee complains of a discriminatory
5 allocation of stock, Oracle can't remedy that complaint
6 through the stock allocation process?

7 A Well, I mean we could if it was a valid complaint
8 for some reason, and it happened, you know, during or before
9 this time cycle and we didn't resolve the issue another way,
10 so I guess the answer is no, we could.

11 Q But employees don't learn of their allocation of
12 stock until it's final, correct?

13 A Oh, okay. So, you're saying if the employee
14 complained about what they got allocated in this process,
15 could we go back and -- no -- by definition, no.

16 Q Okay.

17 A We can't undo this process, so no.

18 Q Going back to the focal review raises, employee
19 ratings have to be entered prior to those raises being
20 approved also, right?

21 A Correct.

22 Q Not every product has its own Cost Center, correct?

23 A Not every product, no, not necessarily.

24 Q So, that means some products don't have Cost
25 Centers, right?

1 A No, that means some products share Cost Centers
2 with other products.

3 Q We talked about college recruiting a bit earlier,
4 college recruiting recruits a pool of candidates for various
5 jobs within Product Development, including application
6 developers, Cloud, database and malware, correct?

7 A Correct.

8 Q And the qualifications for the college recruits
9 being recruited have to do with what schools they attended
10 and their majors, correct?

11 A What school they attended, their majors, their
12 GPAs, their extracurricular activity at the schools, the
13 interview process with the college recruiting person. I may
14 be leaving some things out, but more than what you listed.

15 Q Okay. And so the --

16 A GPAs.

17 Q -- the minimum qualifications for the college
18 recruits would be a degree in the field of Computer Science
19 or Electrical Engineering, or Math, right?

20 A Technical degrees for the most part, yes.

21 Q And in Computer Science, people don't get a degree
22 in Java, right?

23 A No.

24 Q And they don't get a degree in C++?

25 A No.

1 Q And people -- employees on the A-Team need to read
2 code to do their job, right?

3 A Do they have to read code to do their job?

4 Q Yeah.

5 A Probably most of them, yes.

6 Q Is Jennifer Briscoe in charge of the A-Team?

7 A Correct.

8 Q How long has she been in that role?

9 A Maybe five years or thereabouts.

10 Q Where did she work before?

11 A I don't know.

12 Q And the A-Team works on multiple products?

13 A Correct.

14 Q Does it work on all products within Product
15 Development?

16 A No.

17 Q And does HR send out an e-mail telling you when
18 appraisals are to be done?

19 A No.

20 Q When -- if someone transfers from one organization
21 to another organization, when does their headcount transfer
22 to the new organization?

23 A Their headcount -- immediately.

24 Q What about for the purposes of focal review?

25 A (No verbal response.)

1 Q Let me ask it differently. So, when a budget is
2 being set for focal review, the budget is set -- it's a
3 percentage of the number of people in the organization,
4 correct?

5 A For bonus, yes.

6 Q Okay. And when would -- for bonus, when would that
7 -- when would that person be counted in the -- for bonus
8 purposes -- in the organization to which they transferred?

9 A There's a cut-off date in which we start the
10 process, anybody in your organization at that point is in the
11 bonus process and considered part of the percentage. So,
12 everybody is covered, because by definition everybody is in
13 some organization at the time it's cut.

14 Q I have one more question. Are you -- you're
15 currently up for consideration of the CEO position, is that
16 correct?

17 A I don't know.

18 Q Have you been told that you were?

19 A No.

20 Q Have you seen news that that was the correct --

21 A I have.

22 MS. BREMER: Okay. That's all for now.

23 JUDGE CLARK: Anything further, Mr. Parker?

24 MR. PARKER: Of course there is, Your Honor. That
25 would be too much like right were it otherwise.

1 REDIRECT EXAMINATION2 BY MR. PARKER:

3 Q I guess I'm going to march you through some
4 curiosities and questions that I have. Let's start here,
5 because I'm going to try to link them as much as I can.

6 A Okay.

7 Q Whether or not you know about the AAP, you know for
8 sure Oracle has a non-discrimination policy, correct?

9 MS. BREMER: Objection, leading.

10 JUDGE CLARK: I'm going to let them -- overruled.
11 You can answer that question.

12 THE WITNESS: Oracle has a non-discrimination
13 policy, yes, I'm aware of that.

14 BY MR. PARKER:

15 Q And that non-discrimination policy, in your mind is
16 there any question whether it applies to pay discrimination
17 or not?

18 A There is no question, certainly that
19 non-discrimination policy applies to pay raises.

20 Q And whether or not you know whether there's an
21 Affirmative Action Plan, you understand that managers,
22 including line managers, make pay equity assessments when
23 they're making compensation decisions, correct?

24 MS. BREMER: Objection, leading.

25 JUDGE CLARK: Rephrase your question, Mr. Parker.

1 BY MR. PARKER:

2 Q Whether or not you know the AAP, do managers make
3 pay equity assessments when determining -- making
4 compensation decisions?

5 A Yes.

6 Q And you were asked a question about stock
7 allocation and if someone complained about discrimination,
8 correct?

9 A Yes.

10 JUDGE CLARK: So, Mr. Parker, you're a little far
11 from the microphone.

12 MR. PARKER: Oh. I've never been accused of having
13 a shy voice.

14 BY MR. PARKER:

15 Q You were asked about a complaint of discrimination
16 relating to stock allocation, correct?

17 A Yes.

18 Q Doesn't Oracle have a means of addressing both
19 investigating such a claim and remediating such a claim?

20 A Yes. The question was asked could it be remediated
21 in this process, which would have been after the fact, so by
22 definition, no. But could we remediate an issue, certainly,
23 yes.

24 Q Now, you were asked questions about wage
25 compression and salary compression?

1 A Yes.

2 Q Do you know whether or not men have -- there are
3 issues sometimes with men about salary compression issues,
4 women, people of color, white men?

5 A All of the above do, yes.

6 Q And you were shown -- now, you were asked some
7 questions about when you might not approve --

8 A Yes.

9 Q -- either a hire or a focal review?

10 A Um-hum.

11 Q Tell me how often does it happen -- let's just
12 focus on hiring -- where you just said, no, that's not going
13 to happen?

14 A That's not going to happen, period, or not with --

15 Q Let's just go with period?

16 A I don't think ever.

17 Q Tell me what the process is for you when you are
18 curious or wonder why both the offer is being made and
19 compensation is being made, what is your process?

20 A I talk to my direct report or I send them an e-mail
21 with the specific question, either why are we hiring for this
22 position, why are we hiring for someone with this background,
23 you know, skill set, why are we compensating at this level,
24 why are we, you know, hiring in this location, it could be a
25 variety of different questions like that.

1 Q And then what happens after you send your e-mail?

2 A They sometimes take a look at it, agree with my
3 concern and change something about the offer. Sometimes they
4 explain to me why. And then either we have more questions or
5 I approve it.

6 Q With regard to focal reviews, you sit in a position
7 where you simply say, no, not going to happen?

8 A No, it's almost identical to the job offer process.

9 Q And you were asked about guidelines that come down
10 about focal reviews or stock grants?

11 A Yes.

12 Q You used the term: "guidelines," correct?

13 A Correct.

14 Q And you saw a document that used the term:
15 "guidelines," correct?

16 A Correct.

17 Q What does that mean to you, to be a "guideline"?

18 A Without reusing the word or with using the word,
19 it's a "guideline," so you know, I think it had like 35
20 percent as a guideline. If I've got a team of five people,
21 you know, there's no such thing as 35 percent. So, if I have
22 a team of 10 people, they're really small, so it could be,
23 you know, a special team they go a little bit higher. And so
24 it's, you know, within a reasonable level and the larger the
25 group is, it sort of evens out. That doesn't mean you have

1 to do exactly or a little bit above, a little below, you
2 know, it's a guideline.

3 Q Now, just to clear up, to the extent there was any
4 suggestion of this, the budgeting process, the way it flows
5 down, that didn't change -- it wasn't different when Thomas
6 Kurian was sitting above you and the other lines of business,
7 correct?

8 A No, not that I'm aware of, but I don't know what he
9 did between him and Larry, but it's identical as far as I
10 remember.

11 Q And the budgets that you receive for headcount,
12 overall Applications Development budget, your compensation
13 budget, your focal review budget, your stock allocation
14 budget, when it comes to your hands you have discretion as to
15 how that budget should be allocated from there, correct?

16 MS. BREMER: Objection, leading.

17 JUDGE CLARK: Overruled.

18 THE WITNESS: I have discretion, correct.

19 BY MR. PARKER:

20 Q Now, there are some questions about moving from job
21 to job within Applications, for example. You were a database
22 analyst, correct?

23 A For a brief period of time, yes.

24 Q And now you do applications, right?

25 A Yes, I was a Database administrator 30 years ago,

1 but okay, yes, 28 years ago.

2 Q So, when someone wants to transfer jobs --

3 A Sure.

4 Q -- my first question is -- I don't know if it's
5 true or not -- is it just about what computer language they
6 may know?

7 A No. I mean it's that plus what the particular
8 knowledge of the product they're working on does.

9 Q Very good. We're talking to -- about college
10 hires?

11 A Yes.

12 Q First, how does that work within Oracle, how is it
13 that a college hire would get a job at Oracle?

14 A So, they're recruited by the central College
15 Recruiting Department, as was talked about before. Then
16 they're extended the opportunity to interview to different
17 groups at Oracle who have allocations for college hires.
18 And it's a little bit like what I think medical school does,
19 where you pick the managers you want to interview with, the
20 managers pick who they want to interview, and subsequent to
21 the interviews the managers submit college applicants they'd
22 like and the college applicants submit jobs they want to go
23 in, and when there's a match, they get assigned.

24 Q And are all college hires just, for example,
25 Bachelor of Science degree, the lowest college degree?

1 A That would be the lowest, but there's bachelor's,
2 master's, there's, you know, Ph.D., there's some people have
3 multiple degrees, bachelor is minimum.

4 Q Very good. And is it true or not -- don't know --
5 but if you can look at some of the resumes of people, would a
6 resume indicate someone has more skill in a certain area or
7 more training in a certain area than another college
8 applicant?

9 A Oftentimes, yes. I mean we have some people who
10 have done their master's thesis on database algorithms, or
11 they've done certain classes in X language or Y languages, or
12 done a senior project on building something, so very often,
13 yes, I would say.

14 Q And are people with, for example, database
15 algorithm, would their skill more naturally match up with a
16 database line of business than your line of business?

17 A Yes.

18 Q But it's their choice, as well, to decide where
19 they want to interview, correct?

20 A Yeah. I mean I've seen people in our group who
21 have a master's, a master's thesis about database, but they
22 wanted to work in our group, so we interview them and
23 sometimes it works.

24 Q And when you have such a person, can there be a
25 learning curve when they've done database and now they're

1 moving into applications?

2 MS. BREMER: Objection, leading.

3 JUDGE CLARK: So, Mr. Parker --

4 MR. PARKER: That was leading, terribly leading.

5 JUDGE CLARK: Go ahead.

6 MR. PARKER: You can sustain it.

7 JUDGE CLARK: Rephrase. Thank you.

8 BY MR. PARKER:

9 Q In your experience, have you seen instances where
10 there is a learning curve or not?

11 A Yes.

12 Q And can you fill that out for me a little bit?

13 A Well, sometimes they don't have the background of
14 the particular language that we use, so that would be the
15 first learning curve. Then at least in Applications, the
16 college hires, oftentimes, they don't know, you know,
17 accounting or what an HR process is, because they're not in
18 the workforce. If you're an experienced person, more often
19 than not you've worked in the industry and you've worked
20 maybe for other competitors, you know, building HR
21 applications. So, you don't have those two parts. You at
22 least have a tool set, sort of the methodology that we use at
23 Oracle, some things that we have is differentiated, like RIP,
24 if you will, tool. So, it sort of depends on the context of
25 where you started, but there's definitely a learning curve.

1 Q And do you believe that -- does the salary reflect
2 this lesser information?

3 MS. BREMER: Objection, leading.

4 JUDGE CLARK: So, it is leading. Rephrase your
5 question.

6 BY MR. PARKER:

7 Q Do you know whether -- well, I'll ask it this way.
8 Let's talk about salary ranges for college hires, are they
9 the same or different than for persons with experience?

10 A They're different.

11 Q How so?

12 A They're usually, by definition a college hires,
13 they maybe sometimes master's have some experience, but they
14 tend to have no experience. So, in some ways they tend to be
15 a little bit lower, but we recruit from an extremely select
16 set of universities and extremely select candidates from
17 those universities. But on the whole I think they tend to be
18 lower.

19 Q And do you know whether -- what percentage of
20 people in Product Development are college hires versus
21 experienced hires?

22 A You mean overall or annually during the year?

23 Q Let's do annually?

24 A It's got to be small, maybe less than 10 percent,
25 maybe less than five percent.

1 Q One thing I wanted to talk to you about, job
2 postings, there were things that were auto-populated?

3 A Okay.

4 Q You said you had no reason to disagree with that.
5 In those job postings, are there times where a job posting
6 would indicate how many years of experience someone should
7 have in a particular area?

8 A Sometimes.

9 Q That's not something that's -- is that
10 auto-populated or no?

11 A I don't believe so. Well, no, it can't be.

12 Q And Cost Centers, are Cost Centers organized around
13 product groupings or no?

14 A Yes.

15 MR. PARKER: One moment, Your Honor.

16 BY MR. PARKER:

17 Q Oh, I have one last question for you. We were
18 talking about hiring managers at one point in time?

19 A Yes.

20 Q And you said -- you described -- and this is
21 leading, just to lay the foundation so we can get there --

22 JUDGE CLARK: Go ahead.

23 BY MR. PARKER:

24 Q You said hiring is done by hiring managers,
25 correct?

1 A Yes.

2 Q If we wanted to, who would you say hires ICs most
3 often, more often than not?

4 A The line managers.

5 Q And what is a line manager to you?

6 A The lowest level manager in the manager hierarchy.

7 Q And then do more senior hires get hired by a
8 different manager?

9 A Yeah. I mean so -- yeah -- so if you're hiring a
10 line level manager, that's usually the person above that, so
11 a more senior manager doing the next manager down.

12 MR. PARKER: No further questions.

13 JUDGE CLARK: Thank you, Mr. Parker.

14 Ms. Bremer, anything further?

15 MS. BREMER: Yes, Your Honor.

16 RECROSS-EXAMINATION

17 BY MS. BREMER:

18 Q You talked about pay equity determinations and
19 making compensation decisions. Can you describe what you
20 meant by that?

21 A I'm sorry, what did I say?

22 Q You indicated -- my understanding was that Mr.
23 Parker asked you a leading question on whether managers make
24 pay equity determinations in making compensation decisions,
25 and you indicated yes.

1 A Yes.

2 Q And I'd like you to describe those?

3 A We try to retain our top talent. So, based on the
4 things I think I described before, the skill set that they
5 have, the competitive job market, the performance within
6 Oracle, we try to ensure that we compensate that person such
7 that they're, you know, that they're more likely to stay at
8 Oracle or you can interpret to be at the market rates that
9 they're not incented to leave because of compensation.

10 MS. BREMER: Okay. Thank you.

11 JUDGE CLARK: That's all you have?

12 MS. BREMER: Yes.

13 JUDGE CLARK: Mr. Parker?

14 MR. PARKER: The witness can be excused if you
15 don't mind, Your Honor.

16 JUDGE CLARK: Thank you.

17 Mr. Miranda, thank you so much for being here,
18 you're free to go.

19 THE WITNESS: Thank you.

20 (Witness excused.)

21 JUDGE CLARK: Let's take a 10-minute break and
22 we'll call our next witness.

23 MR. PARKER: Thank you.

24 JUDGE CLARK: We'll start back at 3:05 o'clock p.m.
25 Go off the record.

1 (Off the record at 2:52 o'clock p.m.)

2 JUDGE CLARK: Okay. We are back on the record.

3 We're missing Mr. Parker. Did he go get the witness?

4 MS. CONNELL: We can get started without him.

5 JUDGE CLARK: Okay. So, I've asked him to turn the
6 volume up a little bit, of the microphones, to compensate for
7 the loud speaker, so we'll see. We'll have to take it minute
8 by minute or so, to see how it goes here.

9 Okay. Ms. Connell, you may call your next witness.

10 MS. CONNELL: Our next witness is Kate Waggoner.

11 JUDGE CLARK: Good afternoon. Step right up there.

12 MS. WAGGONER: All the way?

13 JUDGE CLARK: All the way, that's fine. Make
14 yourself comfortable. Before you have a seat, just raise
15 your right hand.

16 Whereupon,

17 KATE WAGGONER

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

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

22 THE WITNESS: My name is Kate Waggoner, K-a-t-e,
23 W-a-g-g-o-n-e-r.

24 JUDGE CLARK: Okay. Thank you.

25 THE WITNESS: Am I too close?

1 JUDGE CLARK: No. I think you're okay. I think
2 it's probably better, because we're having some difficulty
3 hearing right now.

4 THE WITNESS: Okay.

5 JUDGE CLARK: So, the lawyers are going to ask you
6 questions. Do your best -- not do your best -- we're
7 recording everything that's said here, so let them ask the
8 question completely, they'll let you give a complete answer,
9 because we can't record two people at once, all right?

10 THE WITNESS: Okay.

11 JUDGE CLARK: If a lawyer makes an objection, just
12 stop talking and I'll let you know whether or not you can
13 answer the question, okay?

14 THE WITNESS: Okay. If you don't understand
15 something, let us know. And because we're recording, you
16 have to say yes or no and use words, not uh-uh or uh-huh or
17 that sort of stuff, all right?

18 THE WITNESS: Okay.

19 JUDGE CLARK: Okay.

20 Ms. Connell?

21 DIRECT EXAMINATION

22 BY MS. CONNELL:

23 Q Good afternoon, Ms. Waggoner. Can you please tell
24 us which race and gender you identify as?

25 A A white woman.

1 Q What's your current role at Oracle?

2 A I am the senior director of Global Compensation
3 Programs.

4 Q How long have you held that role?

5 A It will be two years in January.

6 Q When did you first join Oracle?

7 A I joined Oracle in March of 2005, from the
8 PeopleSoft acquisition.

9 Q Can you please give us a brief description of your
10 job history since you started with Oracle in 2005?

11 A For the first about seven years, I was an
12 individual contributor, compensation consultant and
13 essentially just working with the business and managers, and
14 providing direct consultation to them on compensation
15 matters. And then I became a senior manager of Compensation
16 with some comp consultants underneath me. And then director
17 and now senior director.

18 Q During the time that you were a compensation
19 consultant, were there particular areas of the business that
20 you supported?

21 A Yeah. I supported -- at any one time I supported
22 IT, and Support, Product Development, Sales, Consulting,
23 Marketing, lots of areas of the business.

24 Q Okay. And prior to coming to Oracle in 2005, had
25 you held other Compensation related roles?

1 A Yes. I've been in the Compensation field since
2 about the fall of 2000.

3 Q And can you briefly describe your educational
4 background?

5 A I have a Bachelor's Degree in Psychology with a
6 minor in Statistics, and I have a Master's in Human Resources
7 and Industrial Relations.

8 Q I want to focus now on your current role as senior
9 director of Global Compensation Programs. Can you describe
10 for us your current responsibilities?

11 A So, my team is responsible for anything that really
12 has a global reach when it comes to compensation at Oracle.
13 I have someone under me and I partner with her to administer
14 and set up any Global Compensation Program, whether it be a
15 focal, an annual salary increase program, an equity program,
16 a corporate bonus program. I have someone underneath me who
17 is responsible for managing the Global Job Table, and reviews
18 requests for new jobs and monitors that. I have someone
19 underneath me who is responsible -- she's considered the
20 Compensation M&E lead, and so she reviews the target
21 companies and the companies that we acquire, to learn more
22 about their employees and their jobs and their organizations
23 and how they will then map into Oracle. And then I also play
24 a role in some executive compensation responsibilities and
25 things with the Compensation Committee.

1 Q You mentioned that your responsibilities are global
2 in nature, correct?

3 A Correct.

4 Q Okay. Do you know, approximately, how many
5 employees work at Oracle globally?

6 A It's between 135,000 and 140,000, I think.

7 Q And do you know how many employees work for Oracle
8 in the United States?

9 A I think we're around 50,000.

10 Q Do you have an estimate as to how many employees
11 work at Oracle's headquarters location in Redwood Shores?

12 A Oh, goodness, I wouldn't want to guess that number.

13 Q All right. Let's turn to the Global Job Table.
14 You mentioned the Global Job Table in describing your
15 responsibilities. What is the Global Job Table?

16 A So, the Global Job Table is a set of probably about
17 1,600 jobs that are -- it's basically our system way to
18 identify, in very broad general terms, the areas of work that
19 are performed at Oracle.

20 Q What purpose does -- for what purpose or purposes
21 does Oracle use the Global Job Table?

22 A So, the Global Job Table is used, we assign a job
23 code, which would be a unique identifier for employees that
24 work at Oracle. And it gives us each code, gives us a very
25 general sense of the duties that that person performs and the

1 roles that exist here at Oracle.

2 Q All right.

3 MS. CONNELL: I'd like to pull up Exhibit J-123.

4 BY MS. CONNELL:

5 Q Ms. Waggoner, I'm showing you what's been marked
6 and entered into evidence as Exhibit J-123. Do you recognize
7 this document?

8 A I do.

9 Q What do you recognize it to be?

10 A So, this would be a download of our Global Job
11 Table.

12 MS. CONNELL: Sorry -- can you just scroll down, so
13 she can see it? Yeah. Thank you.

14 THE WITNESS: It's a download of our Global Job
15 Table that lists the elements, the major elements of a job as
16 well as the very broad general descriptions for -- it looks
17 like it is just Product Development, IT, and Support jobs
18 within our global architecture.

19 MS. CONNELL: Okay.

20 BY MS. CONNELL:

21 Q Let's walk through the various columns, just to
22 make sure we're understanding this document correctly. The
23 first column titled: "Column A," labeled: "Job Code," do you
24 see where I'm looking?

25 A Yes.

1 Q I think you already testified, but just to confirm,
2 when you gave earlier testimony about the numerical code, is
3 this what you were referring to?

4 A Yes. That is the unique identifier for the job
5 that's numeric.

6 Q Okay. And then moving along to Column B, entitled:
7 "FY '18 Job Title," what does this column contain?

8 A So, that's the official system title for --
9 assigned to that individual job code.

10 Q And can you describe how job titles are used at
11 Oracle?

12 A So, again, they're very general and very broad.
13 It's just meant to give a high level oversight into what that
14 person is doing, in general, at Oracle.

15 Q Does each job code have only one job title and vice
16 versa?

17 A Official system job code has one official system
18 job title, yes.

19 Q From a person's job title, can you tell what their
20 job duties and responsibilities are?

21 A No.

22 Q Why do you say that?

23 A Because we have these job codes and the titles,
24 like I said, we have close to 140,000 global employees and
25 our job architecture really is only around 1,600 job codes.

1 And they are meant to be very broad buckets to give us a
2 general sense of the duties that that person performs. If we
3 needed to get specific into every single role that exists at
4 Oracle and every individual who does something a little bit
5 different, we would be in the hundreds of thousands of job
6 codes and it just wouldn't be sustainable, it wouldn't be
7 possible for us to keep that up. And so we have this system
8 where -- and it's very similar to how our salary surveys
9 work, they are general families. And then we are able to
10 say, in general, this is what you can expect that somebody in
11 this job code would do, but we can't possibly get into the
12 details of what happens in every single case of a person who
13 holds that code.

14 Q What are some factors beyond job title that can
15 make a difference in terms of an employee's duties and
16 responsibilities?

17 A Mostly the product that they work on and the area
18 of the business that they -- in which they work.

19 Q Can you think of any other examples?

20 MR. GARCIA: I'm going to object, Your Honor,
21 foundation.

22 JUDGE CLARK: Overruled.

23 THE WITNESS: I can't really think of anything else
24 that would.

25 MS. CONNELL: Okay.

1 BY MS. CONNELL:

2 Q And how do you know that those are some of the
3 factors that can make a difference?

4 A Repeat -- the difference in what, again?

5 Q I had asked you what are some factors beyond job
6 title that can make a difference in terms of an employee's
7 job duties and responsibilities, and you identified the
8 products they work on or the area of business. And I was
9 simply asking how do you know that to be true?

10 A So, I would say the product, and management
11 hierarchy can tell us a little bit about it, as well. And I
12 know this just because I've worked at Oracle for a long time
13 and I've supported these areas with IT, Product Development
14 and Support, and I know that when I've, say for example,
15 looked at a software developer tree, I need to find out much
16 more about where they work and what they're contributing to
17 in the business, to really get a handle on what their duties
18 are and what they're doing. I know, in a very general sense,
19 kind of like how our mapping is done and surveys. We have a
20 good general idea of what's going on. But in order to really
21 get down to what that means, you have to get down into the
22 product and the management hierarchy and dig into that
23 further.

24 Q Does Oracle have product specific job titles?

25 A We do not.

1 Q Why not?

2 A Because, again, as I mentioned previously, if we --
3 that would be unmanageable to keep adding new job codes for
4 all the various products we have. In addition, technology
5 changes so quickly that it would feel like as soon as we
6 created a family for a special product, that product wouldn't
7 be a focus anymore, so then it would be really hard to
8 maintain and stay on top of.

9 Q Beyond system job titles, does Oracle have other
10 types of job titles?

11 A So, we have what's called a "discretionary" job
12 title.

13 Q What is a discretionary job title?

14 A The discretionary job titles are not the official
15 system titles, they are determined by the management
16 hierarchy. In some cases the discretionary job title could
17 be decided by the employee on his own. And we would -- it
18 just can get a little bit more into the details. We have
19 some people that might have a specific product name in their
20 discretionary title, but that is all at manager discretion
21 and managers submit what they want for their people to be
22 called.

23 Q Okay. Earlier when I asked you what your role is
24 at Oracle and you said senior director of Global Compensation
25 Programs, is that your system job title or your discretionary

1 job title?

2 A That's my discretionary job title.

3 Q What is your system job title?

4 A My system job title is senior director of Human
5 Resources.

6 Q Does Oracle have other senior directors of Human
7 Resources?

8 A Yes, there are others.

9 Q Do they have similar job duties to you?

10 A No.

11 Q Does Oracle have other senior directors of Global
12 Compensation Programs?

13 A They do not.

14 Q What are some of the other types of job duties,
15 based on your personal knowledge, that other senior directors
16 of HR have?

17 A So, the senior directors of HR can be in the
18 benefits function, they could be generalists and they manage
19 teams of generalists.

20 Q Okay. All right, going back to the Global Job
21 Table, I'd like to have you now look at some rows, Rows 4
22 through 8.

23 MS. CONNELL: If you can scoot it over to the
24 right, just a little bit, Cliff, so we can see the numbers.
25 There we are. Thank you.

1 BY MS. CONNELL:

2 Q So, if you look at the rows that are highlighted
3 there, under "Job Title," they all begin with "Applications
4 Developer," followed by a number. And then at the top
5 followed by "Architect." Do you see where I'm looking?

6 A Yes.

7 Q What does that signify to you, if anything?

8 A So, that is the family of individual contributor
9 jobs performing at a very high level, an applications
10 developer type of role.

11 Q Okay. And then similarly Rows 11 through 15 all
12 start with "Hardware Developer," followed by a number. What
13 does that signify to you?

14 A Correct. So, we have -- those are the job codes
15 and the titles that we use, again very generally, for people
16 who perform a hardware developer type of role. And the
17 individual contributor, the number behind it, signifies to us
18 the level at which they perform that role.

19 Q Okay. I believe in your testimony regarding
20 applications developer, you referenced a family, is that
21 right?

22 A I did, yes.

23 Q What is a family, what do you mean by that?

24 A So, in compensation we consider a family all of the
25 career levels that fall under a similar -- so for example --

1 it's easier if I give an example. The applications developer
2 family would be the IC1 through IC6 level of applications
3 developers. The software developer family would be the IC1
4 to IC6 of software developers. So, they fall under -- it's
5 similar, at a high level, but it's just a breakout, it's all
6 the jobs combined to define the career levels within.

7 Q All right. Moving across to Column E, where it's
8 labeled: "FY '18, Global Career Level"?

9 A Yes.

10 Q What is a "Global Career Level"?

11 A So, the Global Career Level indicates to us the
12 level to which that work is performed, with IC1 being entry
13 level to IC6 being like guru, architect, very high level
14 contributor.

15 Q Does each job code have only one career level?

16 A Yes.

17 Q Just looking down the column, why do some Global
18 Career Levels start with an "IC," and some start with an "M"?

19 A So, "IC" references "individual contributor" role.
20 And an "M" references a "management" role, where they should
21 be managing people.

22 Q All right. Moving across -- I think we skipped a
23 column, Column C -- we skipped a couple. Column C, where it
24 says: "Function"?

25 A Yes.

1 Q What is a "function"?

2 A The function is just a really high level descriptor
3 of the work being performed by the jobs in that family. So,
4 in this case, Product Development, it's just a very general
5 bucket of all of the roles underneath that.

6 Q Do you know, approximately, how many different job
7 functions there are, globally, at Oracle?

8 A We have 16.

9 Q Does each job code have only one job function?

10 A Yes.

11 Q Do job functions role up to a particular leader?

12 A They do not.

13 Q Looking across to Column D, "Specialty Area," what
14 is "Specialty Area"?

15 A The "Specialty Area," again, is a bucket, but it's
16 a little more fine-tuned than the really broad Product
17 Development. So, for example, you'll see within Product
18 Development we have specialty areas of software engineering,
19 product management, technical QA, hardware engineering -- it
20 just gets down a little bit more, in a little bit more
21 detail, the general area of work being performed.

22 Q All right. Column F is labeled: "Posting Brief
23 Description," what does this column signify?

24 A So, that column is just a very short explanation
25 for the high level duties that are performed by someone in

1 that job code.

2 Q And it looks -- if you look at Rows 3 through 8,
3 just as an example, it looks like it's the same, is that?

4 A Yeah.

5 Q Why is that?

6 A Yes, that's the same because those are -- I believe
7 that's the applications developer family and that's just a
8 really general overview of what somebody in an applications
9 developer job would do.

10 Q All right. Moving across the table to the next
11 column, Column G: "Posting Detail Description," what is that?

12 A That's just a cell where we can enter a little bit
13 more detail to give a little more specific. So, the first
14 description, which is the brief, that's kind of just a quick
15 synopsis, just a blurb of if someone were to read it they
16 would get a general sense. And then in the detailed
17 description we get into a little bit more specific about what
18 would be performed by someone in that role.

19 Q How are Columns D and F used at Oracle?

20 A D and F are the function specialty areas.

21 Q I'm sorry.

22 A Which ones?

23 Q G and F?

24 A G and F, so those are used -- in the compensation
25 team we use them to give us a general idea of when we're

1 benchmarking against an external survey, for example. But
2 they're also used in our -- as it indicates -- a posting
3 detail description. When a manager goes to post a job, those
4 pieces -- at a very high level -- it gives the idea of what
5 this job is. And at a very general level it appears in a
6 posting description when a manager has an opening for a job.

7 Q Is the manager -- does the manager include anything
8 beyond the posting detail description and the posting brief
9 description on --

10 MR. GARCIA: Objection, foundation.

11 MS. CONNELL: Okay.

12 JUDGE CLARK: Ask her how she might know that.

13 BY MS. CONNELL:

14 Q Have you seen job requisitions at Oracle?

15 A Yes.

16 Q Okay. Do you know the process for posting job
17 requisitions at Oracle?

18 A I do.

19 Q Okay. On a job requisition at Oracle, do hiring
20 managers include any other description for jobs, beyond the
21 posting brief description and the posting detail description?

22 A Absolutely.

23 Q Moving along on the Global Job Table to Column H,
24 entitled: "Posting Job Requirements," what does this signify?

25 A So, this column is what gives an idea of the

1 background that we're looking for, for someone performing
2 that role at that level.

3 Q Again -- well -- and how is this, the information
4 in the posting job requirements, used at Oracle?

5 A So, that would appear on a job posting, as well.

6 Q Beyond the posting job requirements, do managers
7 include other job requirements when they post jobs?

8 A Absolutely.

9 Q Can you elaborate on the additional content that
10 hiring managers include, beyond the content on the Global Job
11 Table, when posting jobs?

12 A So, a manager would include a little description of
13 the department that they're in, what that department is
14 responsible for. And then they include much more detailed
15 information around the specific duties that will be performed
16 by this opening -- by the person who takes on this particular
17 position on the team. And they would speak that -- what the
18 manager can enter is very specific in terms of any coding
19 language they need to know, any products they need to be
20 familiar with. And if they're looking for anything really in
21 particular to say that somebody is qualified for this job,
22 they would mention all of those specifics about -- they would
23 go into much more detail around what it is they're looking
24 for, precisely, for this opening. Because the system -- what
25 is contained in the system is very general and it doesn't

1 tell an applicant, or anybody interested in looking for a job
2 at Oracle, it doesn't tell them enough to really know what it
3 is they'd be working on or doing. So, the manager goes in
4 and enters a lot more detail that would tell that person what
5 the job is.

6 Q Okay. I want to look at some examples, to see if
7 -- just so we can see what this actually looks like. And I'd
8 like to pull up -- to start with -- some sample software
9 developer 4 job postings that are already in evidence.

10 MS. CONNELL: Cliff, can you pull up -- I think
11 it's IRC-216-15-26? Okay.

12 BY MS. CONNELL:

13 Q I don't know if you're familiar with this
14 particular document, but do you at least recognize the
15 contents, the general categories of content on the document?

16 A I do.

17 Q Okay. And can you --

18 JUDGE CLARK: You're referring to J-133?

19 MS. CONNELL: Yes, this is at J-133, correct. It's
20 a demonstrative, because J-133 is a very large data
21 spreadsheet, and so we've extracted the information, we
22 provided it to opposing counsel last night.

23 MR. GARCIA: Your Honor, I would object to
24 foundation. That she's said she's seen job requisitions, but
25 it's not clear that if she's seen job requisitions for the

1 Product Development, Support and Information Technology, job
2 functions, because she just identified job functions differ
3 between jobs.

4 JUDGE CLARK: Overruled.

5 BY MS. CONNELL:

6 Q Are you familiar with job postings for the Product
7 Development, IT and Support job functions?

8 A Yes, I've seen them.

9 Q All right. So, looking at this demonstrative,
10 taken from Exhibit J-133, based on the testimony you've
11 given, can you basically walk us through what the various
12 boxes represent?

13 A Yes. So, the hiring manager would choose their job
14 code from the job table, and that's what the posted job name
15 would be. And then it gets the -- I'm not positive what that
16 "PT-1," is for the job category. But then it gets assigned a
17 vacancy ID, gets assigned a vacancy name and when it was
18 opened, and the type of opening, type of post, that's all
19 based on things that the manger enters when they're going in
20 to create that requisition. And then the department
21 description, this is one that I mentioned previously, the
22 department description is something that is total free field,
23 the manager goes in and speaks specifically what happens in
24 that department for which he's hiring this role.

25 And then the brief posting description is system

1 generated. The detailed description is system generated.

2 And the job requirements are system generated. That's all
3 part of our general broad bucket job architecture.

4 And then finally, the additional details, that also
5 is the free-form field where the manager can go in and speak
6 specifically to what they're looking for in this, to fill
7 this role. So, you'll see there's some talk about what kind
8 of coding they're supposed to know, and those managers are
9 able to be more specific, so that when someone looking for a
10 job hits on this software developer 4, they know precisely
11 what the department does and what this manager will be
12 looking for in the perfect candidate.

13 Q Okay.

14 MS. CONNELL: If we could pull up the second
15 demonstrative, which is also from J-133, it is another
16 software developer 4 job requisition.

17 BY MS. CONNELL:

18 Q And again, the structure looks the same. And am I
19 correct that -- well -- why don't you identify for me which
20 portions of this document, if any, are filled in by the
21 hiring manager?

22 A So, the hiring manager would have given that
23 department description and the additional details, which, as
24 you see, there are a lot of them specific to this particular
25 job, because they are looking for specific skills for the

1 role.

2 Q Okay.

3 MS. CONNELL: Can we look at the next
4 demonstrative?

5 JUDGE CLARK: I'm sorry, Ms. Connell, we should
6 probably back up. Internally you're looking at -- it's
7 J-133, but earlier you gave a specific number, what number
8 would that be for this one? Would it be the IRC number,
9 again?

10 MS. CONNELL: Yeah. I'm sorry. I was just
11 identifying it for Cliff, our tech.

12 JUDGE CLARK: Oh, I'm sorry, okay.

13 MS. CONNELL: These are all extracted from J-133,
14 again it's a large spreadsheet, because that's the way that
15 the data was collected and produced.

16 JUDGE CLARK: Okay. I understand. But if I were
17 to look at this later --

18 MS. CONNELL: Correct.

19 JUDGE CLARK: -- and I needed to see, specifically,
20 what this witness was looking at, how would I find that?

21 MS. CONNELL: I see. Okay. So, this particular
22 exhibit is extracted from J-133 -- the top is HQCA_Vacancies.
23 And then you would filter by Column K, Vacancy Name, by
24 IRC -- let's see --

25 JUDGE CLARK: I see what you're looking at, okay.

1 MS. CONNELL: Thank you. My eyes aren't that good.
2 IRC-2399681, and it's showing Columns C through E, J through
3 S and U through AD.

4 JUDGE CLARK: I see. Thank you very much for doing
5 that.

6 MS. CONNELL: Yeah. Would you like us to back up
7 for the other two?

8 JUDGE CLARK: No. I think it's okay.

9 MS. CONNELL: Okay.

10 BY MS. CONNELL:

11 Q I lost where we were. This appears to follow the
12 same structure as the last demonstrative we looked at, is
13 that correct?

14 A Yes.

15 Q Okay. Do you know what organization name is listed
16 there?

17 A I don't know exactly. It must be within the
18 Finance organization, every organization has a specific name
19 attached to it, but I'm not --

20 Q Okay. Yeah, don't speculate. Just if you know.

21 A Yeah.

22 Q Okay. All right.

23 MS. CONNELL: The last one, the first applications
24 developer one, please, Cliff?

25 And so this is another extract from Exhibit J-33,

1 Your Honor. Do you want me to identify for you where to --

2 JUDGE CLARK: No, that's okay. Thank you.

3 MS. CONNELL: Okay. And this will be the last one
4 we look at.

5 BY MS. CONNELL:

6 Q But if I understand your testimony correctly --
7 well -- can you identify which sections of this document the
8 manager fills in and which sections are taken from the Global
9 Job Table?

10 A So, the Global Job Table would be the brief
11 description, the detail description and the job requirements.

12 And the manager completes the department description as well
13 as the additional details.

14 Q Okay. Do employees have access to their job code
15 information?

16 A They do.

17 Q Can employees see the job codes of other
18 individuals at Oracle?

19 A Yes, they can.

20 Q How would they do that, if they wanted to see that
21 information?

22 A So, we have an internal platform called "Aria," and
23 it's essentially just the internal, you can see org charts
24 and you can see all of the reporting relationships, but you
25 can find yourself and you can look up anybody internally at

1 Oracle and it tells you what their Cost Center is, what
2 department they're in. And then it gives the -- exactly as
3 is shown on this posting -- the posted job name. It tells
4 you if you are in this applications developer job. On Aria
5 it would show 10740.applications developer 4, and then dot
6 function, dot specialty area, dot career level. So,
7 everybody has one of those right on Aria for anybody to see.

8 Q Can you also see, on Aria, people's discretionary
9 job titles?

10 A Yes.

11 Q Does everyone at Oracle have a discretionary job
12 title?

13 A For the most part, yes. I can't say I've looked at
14 everybody to ensure that, but yes, everybody should have one.

15 Q You mentioned salary surveys earlier in your
16 testimony. Can you elaborate on what you meant by salary
17 surveys?

18 A So, in Compensation, one of our jobs is to review
19 peer market data to make sure -- and I mean peer companies --
20 to review that data to ensure that our ranges reflect what's
21 happening in the market, in that particular location, for our
22 general buckets of jobs.

23 Q And when you say ranges, can you elaborate on what
24 you mean by ranges?

25 A So, we have salary ranges. Each job code at Oracle

1 is assigned a salary grade. That grade represents a range
2 with a minimum, a midpoint, and a maximum. We aim to put our
3 Oracle internal midpoints right around the 50th percentile of
4 our peer group and that range is what gives managers a
5 general idea for what someone performing that job at the very
6 broadest level with what we might pay them.

7 Q Is it a requirement at Oracle that employees are
8 paid within the salary range for their job?

9 A It is not.

10 Q Does each job code have it's own unique salary
11 range -- salary grade?

12 A Each job code has one salary grade, but there are
13 multiple job codes assigned to the same grade.

14 Q Do you know, approximately, how many salary grade
15 exist at Oracle?

16 A So, I believe we have 18 of them in the exempt
17 category and then another 10 to 12, maybe, in a non-exempt
18 category.

19 Q Okay.

20 MS. CONNELL: I want to introduce another exhibit,
21 but I want to look at the exhibit in hard copy for
22 confidentiality reasons. It's not PII, but I just --

23 JUDGE CLARK: Okay. You're going to show it to Mr.
24 Garcia?

25 MS. CONNELL: Absolutely, yes. It's already in

1 evidence at D-117. May I approach, Your Honor?

2 JUDGE CLARK: Yes. Thank you.

3 MS. CONNELL: I apologize for the small print.

4 JUDGE CLARK: I have my big readers on and I'm
5 still having a hard time.

6 BY MS. CONNELL:

7 Q All right. Ms. Waggoner, again I apologize for the
8 small font. We didn't have bigger paper. Do you recognize
9 Exhibit D-117?

10 A I do.

11 Q What do you recognize it to be?

12 A This would be a representation -- and it looks like
13 it shows multiple fiscal years here -- but this is how we
14 put our Global Job Table into a format so that we know what
15 grade and, therefore, what range is assigned to each job.

16 Q Okay. So, looking at the top, using the job code
17 10020, the first one listed on this chart, as an example, can
18 you please just tell us -- without saying the specific
19 numbers, just for confidentiality reasons -- can you just
20 explain what the various columns are? You don't need to go
21 all the way through, but can you just explain what this
22 document is signifying?

23 A Okay. So, at 1002, that tells us the system job
24 code, and then we have the system title. The job effective
25 date -- I'm not quite clear on what that would be all blank,

1 but -- and then it looks like we have the next column that's
2 indicating the time period that this would be relevant, June
3 of 2013 to July of 2014. And then shows the Fy '14 salary
4 grade, so you can see that -- the identifier for the grade.
5 And then we have the minimum, the Q-1, which signifies the
6 top end of the first quartile, and so we divide our ranges
7 into quartiles. We have the minimum, the top of Q-1, the
8 midpoint, the top of Q-3 and then the maximum. So, from the
9 minimum to the next number, the Q-1 number, we would consider
10 that someone paid in the first quartile. From that Q-1
11 number to the midpoint, we would say they're paid in the
12 second quartile. From the midpoint to the Q-3 number, we
13 would say they're paid in the third quartile. And then from
14 Q-3 to the maximum, they would be considered paid in the
15 fourth quartile for that range.

16 Q And then there's other -- moving along to the
17 right, it looks like there's other time-frames listed here?

18 A Correct.

19 Q So, do salary ranges change over time?

20 A So, yes, they can change over time. We review our
21 market data once a year and make determinations on whether we
22 shift all of our ranges, whether we leave them alone and
23 potentially re-grade jobs. You'll see, for example, the
24 software development VP, the 10060 job, was an E14 grade in
25 Fiscal '14, and an E14 grade in Fiscal '15, but then in

1 Fiscal '16 we re-graded it to E15, and that just indicates
2 that at that point in time, when we reviewed the market data,
3 the market had moved enough where just a general, we might
4 say we're going to move all ranges three percent in a given
5 year, but maybe that three percent wasn't quite enough for
6 the software development VP that year, so we said, okay, we
7 moved the ranges, but we also need to re-grade it, so that it
8 has a different range.

9 Q Okay. And again, without discussing specific
10 numbers, why are the salary ranges as broad as they are?

11 A So, salary ranges are broad to account for the
12 differences in knowledge, skills, abilities, what people
13 bring to the table, essentially. There's -- sometimes we
14 have new hires who come with some experience, but maybe
15 there's going to be some ramp-up time and they're not quite
16 meeting everything we would need for that particular job in
17 that particular level, so maybe we would place them somewhere
18 in low Q-2 or somewhere below the midpoint, because we expect
19 that there's going to be some ramp time.

20 Alternatively, we have people who come to the table
21 with a lot of experience, a lot of relevant experience, and
22 they're going to be able to hit the ground running and
23 contribute to that even higher than we necessarily expected
24 right away. And so we might say we're going to position this
25 person in the third quartile or maybe even in the fourth

1 quartile, because they bring a little extra.

2 Q Can the particular product on which an employee
3 works make a difference in terms of where they are placed in
4 the range?

5 A Absolutely.

6 Q How?

7 A So, there are -- we refer to those as hot skills,
8 so there are things that people could bring to the table. If
9 we're looking, for example, at a Cloud job today, the Cloud
10 skills are hot skills and the people that are coming to us
11 with Cloud skills can command more in the market.

12 Alternatively, we have people who are still working on
13 PeopleSoft products, that aren't as hot, and they don't
14 command as much in the market, and it's economics, we have to
15 pay more to the people who bring those hot skills to the
16 table, and our broad ranges allow us to account for that.

17 Q Do the breadth of salary ranges, are they
18 consistent at different IC and M levels, or do they differ?

19 A No. Those differ. So, general -- compensation
20 theory says that when you're lower down, say in the
21 administrative ranks or lower level ICs, there's going to be
22 less variation in what somebody brings to the table. You can
23 really kind of narrow what you expect to have to pay
24 somebody, because they don't have as much experience and
25 there's not going to be a lot of variation in what they

1 bring. But as you climb the ranks, you need to make your
2 ranges a little bit broader, because there could be big
3 differentiations. So, down lower, we're maybe at a 30 or 40
4 percent range spread from minimum to maximum, and when we get
5 up to like the M6s and M7s, we could be at \$100,000.00, I
6 mean it's huge, tens of thousands anyway.

7 Q Okay. Do salary ranges ever overlap?

8 A They do.

9 Q How does Oracle determine its salary ranges?

10 A So, we look at market data. Every year we request
11 -- we submit, as Oracle, submit our data, anonymously, to
12 these third party survey vendors. And we submit them into
13 these broad buckets, because the surveys have the similarly
14 broad buckets. We submit our employees with all of the
15 compensation data relevant for each individual, and then we
16 request from the survey companies -- we give them -- I think
17 we have like 26 companies on our peer list, we give them, we
18 place an order for our peer list and then the survey company
19 will send back to us the market data with the data only for
20 those companies that we've identified as our peers. And
21 we're able to look into that data and analyze whether, again,
22 whether we shift the ranges, whether we shift them all, do we
23 shift only some, do we re-grade -- we look at that every
24 single year.

25 Q Are there particular surveys that Oracle uses?

1 A The main survey we use is called: "Radford." And
2 then there's another survey called: "Comptryx," that's kind
3 of a secondary.

4 Q Okay. Does Radford have a particular area of
5 focus?

6 A Radford is absolutely high tech industry.

7 Q Okay. All right.

8 MS. CONNELL: I want to look at another exhibit,
9 Exhibit J-124. And actually the third tab labeled: "Career
10 Levels." Thank you.

11 BY MS. CONNELL:

12 Q Ms. Waggoner, I've placed before you what's been
13 entered into evidence as Exhibit J-124, do you recognize this
14 document?

15 A I do.

16 Q What is it?

17 A This is just a document to explain, in pretty
18 general terms, what we mean -- what each career level
19 represents in terms of contribution level and what they would
20 bring.

21 Q And do these guidelines -- so again, you testified
22 earlier about IC and M jobs, correct?

23 A Correct.

24 Q And so do these guidelines apply to both IC --
25 individual contributor and manager jobs?

1 A So, yes. We have -- if you scroll down -- there
2 are just broad definitions of what we would expect at the
3 individual contributor level, all the way up through the IC6,
4 and, like I said, it speaks to how people contribute at that
5 level, what level of contribution they bring to the role.
6 And then we go to the management.

7 Q Okay. Can you give us just an example, using the
8 document, of what you mean?

9 A So, yeah, so if I look at this staff professional,
10 IC3, so we say that that person is fully competent, the
11 duties and tasks are varied and complex, uses professional
12 concepts, at an IC3 we generally say that's probably around
13 five years of experience. And then it also speaks to -- as
14 you'll see -- the failure to obtain results could have
15 serious consequences and require expenditure of resources.
16 Then we go to the 4, we say this person is more senior, they
17 are a recognized authority or a leading contributor in that
18 area, they usually have about eight years of experience. And
19 it speaks, again, to the impact that it would have, their
20 decisions and their solutions may impact the current or
21 future design. So, it just -- these definitions are meant to
22 get -- to represent a little higher level of seniority at
23 each step.

24 Q Okay. And can you give a similar example, like you
25 just did, for the M levels?

1 A So, in the M, our M1 is supervisor. We don't have
2 a lot of supervisors at Oracle. But then when we get to M2,
3 that's our first-line manager. And you'll see in the M2 and
4 M3 we talk about contributes through others, so our M2 and M3
5 they have a team underneath them, they manage the work of
6 that team and ensure that things get done. Then we get to
7 direct and senior director, they contribute through
8 leadership and they've got managers under them who make sure
9 the work gets done. And then when we get to the VP and SVP
10 level, we're talking about strategy, and the M8 is talking
11 about vision. So, it just increases the scope and complexity
12 and it explains what we expect in terms of contribution at
13 each of those levels.

14 Q Okay. And do these career level guidelines apply
15 globally?

16 A They do.

17 Q And the document is entitled: "Guidelines," what
18 does that mean to you, if anything?

19 A So, it means -- it's setting out the definitions
20 and letting managers know what we expect. We, in general, to
21 give you an example, in general we expect that someone in an
22 M level has at least two direct reports. We find that on
23 occasion we discover an exception, so we say this is what we
24 expect, this is how we define it, and this is how we lay it
25 out. But it's not -- like there aren't serious consequences

1 if something doesn't quite line up this way. It's a
2 guideline to say this is what we expect and this is how we
3 define it.

4 Q Okay. Are you familiar with a concept called:
5 "Lines of Business"?

6 A I am.

7 Q What does the phrase: "Line of Business," mean to
8 you?

9 A So, "Line of Business," within the Compensation
10 organization, again, that's my area, we use the term "Line of
11 Business," when we're talking about a specific leader. And
12 in general, that leader is usually a direct report of one of
13 our CEOs. So, in this case, it would be a direct report of
14 Larry Ellison or Safra Catz. We, in Compensation, refer to
15 that as a "Line of Business."

16 Q Okay. Sticking now to the area of Product
17 Development generally, do you know what lines of business
18 exist in Product Development at present?

19 A So, in my -- again using my Compensation lens, we
20 consider the former Thomas Kurian direct reports to be the
21 Product Development, much of the Product Development
22 organization. And that would be Steve Miranda, Andy
23 Mendelsohn, Edward Screven, Ron Loaiza, Don Johnson. I feel
24 like I'm missing one. And T.K. Anand is the other one.

25 Q You mentioned Thomas Kurian. We've heard testimony

1 about him, but who is Thomas Kurian?

2 A So, Thomas Kurian was the former president of
3 Oracle Product Development.

4 Q Okay. And he's no longer with Oracle?

5 A He's no longer with Oracle.

6 Q When he was with Oracle, did he -- did Thomas
7 Kurian have a line of business?

8 A We generally refer to Thomas as it was Thomas' line
9 of business, but Thomas did not encompass all of Product
10 Development, because we also have Product Development
11 organizations within our GBUs, we have Product Development
12 that exists kind of many -- all over the company. Because
13 the way that the job table, the Global Job Table is supposed
14 to apply is that you assign the job code based on the duties
15 one performs, and it has nothing to do with where they sit in
16 the company. So, there are people in Product Development job
17 codes who sit in Human Resources. There are people in
18 Product Development job codes who sit in Marketing. It's
19 what they do and what their role is at Oracle, it has nothing
20 to do with where they roll up or who is in charge of them.

21 JUDGE CLARK: You said T.K., Anand, can you spell
22 it for us?

23 THE WITNESS: A-n-a-n-d.

24 JUDGE CLARK: Thank you.

25 BY MS. CONNELL:

1 Q As senior director of Global Compensation Programs,
2 and given your background at Oracle, are you familiar with
3 Oracle's process for setting starting pay?

4 A Yes.

5 Q Can you walk us through that process?

6 A So --

7 MR. GARCIA: Objection, foundation, Your Honor.
8 Starting pay is hiring.

9 JUDGE CLARK: Say that again?

10 MR. GARCIA: Starting pay is hiring, she hasn't
11 given us any foundation for hiring, other than she's looked
12 at some requisitions, but not how pay was determined for
13 those requisitions.

14 JUDGE CLARK: Overruled.

15 You can answer the question.

16 THE WITNESS: Can --

17 JUDGE CLARK: Ask your question again.

18 BY MS. CONNELL:

19 Q Well, I first asked senior director of Global
20 Compensation Programs, are you familiar, and given your
21 background in Compensation at Oracle, are you familiar with
22 Oracle's process for setting starting pay?

23 A I am.

24 Q Can you walk us through that process, please?

25 A So, starting with the posting of a requisition, a

1 manager would determine what the need is on the team, and
2 decide what level they want the contributor to come in, and
3 they would post that job. And in posting that job, that
4 manager also has access to what the range is for that job.
5 So, they have a general idea of what the market is paying and
6 where that is going to -- where that table would fall --
7 would likely fall with the candidates that come.

8 Then, as people apply, they look into their
9 internal equity, they figure out what the peers truly do
10 similar work to what this person is going to -- this new hire
11 is going to be doing, they would look at those peers. They
12 would look at what that candidate brings to the table,
13 whether it's a little more than we need, a little less than
14 they need and they need some grooming, and then they would
15 make their decisions based on their internal equity and the
16 internal approach of what's on that team in terms of
17 salaries, and then factor in what that person will bring
18 individually.

19 Q I want to back up just a little bit. We did look
20 at some sample job postings -- just to confirm for the
21 record, the content for the job posting is determined by the
22 hiring manager before the job is posted, is that correct?

23 A Yes, absolutely.

24 Q Does that include the job code?

25 A So, the manager decides what it is, what their need

1 is, and yes, chooses the code before looking at candidates,
2 before talking to anybody, before -- they have to identify
3 what the job code is that they're looking to fill, well,
4 before they're talking to any candidates.

5 Q Can a manager change the job code on a job
6 requisition, depending on the candidate selected?

7 A The manager is free to hire up one level or down
8 one level from what was posted, depending on what their
9 candidate brings, but cannot change the family, as we talked
10 about the family. If it's posted as a software developer 3,
11 they can hire -- they can bring that person onboard as a
12 software developer 4, or a software developer 2, but they
13 can't change it to a QA, for example.

14 Q Does the specific product on which a candidate will
15 work play a role in starting pay?

16 A Yes, absolutely.

17 Q how so?

18 A So, again, as I mentioned before, there are certain
19 skills in the market that can command more. And right now
20 it's about machine learning and AI, and Cloud skills. And so
21 if that manager has a posting for a job that's going to work
22 in AI, they're pretty much guaranteed they're going to have
23 to pay higher in the range than a posting for a manager who
24 has an opening for a PeopleSoft product or any other legacy
25 Oracle product.

1 Q What are some other legacy Oracle products that
2 come to mind for you?

3 A So, Fusion, CRM -- gosh, I'm drawing a blank.
4 We've got so many Oracle products.

5 Q That's okay.

6 A I'm not a product person, sorry. We've got lots of
7 Oracle products. Database.

8 Q Okay. You listed some factors that managers can
9 consider in setting starting pay. Is an employee's prior pay
10 a factor that managers can consider?

11 A It is not. We have a policy as of October of 2017
12 that prior pay -- they shouldn't even know prior pay -- so,
13 no.

14 Q Prior to 2017, were managers required to consider
15 prior pay?

16 A No.

17 Q Has Oracle ever had a policy requiring managers to
18 consider prior pay in setting starting pay?

19 A Not to my knowledge.

20 Q Okay. We'll return to the topic of prior pay a
21 little bit later. Is there an approval process for starting
22 pay decisions?

23 A Yes.

24 Q Can you describe that process?

25 A So, when a manager submits an offer, we call that a

1 Workflow, and the manager would submit that Workflow with the
2 details of the offer, including what the base salary is going
3 to be. And then it works its way -- that Workflow works its
4 way up the chain of command until it gets approval by three
5 people who sit in what we call the BOD approved, it's the
6 Office of Approvers, so it's essentially the people who see --
7 -- give the final check of what's been put forth, before it --

8 MR. GARCIA: Objection, foundation, Your Honor.

9 JUDGE CLARK: Overruled. You can -- well, I think
10 you need to ask another question. That answer will stand.

11 MS. CONNELL: Okay.

12 BY MS. CONNELL:

13 Q Well, I think you were in mid-answer?

14 A Yes.

15 Q Why don't you finish your answer and then I'll ask
16 my next question?

17 A So, the people in that BOD Office of Approvers do
18 one final sanity check before it gets committed to the system
19 and the offer is fully generated.

20 Q Do you know the names of the three people that you
21 just referred to?

22 A So, it's Carolyn Balkenhol, Yvonne Sieber and Lynn
23 -- I don't remember Lynn's last name.

24 Q That's okay. And how do you know that those three
25 people, that you just identified, are responsible for doing

1 the final approval that you described?

2 A Because I used to work with them quite a lot when I
3 was part of -- when I was a compensation consultant. And I
4 still am in contact with Carolyn.

5 MR. GARCIA: Objection, hearsay, to the extent that
6 her knowledge is based upon what they told her, Your Honor.

7 JUDGE CLARK: Do you have a response?

8 MS. CONNELL: Well, she testified as to what she
9 knows. She didn't testify as to what they told her.

10 JUDGE CLARK: The objection is overruled.

11 BY MS. CONNELL:

12 Q Do you know what the scope of review is by the
13 three individuals that you just identified?

14 A So, they see hundreds and hundreds of these,
15 because it comes through them -- they come through globally.

16 MR. GARCIA: Objection, foundation, non-responsive
17 to the question. She asked: "Do you know," and she's
18 spouting off what they do and see.

19 JUDGE CLARK: So, why don't you tighten up your
20 question a little bit, or lay some more foundation.

21 BY MS. CONNELL:

22 Q Do you know their process for reviewing these
23 Workflows that you're describing?

24 A Okay. So, they come into their queue and they
25 check to see --

1 MR. GARCIA: Objection, foundation. She doesn't --
2 she's not saying how she knows this information, Your Honor.
3 She's just saying what they do.

4 JUDGE CLARK: So, overruled, at this point.
5 You can answer the question.

6 THE WITNESS: Okay. So, they are running a sanity
7 check to make sure that there's nothing rather outlandish
8 happening. There have been cases where maybe a zero is
9 missing in a salary and someone would end up with a salary of
10 \$10,000.00 instead of \$100,000.00. They're doing that sanity
11 check to see where -- does it make sense and is the
12 justification for that hire and what they're offering that
13 hire, is that crisp.

14 MS. CONNELL: Okay.

15 BY MS. CONNELL:

16 Q Does Oracle provide its managers with training on
17 how to make compensation decisions?

18 A We do.

19 Q Does Oracle also provide its HR employees with
20 training on how to support managers in making compensation
21 decisions?

22 A We do.

23 Q Who is responsible for creating this training?

24 A My team, in partnership with all of the Global
25 Compensation colleagues around the world.

1 Q Are you familiar with the content of the training
2 offered?

3 A I am.

4 MS. CONNELL: I'd like to pull up Exhibit D-24.

5 BY MS. CONNELL:

6 Q Ms. Waggoner, are you familiar with D-24?

7 A I am, yes.

8 Q What do you recognize it to be?

9 A This is a training that was delivered by the U.S.
10 Compensation team to HR and the business to help them learn
11 more about, basically -- I refer to it kind of as "Comp 101,"
12 it's just very fundamental level of managing Compensation at
13 Oracle.

14 Q Okay. I want to just go through some of the
15 slides.

16 MS. CONNELL: Can we turn to slide four, please?

17 BY MS. CONNELL:

18 Q Can you explain what this slide is articulating?

19 A So, this just sets the foundation for a manager --
20 say it's a new manager, a new HR business partner who needs
21 to learn this, this just sets the foundation for what's in
22 our job table. And it's similar to what I spoke to
23 previously, about a unique job code, then we have a system
24 title, the function is the type of work being performed, the
25 specialty area gives them a little bit more detail about what

1 kind of work it is, and then the career level is that broad
2 hierarchy category for the level of work being performed.

3 Q Okay. And then at the bottom of the slide that's
4 showing it, it looks like there's -- well -- what is the text
5 at the very bottom, below the slide?

6 A So, those would be the speaker notes for anybody
7 who was administering this training.

8 Q Okay.

9 MS. CONNELL: Let's take a look at the next slide,
10 slide five.

11 BY MS. CONNELL:

12 Q What is this slide indicating to you?

13 A So, this is just an explanation of what we mean by
14 each career path. We have our individual contributor path
15 and our manager path. And when we call out, specifically,
16 that there's no correlation between M and IC level, that
17 essentially means that if somebody, for example, is an IC4,
18 and they want to move into management, it isn't an automatic
19 that an IC4 would go to an M3 or that an IC6 would go to an
20 M5. It is evaluated case by case and it depends on what that
21 person brings in terms of management experience. And so we
22 want it to be clear.

23 It used to be that people assumed there was a
24 crossover and they would map exactly to -- that it was just a
25 given mapping from one ladder to the other ladder, but this

1 is a pictorial representation of that is not the intention,
2 at all. It really is about evaluating each on a case by case
3 basis.

4 MS. CONNELL: Okay. Let's look at slide six.

5 BY MS. CONNELL:

6 Q What does this show?

7 A So, this gives just general, again, the general
8 overview of what we mean by each career level and what a list
9 of discretionary titles may look like in a particular line of
10 business, maybe. And then what the responsibilities will be.

11 And you'll see from the one to the six it really speaks to
12 they come with no experience, to IC3, fully competent, to
13 then the 6 is the acknowledged expert and that person really
14 is well known within that community.

15 Q All right.

16 MS. CONNELL: And slide seven, can we move to slide
17 seven?

18 THE WITNESS: Same thing. Just a definition of
19 what the career levels are and what the system job titles
20 would be, what the sample discretionary titles may be within
21 this particular line of business, and then what we expect in
22 terms of the responsibilities and the level of the work
23 that's going to be performed in that career level.

24 MS. CONNELL: All right. Let's jump ahead to slide
25 16. Is this 16?

1 BY MS. CONNELL:

2 Q What is this slide conveying?

3 A So, this is just explaining what our salary ranges
4 are. You'll see it tells you a job code, has a grade, which
5 I discussed previously. And then a grade has a range.

6 Q Okay.

7 A So, it simply is introducing to the managers and HR
8 what the salary range is meant to -- what the purpose is of
9 the salary range.

10 MS. CONNELL: And let's move to slide 17.

11 BY MS. CONNELL:

12 Q What is this slide telling HR and managers?

13 A So, this is just a representation of kind of what
14 we would expect in terms of -- as I mentioned before, I spoke
15 to the core tiles within our ranges -- and this just helps
16 the manager and HR get a better understanding of what we
17 would kind of expect of where somebody might fall in their
18 range, based on what they bring. So, you'll see we mention,
19 specifically, someone is still new to the role learning, or
20 their contribution is below what we require, they might be in
21 Q-1. The midpoint is for those who are fully competent and
22 solid performers, and come with the experience and are
23 contributing at the level we expect for that job.

24 And then, finally, at the higher quartile, it's
25 employees' whose contribution is really high and they're

1 possibly ready for a promotion.

2 Q Okay. At the top, in red, it references:
3 "Performance." Why is performance referenced there?

4 A So, performance is referenced, because when you
5 take into account the people who are doing similar work,
6 those who are performing at a really high level tend to
7 command more in the market. And we would also pay the
8 outstanding -- the great performers higher, as well, because
9 they could go anywhere and earn more money. And so we have
10 to factor that in.

11 Q And then below "Performance," "Experience,
12 knowledge and skill," is listed. Why is that referenced
13 there?

14 A Yes, because there are varying -- as I mentioned
15 before -- there are various backgrounds that people bring to
16 the table. And so if somebody comes with the experience, the
17 knowledge and the skill to contribute at more than we expect,
18 they might be in the third or fourth quartile. If they have
19 some learning to do, but we're going to be asking -- we're
20 going to be pushing them, asking them to perform at that
21 level, we might be in the first or second quartile. But
22 those are the factors that we tell managers that they need to
23 consider, in addition to internal equity, when they're making
24 determinations on where to place somebody in a range.

25 Q I notice that product is not mentioned on this

1 slide, do you know why that is?

2 A So, product isn't mentioned, because that is --
3 that comes with the experience and the knowledge and the
4 skill, that's part of either they have experience in the
5 specific product we need and they have the specific
6 background with that product, or they don't. But product
7 isn't -- because this table is global and it applies to every
8 function around the world, so we have HR that has this, HR
9 has it, Legal has it, every function, Sales, Consulting.
10 Product doesn't necessarily matter in every single job
11 family. And so we say the product piece comes with the
12 experience and the knowledge and the skill of what somebody
13 brings.

14 Q And then over on the right-hand -- "External and
15 Internal Equity" are referenced. Can you elaborate on those
16 concepts?

17 A So, external equity would refer to Oracle's
18 internal salary ranges. So, the -- in general, a manager
19 doesn't have exposure other than in their own recruiting and
20 their own, maybe, conversations with people, they don't have
21 the direct access to the market surveys and the things that
22 we look at to establish these ranges. So, the market and
23 external equity would be more taking into account Oracle's
24 range. But the peers speaks to specifically who is in that
25 peer group, who is working on the same products, doing the

1 same things day to day, and within that particular
2 organization or hierarchy.

3 Q Okay. And then down in the "Talking Points," down
4 -- well -- down in the "Talking Points," down below, it
5 references: "Other factors to consider," do you see where I'm
6 looking?

7 A I do.

8 Q "Education" is listed among the -- in the first
9 bullet point. Why is education listed as something to
10 consider in terms of position and a salary range?

11 A So, we have some areas that are looking for say a
12 specific degree, a specific CS degree or maybe it's a
13 master's in something. There are certain jobs where the
14 preference is that they would have attained a certain level
15 of education, as well. And so when they bring those varying
16 levels from bachelor's degree to Ph.D., it just is
17 acknowledging that sometimes that additional education may
18 factor into where we would place you in the range.

19 Q Does the type of degree also factor in?

20 A It can.

21 Q Can you give an example?

22 A Well, we may have -- in Product Development, for
23 example -- we may have a specific requirement for a Master's
24 in Computer Science, or something. And it wouldn't -- that's
25 not saying we might not have exceptions to that, but the

1 preferred candidate, the manager could state that our
2 preferred candidate has a Master's in Computer Science, and
3 that's what they're looking for, for that particular role.

4 Q And I apologize if you already answered this, but
5 I'm not sure if I got your answer to the definition of
6 "Internal Equity," as reflected on this slide?

7 A So, the internal equity has to do with the manager
8 looking at the team, into which that manager is hiring, to
9 look for people who are performing already at Oracle, the
10 same role or similar role at that level, and making sure
11 that when we bring somebody onboard they're looking at and
12 considering what the people already at work will make who are
13 doing the same thing.

14 MS. CONNELL: Let's turn to slide 18.

15 BY MS. CONNELL:

16 Q This slide references a COMPA Ratio. We've heard
17 some testimony about COMPA Ratios. What is a COMPA Ratio?

18 A So, the COMPA Ratio is a number that references the
19 position of an employee's salary to the midpoint of the
20 range. So, an employee who is paid at midpoint would have a
21 COMPA Ratio of 1.0 or 100 percent.

22 Q And how are COMPA ratios used at Oracle?

23 A So, COMPA Ratios are used by -- it essentially
24 becomes a common language when we're looking at employees.
25 It might be a cross function, it could be within the same

1 function but across locations. It allows us to take into
2 account how that employee is paid in that particular market.

3 For example, a COMPA Ratio of 104 in our Bay Area ranges,
4 and a COMPA Ratio of 104 in our non-Bay Area ranges, just
5 tells us that in each case that person is paid about four
6 percent ahead of what the market is in that location. And so
7 it becomes that common language across geographies that a
8 manager can say I've got this team of people all doing the
9 same thing, but a couple of them are in Brazil and a couple
10 of them are in Australia, and a few of them are here in the
11 United States, if their COMPA Ratios are within -- are close
12 to one another, that tells you that you're paying them
13 similarly, although in very different markets.

14 Q Okay.

15 MS. CONNELL: Let's look at slide 22.

16 BY MS. CONNELL:

17 Q What is this slide saying?

18 A So, this speaks to the different things that a
19 manager should consider when making compensation decisions
20 for their employees.

21 Q Okay. And do you believe this is an accurate
22 summary of the general principles of managing pay?

23 A I do.

24 Q Including the talking points below?

25 A Yes.

1 Q Okay.

2 MS. CONNELL: Let's look to Slide 23.

3 BY MS. CONNELL:

4 Q It looks like this is: "Guidance for New Hires," is
5 that correct?

6 A Yes.

7 MS. CONNELL: I want to jump ahead now to slide 31.

8 BY MS. CONNELL:

9 Q What is this slide and the graphics signifying?

10 A So, this slide is telling managers that, in
11 general, the starting point for an internal transfer should
12 be at the same career level and the same base salary that
13 they're sitting in currently.

14 Q And why is this guidance given?

15 A So, we give this guidance because we want to
16 prevent the idea of poaching talent, and people hopping and
17 thinking that if they switch teams they might be able to get
18 an increase, or a manager is trying to entice somebody away
19 from their current team because they're going to get them
20 more pay. It tends to -- you can get in a situation of
21 creating almost a toxic work environment, if people always
22 think that they could get a raise if they move to another
23 team. So, it's intended to just kind of lay that general
24 guideline that we want people to think about this in terms
25 of, okay, I want to go here for this different career

1 opportunity, but it's not about I'm chasing my next increase.

2 Q Are exceptions made to this guideline?

3 A Absolutely.

4 Q And if an employee transfers laterally -- so if
5 it's a lateral transfer, does that signify no pay change?

6 A Lateral transfer signifies no pay or grade.

7 Q Okay. And then in the case of a lateral transfer
8 can employees get pay increases after the transfer?

9 A Yes.

10 Q Okay. I want to move to some additional training
11 materials, and I want to start with Exhibit J-143.

12 A Okay.

13 Q Do you recognize this document?

14 A I do.

15 Q What is it?

16 A This is one of the modules that we developed back
17 in 2011. This was a project that I worked on with all of my
18 Global Compensation counterparts, to really lay a foundation
19 for how compensation should be handled at Oracle. There were
20 nine different modules, because the intention was that
21 managers didn't want to sit through a full four-hour or
22 five-hour training on comp, but if we cut them down they
23 could. It was kind of this on-demand idea where they could
24 learn about different topics and compensation on their time.

25 Q Are these trainings still used at Oracle?

1 A They are.

2 Q Have they been updated in any way?

3 A Yes. So, you would notice this version, some of
4 this content was in that previous exhibit that you set out,
5 that was in June of 2016, so much of the -- we call it "Comp
6 101" -- so much of the Comp 101 content from 2011, the pieces
7 were brought together to make one overall presentation in
8 June of 2016. And then we've also now kind of modernized and
9 moved to a new platform with a third party vendor, and
10 they've taken a lot of this content and just moved it to a
11 different platform, so that managers can get the same
12 material, just in a different way.

13 Q Has the substantive content changed or is it the
14 format that's changed?

15 A It's mostly the format.

16 Q And are these trainings, that we've been reviewing,
17 mandatory?

18 A They are not.

19 Q How are they communicated to managers?

20 A So, when they very first came out we did some
21 e-mail announcements and the HR business partners really take
22 on the responsibility of making sure that the managers know
23 these are available and making sure that they have access and
24 know where to find them. And even with the newer content
25 today, we did an e-mail blast, right before our last focal,

1 we did an e-mail blast to all managers to say please check
2 out this material, there's new fundamental explanations and
3 information for you to learn more about compensation at
4 Oracle. So, we've done a couple of different blasts in that
5 way to managers, but for the most part this is about HR
6 knowing where to send the managers if they're asking
7 questions.

8 Q Okay.

9 JUDGE CLARK: So, Ms. Connell, we need to take an
10 afternoon break. Is this a good place?

11 MS. CONNELL: Sure.

12 JUDGE CLARK: Okay. We're going to take a
13 10-minute break. We'll be off the record until 4:30 o'clock
14 p.m.

15 (Off the record at 4:20 o'clock p.m.)

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

17 Ms. Waggoner, you can take the stand.

18 Okay. We're back on the record. All parties are
19 present. Ms. Waggoner has retaken the stand.

20 Ms. Connell?

21 MS. CONNELL: Yes, Your Honor. Before we continue
22 with the questioning, I wanted to just raise one thing. I
23 think I probably have about a half hour more questions for
24 the witness, and OFCCP had estimated an hour on cross, which
25 takes us a little bit -- it does take us past the 5:30

1 o'clock p.m. mark.

2 JUDGE CLARK: Okay.

3 MS. CONNELL: Ms. Waggoner is in town from Denver,
4 Colorado. We would like to finish up with her today, if
5 possible. If we could go a little bit later today, we would
6 like to make that request.

7 JUDGE CLARK: Okay.

8 Mr. Garcia?

9 MR. GARCIA: Your Honor, we'll probably be doing
10 more than an hour of cross, based on the testimony. Also,
11 when we identified the cross, it was identified when we
12 expected to put on -- or to both put on as well as respond to
13 a lot more witnesses. So, we'll probably go beyond an hour
14 of cross, Your Honor.

15 JUDGE CLARK: So, Mr. Garcia, this witness will
16 take as long as this witness takes --

17 MR. GARCIA: Okay.

18 JUDGE CLARK: -- but when I read the witness list,
19 I sort of had an understanding that that was the estimate of
20 cross. No one indicated to me that you thought you'd take
21 more time. It almost feels like you're purposely taking more
22 time, because you might have more time.

23 MR. GARCIA: I've developed, Your Honor, my
24 questions will probably be beyond more than an hour. It's
25 not like I'm trying to take more time today, to prevent her

1 from going back to Colorado today.

2 JUDGE CLARK: Okay.

3 Ms. Connell, at this point, we'll just go -- take
4 the questions and we can go a little bit later, and see if we
5 can finish. If not, we may have to have her come back or
6 finish first thing in the morning, or we'll figure something
7 out.

8 MS. CONNELL: Understood. Thank you, Your Honor.

9 Okay. I think we had on the screen J-143. If you
10 can just please pull that back up.

11 BY MS. CONNELL:

12 Q So, I'm going to try to move quickly through the
13 next few sets of slides. I don't want to spend a lot of time
14 on them. But if we can just look at the second slide of
15 this, you had mentioned modules, are these the other modules
16 in this set of trainings?

17 A Yes.

18 Q Okay. I want to jump ahead to what I believe is --
19 well -- strike that.

20 MS. CONNELL: Just for identification purposes,
21 really, can we pull up J-144, please?

22 BY MS. CONNELL:

23 Q Is this the module covering the job classification
24 and Global Job Table?

25 A Yes, it is.

1 Q Okay. And looking at --

2 MS. CONNELL: And now if we can look at Exhibit
3 140?

4 BY MS. CONNELL:

5 Q Is this the module covering salary ranges for
6 managers in HR?

7 A Yes, it is.

8 MS. CONNELL: And if we can no look at Exhibit J-
9 138?

10 BY MS. CONNELL:

11 Q This module is entitled: "Managing Pay." Do you
12 know what this module is intended to cover?

13 A Correct. This is a module that really kind of puts
14 into practice our applications, some of the things that we
15 know managers have to consider. They're samples of internal
16 transfers or new hires, or it really is how to apply the
17 general principles of compensation to decision making.

18 Q Okay. I want to draw your attention to slides five
19 and six, if you can look at them in tandem, since -- well --
20 so it looks like these two slides provide the general
21 principles for managing pay, is that correct?

22 A Yes.

23 Q And these have not changed, these are still
24 accurate descriptions of the general principles of managing
25 pay at Oracle today?

1 A Yes.

2 Q Including the talking points below?

3 A It's a lot of reading. Sorry.

4 Q Yeah. Sorry.

5 A Yes.

6 Q And in particular, on the slide six there's an area
7 that's highlighted in the talking points, referencing:
8 "Internal and External Equity." Do you see where I'm
9 looking?

10 A I do.

11 Q It also states here:

12 "When you are making pay decisions, consider
13 internal equity and be as fair as
14 possible. Differences need to be based
15 on fair, justifiable and non-
16 discriminatory criteria."

17 Do you see where I'm looking?

18 A I do.

19 Q And is that still an accurate reflection of a
20 general principle for managing pay at Oracle?

21 A Absolutely.

22 Q Also in the talking points, going back to slide
23 five, it discusses promotions, something we haven't talked
24 about yet. But it does reference that:

25 "A promotion does not necessarily

1 require a salary increase at the same
2 time."

3 Do you see where I'm looking?

4 A Yes.

5 Q We've had some testimony in this case about
6 promotions that are not always accompanied by a salary
7 increase, can you elaborate on why that happens?

8 A So, sometimes there would be a promotion that
9 wouldn't have a salary increase, it's possible that the
10 employee -- it's very much case by case, each situation is
11 reviewed, but it's possible. Maybe the employee is already
12 -- as we mentioned the ranges overlap -- so maybe the
13 employee is already well positioned in the new range for what
14 they're going to be doing. And the other thing, as I
15 mentioned earlier, and the way to use the different quartiles
16 of a range, it's a general principle, also, that somebody new
17 to the role or new to the level would be paid more in the
18 range. So, if a newly promoted employee is just getting in
19 and they're positioned appropriately for that new job, the
20 manager may wait.

21 Q What do you mean "wait"?

22 A They might wait until the next focal, when there's
23 an overall budget for money to be spent on those promotions.

24 Q Have you heard of a concept called a "Dive and
25 Save"?

1 A Yes.

2 Q What is your understanding of a "Dive and Save"?

3 A So, another word for a "Dive and Save" would be
4 like a counter offer, where an employee has -- either has an
5 offer in hand or is on the verge of getting an offer, because
6 they've been seeking elsewhere, and they would go to their
7 manager to talk to them about potentially leaving Oracle.
8 And the manager might decide that they want to counter that
9 and we refer to it as a "Dive and Save", because we're
10 thinking of these employees as having one foot out the door
11 and the manager is trying to like buy and save them from
12 leaving.

13 Q Okay.

14 MS. CONNELL: And just to round out the various
15 modules on compensation training, can we look at Exhibit
16 J-142?

17 BY MS. CONNELL:

18 Q Do you recognize this document?

19 A I do.

20 Q What is this document?

21 A This is just a module speaking to our specific
22 compensation processes, meaning the focal, equity and
23 corporate bonus program.

24 Q Okay. I want to briefly return to the topic of
25 prior pay before moving into those global compensation

1 processes.

2 MS. CONNELL: Can we pull up Exhibit P-40, please?

3 BY MS. CONNELL:

4 Q Ms. Waggoner, do you recognize this document?

5 A I do.

6 Q I notice that it has a sticker on it indicating it
7 was an exhibit at one of your depositions, correct?

8 A Yes, it was.

9 Q Okay. Can you tell us what this document is?

10 A So, this document is just the frequently asked
11 questions to inform managers and HR of our new ban, effective
12 on October 31st, of managers asking candidates for their
13 prior pay.

14 Q Do you know if this document was communicated to
15 managers?

16 A Yes.

17 Q Do you know how it was communicated to managers?

18 A So, there was an e-mail sent to managers of U.S.
19 employees and then this was a link provided to them to go
20 find these FAQs.

21 Q Okay. Was there training also offered on the
22 rollout of this new policy?

23 A Yes.

24 Q And I want to draw your attention, underneath the
25 "Introduction," the second paragraph under the

1 "Introduction," states:

2 "To ensure Oracle is compliant with
3 these laws, Oracle removed the current
4 salary field from the I-Recruitment Job
5 Offer Form, and will prohibit questions
6 regarding salary history during the
7 hiring process for all U.S. locations,
8 effective October 31st."

9 My question is, what is the I-Recruitment Job Offer
10 Form?

11 A So, the I-Recruitment Job Offer Form is what a
12 manager uses when they initiate an offer, when they've
13 selected their candidate. They go into a system called
14 I-Recruitment, to enter the details of that offer.

15 Q And did it used to contain a field for current
16 salary?

17 A It did.

18 Q And why did Oracle remove the field for current
19 salary at the time that it rolled out this policy?

20 A They removed it to ensure that there would be no
21 misunderstanding from our managers that that was -- that that
22 could be even considered.

23 Q Did the fact that the I-Recruitment Job Offer Form
24 had a field for current salary on it prior to October 27th --
25 October of 2017 -- mean that managers were required to

1 consider prior pay in setting start pay?

2 MR. GARCIA: Objection, foundation.

3 JUDGE CLARK: Overruled.

4 You can answer the question.

5 THE WITNESS: No, it didn't.

6 BY MS. CONNELL:

7 Q And why do you say that?

8 A Because we wouldn't -- we would never say and none
9 of our training says -- we would never say that you are
10 required to consider this in making your offers.

11 Q And as you -- I think I asked you this, but are you
12 aware of any policy at Oracle requiring consideration of
13 prior pay?

14 MR. GARCIA: Objection, foundation.

15 JUDGE CLARK: Overruled.

16 THE WITNESS: No, I'm not aware of a policy.

17 BY MS. CONNELL:

18 Q All right. I want to turn to the Global Programs.
19 I think you mentioned one of them was Focal?

20 A Yes.

21 Q What is a Focal Program or a Focal Review, what is
22 a Focal?

23 A So, what we mean by focal is that there's one point
24 -- focal just essentially refers to a one point in time where
25 the salaries of eligible employees are reviewed at a company.

1 Some companies, particularly smaller companies, they might
2 call it -- they might do their reviews for salary on an
3 anniversary basis, so each anniversary someone may be
4 eligible to get an increase. But at many companies,
5 particularly large companies, it's a one point in time, so
6 everybody is reviewed, all the eligible employees are
7 reviewed at the same time.

8 Q And I think you said your team is responsible for
9 administering the --

10 A Yes, correct.

11 Q What do you mean by that?

12 A So, my team is responsible for -- we use our own
13 product, it's an Oracle Workforce Compensation, it's called.

14 And my team is responsible for working with IT to set all of
15 the script for eligibility, profiles and making sure that the
16 data contained within them is accurate and correctly reflects
17 the organization at the point in time that we do the focal
18 review. And then we would let HR know, we communicate
19 timelines and the overall corporate level, we communicate to
20 HR and our leadership when those things are going on and what
21 the deadlines are for various steps.

22 Q Okay. Can you walk us through the process of a
23 focal review?

24 A Okay. So, first, when we -- for base salary
25 increase, the Global Compensation teams do their market

1 research, check the market data to figure out what we might
2 need. They look at CPI, they look at attrition, they look at
3 various factors in each country, and we come up with a
4 proposal for what our budget would be by country. From there
5 we roll all of that -- at the same time, we're working within
6 our Workforce Compensation tool, to determine what the
7 eligible salaries will be for the employees in that tool.
8 So, for example, most of our employees would come with a full
9 365 days of eligibility, they were there for the whole
10 period. But new hires, you might have people who were only
11 there six months, so their eligible salary would be half of
12 their salary. We have a minimum of being there 61 days in
13 order to be eligible, at all, but it takes into account all
14 of those prorations and then we come up with an eligible
15 salary by country. And when we apply the percentage that we
16 recommend, based on market data, CPI, attrition, things going
17 on in that particular country, we apply that to the eligible
18 salaries to roll up and get a master budget at the very, very
19 top BOD level.

20 From there, I take the budget -- the total cost
21 information and have conversations with -- it used to be Mark
22 Hurd and Safra Catz, this year it will be just Safra. And we
23 have conversations about how should we take that budget and
24 push it down one level. And there may be areas that get a
25 little more or a little less, but it really starts at the

1 very, very top. And Safra will take a little bit of money
2 for each of their direct reports, for their own increases,
3 and then from there we cascade that next level of budget one
4 level down. And then that is where like a Steve Miranda or
5 Juan Loaiza, they all come in and they get their budget at
6 the top level, and then they take into account their own
7 factors in their business and decide how that budget will be
8 pushed to the next level, and so on and so on.

9 And then managers -- generally it's the direct
10 managers who have the knowledge of the employees and how
11 they're performing and what they're doing, and the managers
12 would go in to make the increases within the tool. And then
13 those would, again, cascade up for final processing in the
14 end.

15 Q Okay. So, I think you -- so if I understand it
16 right, the budget gets cascaded down, from you said, Ms.
17 Catz?

18 A Yes.

19 Q And just for the record, why is it that Ms. Catz is
20 no longer doing it with Mark Hurd?

21 A Because Mark Hurd passed away.

22 Q Okay. And then so Ms. Catz will allocate budget to
23 the line of business heads, is that correct?

24 A Correct.

25 Q And then they allocate it further down in their

1 lines of business, correct?

2 A Correct.

3 Q Is there a particular level that it goes down to
4 across the lines of business?

5 A So, that would depend. With focal -- as I
6 mentioned with focal and the salary increase decisions,
7 generally the people with the best knowledge of those
8 employees and the level that they're contributing and what
9 their performance is, is generally the direct managers. So,
10 in some cases, some businesses will push it all the way down
11 the hierarchy, others might stop at the senior
12 manager/director level, but there still is input and
13 conversation happening with the directs. And I can give you,
14 for example, in my own case, I don't get a budget every year,
15 but even if you don't get a budget, you can go into that
16 Workforce Compensation tool and enter the increase amount for
17 your employees, and then your manager sees what you've put in
18 there.

19 MR. GARCIA: Your Honor, there's a lack of
20 foundation. She just testified about her own knowledge when
21 she receives the budget, but she has not established a
22 foundation for her knowledge about how all the direct reports
23 across the world, and all the cascading down across the
24 world, happens.

25 MS. CONNELL: Can I ask her to lay some foundation?

1 JUDGE CLARK: Well, if you need to. I was going to
2 overrule the objection.

3 MS. CONNELL: Yeah, okay.

4 JUDGE CLARK: You can ask her more questions.

5 MS. CONNELL: Yeah.

6 BY MS. CONNELL:

7 Q How do you know that, how do you know that this is
8 how the focal process works?

9 A Because I used to be the comp consultant for these
10 people and would have some conversations, sometimes. And I'm
11 also -- because I'm part of the administration team of it, I
12 can see who has budget and who doesn't. And it shows for
13 people -- sometimes, when I go in there, I see that somebody
14 is in the negative, but it's because they didn't get the
15 budget pushed down, but they're still allowed to make the
16 decisions. And then as it works its way up the chain, it
17 stays within the budget.

18 Q So, once the allocation decisions are made, and
19 once the individual increase decisions are made, is there an
20 approval process?

21 A There is.

22 Q Can you describe that, please?

23 A So, within Workforce Compensation, it's set up so
24 it would be approved up the hierarchy. So, the direct
25 manager would submit then to her manager, who then submits to

1 the next manager, and so on, all the way up to the Safra
2 Catz, Mark Hurd, Larry Ellison level. But if a manager
3 anywhere in that hierarchy does not officially click the
4 "submit" button, it can still happen where somebody above
5 submits and then everybody is locked out. So, once you click
6 "submit," you're locked from making any changes and it just
7 works its way up the chain.

8 Q Do you know the scope of review on that approval
9 process?

10 A So, the higher up you get, the less you're going to
11 know about those individuals. And so --

12 MR. GARCIA: Objection, foundation, Your Honor.

13 JUDGE CLARK: Lay a little more foundation, how she
14 knows that.

15 MS. CONNELL: Okay.

16 BY MS. CONNELL:

17 Q Let me first just ask, do you know the scope of
18 review for the approval process?

19 A At the --

20 Q Just yes or no?

21 A Yes.

22 Q And how do you know?

23 A Because I see this stuff happen and I'm part of
24 watching those approvals happen. And then at the very top,
25 I'm the one who seeks the approval from Safra and Mark and

1 Larry, and I'm the one who presents the data to them to give
2 us that final go ahead to submit for processing.

3 Q And based on your personal knowledge, what is the
4 scope of review back up the chain?

5 A So, my personal knowledge with what our top level
6 looks at is did these people stay within budget, did they
7 spend only what we gave them? And when we present the data
8 to them, we give them the detail, we give them a salary
9 table, and we give them the detail, and their review is quick
10 and if it's within budget we proceed.

11 Q And just so the record is clear, who is the "them"
12 in your testimony just now?

13 A In this testimony it would be Mark and Safra and
14 Larry, in history. And actually, I should say Safra reviews
15 it on behalf of Larry, but she -- when she replies it says:
16 "LJE Approved."

17 Q Okay. So, if I understand your testimony
18 correctly, she has approval to -- she has authority to
19 approve on --

20 A On behalf of Mr. Ellison, yes.

21 Q Got it. Are any guidelines given in terms of how
22 to make salary increase decisions during a focal?

23 A So, it goes back to our compensation training,
24 where we speak specifically to factoring in knowledge,
25 skills, experience, performance and internal pure equity, to

1 look at what everybody else on the team is looking at, and to
2 make sure that any differentiation in what they're making can
3 be explained by anything other than discriminatory factors.

4 Q Okay.

5 MS. CONNELL: Can we pull up Exhibit J-138, again,
6 and specifically I want to look at slide 17.

7 BY MS. CONNELL:

8 Q Do you recognize this slide?

9 A I do.

10 Q And is this slide, as well as the talking points,
11 an example of the guidance that's given?

12 A Yes.

13 Q Okay. Do you know if any additional guidance is
14 given within specific lines of business?

15 A I can't speak to that.

16 Q Okay. All right. You also mentioned Equity as a
17 Global Program, is that correct?

18 A Yes.

19 Q And is the process for an Equity Program similar to
20 the process you described for the Focal Program?

21 A It's similar once you get a budget. For the Equity
22 Program, I don't work with my -- with my global peers to --
23 or not peers, but the global representation from each region,
24 I don't work with global representation from each region,
25 because equity is really more of a -- that whole process is

1 generated more from corporate, and we don't seek market
2 input. I do the modeling based on our headcount, the career
3 levels, what's happened in prior years, and so I make the
4 initial model for what an equity budget would look like. And
5 then I work directly with our CEOs, to review what that model
6 would mean for them and then one level down from them. And
7 then they tell me if they'd like me to increase or decrease,
8 or go with exactly as I have modeled. And then I push it
9 down one level and then communicate to those leaders that
10 they have their budget, and then they make their
11 determination on how to push it down to the next level and so
12 on.

13 Q Okay. Other than what you've already testified to,
14 are there differences in terms of the process with regard to
15 an equity program and a focal program?

16 A So, the biggest difference with equity is that
17 equity doesn't tend to get the budget, those decisions are
18 made at a higher level. Equity does not get distributed as
19 far down into the organization as say salary increases. And
20 so generally, when you see the budget pushed down for an
21 Equity Program, it would stop at an M6, maybe an M5, because
22 predominantly that pool ends up going to our higher level
23 employees. And so it's the higher level leadership that is
24 really making those decisions for equity.

25 Q What types of equity does Oracle offer?

1 A So, today, Oracle offers just restricted stock
2 units.

3 Q In the past did Oracle offer other types of equity?

4 A In the past we offered stock options.

5 Q Okay. And how was it decided whether an employee
6 -- during the time that Oracle offered both, how was it
7 decided what type of equity an employee might get?

8 A So, we had a time period of a few years where we
9 allowed the employees the opportunity to choose whether they
10 want their award as options, RSUs, or a combination of the
11 two. So, they could get half of their grant as options or
12 half of their grant as RSUs.

13 Q And is any guidance given with regard to Equity
14 Programs, in terms of how to allocate equity?

15 A We speak to keeping in mind your top performers and
16 those most critical to the organization. And because equity
17 is used as a retention tool, being mindful of your high
18 performers that are most critical to retain in an Equity
19 Program.

20 Q I think you also mentioned that Oracle has a Global
21 Bonus Program, is that correct -- or a Bonus Program -- I
22 don't want to mis-characterize it?

23 A We call it a Corporate Bonus Program.

24 Q Okay.

25 A Yes.

1 Q And is the process for a Bonus Program similar to
2 the process that you've described for Focal and for Equity?

3 A In the years that we have it, it would be similar,
4 yes.

5 Q So, from your answer, I take it that there is not a
6 Bonus Program every year, is that correct?

7 A That's correct.

8 Q And who is -- in the years when you had a Bonus
9 Program, who was primarily responsible for making bonus
10 decisions regarding individual employees?

11 A That would be the direct managers.

12 Q And why do you say that?

13 A Because those are the employees who know best, the
14 employees themselves, and what their performance was in that
15 particular period.

16 Q And for a -- I don't recall if I asked this for
17 Equity, but for the Bonus Program is the approval process
18 similar as you described for a Focal Program?

19 A Yes, it is.

20 Q And for an Equity Program, is the approval process
21 similar as you described for a Focal Program?

22 A Yes, it is.

23 MS. CONNELL: Bear with me.

24 JUDGE CLARK: No problem.

25 BY MS. CONNELL:

1 Q All right. I'm going to transition to another
2 topic, Acquisitions.

3 A Okay.

4 Q I believe you said that -- actually, before turning
5 to acquisitions, I found what I was looking for. You talked
6 earlier about "Dive and Saves," correct?

7 A Yes.

8 Q Okay. And "Dive and Saves," are those part of the
9 Global Programs that you were referring to?

10 A No, they're not, they're separate.

11 Q Are there other types of pay increases that can
12 happen, other than a "Dive and Save" or the Global Focal
13 Program that you described?

14 A Yes, we refer to those as: "Off Cycle."

15 Q And what types of circumstances might warrant an
16 off cycle pay increase?

17 A So, a manager may propose an off cycle salary
18 increase for -- they might do it for a promotion. They might
19 do it if somebody has recently increased their
20 responsibilities, maybe somebody has left the team and their
21 duties remained dispersed and so there's going to be a little
22 more asked of some of the people who are left. And they also
23 can do it if they, in the review of their own team, they've
24 discovered some sort of internal equity concern that they
25 can't explain on the basis of knowledge, skills, abilities,

1 performance level, they could also propose it in that case to
2 try to close an internal equity gap concern that they have.

3 Q And is training offered regarding off cycle pay
4 increases?

5 A So, we speak to that in our Managing Pay Comp 101
6 module. We speak to what it would mean and just explain what
7 we would ask for in a business case, because the managers
8 would write their business case together and propose that
9 they get an increase.

10 Q Okay.

11 MS. CONNELL: I want to go back to Exhibit J-138,
12 slide 18.

13 BY MS. CONNELL:

14 Q It looks like this is some of the training provided
15 regarding off cycle reviews, is that correct?

16 A Yes.

17 Q Okay.

18 MS. CONNELL: And let's look at slide 19.

19 BY MS. CONNELL:

20 Q You had made reference to -- I think you said
21 "business justification"?

22 A Yes.

23 Q Is this slide training on the business
24 justification that you were referring to?

25 A Yes, it is.

1 Q Okay. And is the guidance that's given here still
2 applicable today?

3 A Yes.

4 Q And for off cycle pay increases, is the approval
5 process the same as you described for starting pay increases?

6 A Yes. It works its way -- the manager would submit
7 it in a Workflow and then it works its way up the chain for
8 approvals.

9 Q Okay. All right. Now I want to turn to
10 acquisitions. Can you -- well, first of all, can you just --
11 just to give some examples -- can you identify some of the
12 acquisitions that Oracle has engaged in over the years?

13 A PeopleSoft, Siebel, Sun Microsystems, NetSuite,
14 Micros.

15 Q And given your role in Global Compensation, do you
16 have a general sense of why Oracle engages in these types of
17 acquisitions?

18 A They purchase companies because they want to get in
19 that particular space. Sometimes that company maybe has a
20 product or a service that augments something we already have,
21 and in other cases they're buying it because we're not in
22 that space and they want to get into that space.

23 Q Does the rationale differ from acquisition to
24 acquisition?

25 A It does.

1 Q Okay. I think in your testimony you made reference
2 to a concept called "Mapping"?

3 A Yes.

4 Q What does "Mapping" mean in connection with
5 acquisitions?

6 A So, when we refer to "Mapping," on the Compensation
7 Team, we're speaking to looking at -- there's an LOB Mapping,
8 where they determine where these employees will fall within
9 the Oracle org structure. And there's also a Job Mapping,
10 and that's when I have a lead compensation M&A consultant who
11 looks at the information on the targeted employees and looks
12 at job descriptions, looks at org charts, and determines how
13 that particular -- how each of those employees would,
14 quote/unquote, "map" into Oracle's structure, into what job
15 code would we give them, how would their current variable
16 structure "map" into Oracle's practices, and how would we
17 bridge that from where they were at the target to where we
18 would bring them at Oracle.

19 Q And when, in the course of an acquisition, does
20 this mapping process take place?

21 A Very early, typically before announcement.

22 Q And when you're engaging in this process, can you
23 see personally identifying information of the employees at
24 the company being acquired?

25 A So, when -- I used to not have a person on my team

1 who did this.

2 Q Okay.

3 A And so I was responsible for a lot of it. And when
4 I was doing it, it was all anonymous, I didn't see any
5 personal -- they took names and everything out, everybody had
6 a number. I've been told that more recently the person on my
7 team does get a little more exposure to the "who," but she's
8 looking at the jobs, the descriptions, and then what does the
9 comp package look like, and that's how it's mapped.

10 Q Okay. How does Oracle determine compensation for
11 acquired employees?

12 A So, this is a process that's also evolved over the
13 years, as we learn from each acquisition. Back when I used
14 to do it, it really was more about we bring them over to
15 Oracle exactly as they are, we figure out what job code they
16 should be in and then we bring them over. And we would have
17 maybe a six to nine-month period where we would learn more
18 about what those employees are going to be doing, where
19 they're going to land. And then we would address any issues
20 we had with their compensation.

21 Over the years, as we've learned more, we've
22 realized that it makes more sense to look at each
23 acquisition on a case by case basis, but we would look at the
24 compensation offered to those employees, determine where that
25 falls within our own Oracle ranges, within the new peer group

1 that they're going to come into, and you look at each
2 situation differently. So, we would consider whether we need
3 to bump their salaries or do we need to buyout or give them
4 some sort of compensation for a benefit that they might lose,
5 or if they have -- say they have a 20 percent bonus target at
6 the target company and it's going to go down to 10 percent at
7 Oracle, we might buyout some of that. So, it's a way to
8 ensure that when we buy these companies and we bring those
9 employees over, that they come in satisfied with the way that
10 happened and they're ready to hit the ground running as an
11 Oracle employee.

12 Q Okay. Just a few more questions. Do you know
13 Joyce Westerdahl?

14 A I do.

15 Q Who is she?

16 A She's the executive vice president of Human
17 Resources at Oracle.

18 Q What role, if any, does Ms. Westerdahl play in
19 making compensation decisions for employees in Product
20 Development, IT and Support job functions?

21 A No role at all.

22 Q Does Ms. Westerdahl have any responsibility for
23 approving compensation decisions for employees in Product
24 Development, Support or IT job functions?

25 A No, she does not.

1 Q Does Ms. Westerdahl play any role with respect to
2 the Global Programs that you've described?

3 A No, she does not.

4 Q You mentioned earlier that you have been with
5 Oracle since 2005, correct?

6 A Correct.

7 Q Based on your own personal experience, can you
8 describe your impressions of the work culture at Oracle,
9 specifically with respect to women?

10 A The work culture with respect to women is great.
11 We have women in leadership, we have women making huge
12 decisions every day at Oracle. I feel very supported.

13 Q In carrying out your job duties at Oracle, do you
14 frequently interact with members of Oracle's HR team?

15 A I do.

16 Q And what is your impression of the culture within
17 the HR organization at Oracle?

18 A Regarding women?

19 Q Correct.

20 A I think the culture is very, very friendly to
21 women, there's a lot of women leaders in HR at Oracle.

22 Q What about with respect to employees of different
23 races?

24 A Also very well respected, very well represented.
25 We win awards for our diversity and inclusion in the programs

1 that we have.

2 Q Have you, personally, ever felt that you were
3 treated differently or disadvantaged because of your gender?

4 A No.

5 Q Have you taken non-discrimination training at
6 Oracle?

7 A Yes, I have.

8 Q Did it cover non-discrimination with respect to
9 compensation?

10 A It sure did.

11 Q Have you taken Affirmative Action training at
12 Oracle?

13 A Yes, I have.

14 Q Do you know if these trainings -- excuse me --
15 strike that.

16 Have you taken Code of Conduct training at Oracle?

17 A Yes, I have.

18 Q Did the Code of Conduct training also cover the
19 concept of non-discrimination?

20 A Yes, it does.

21 Q And does the Code of Conduct training specifically
22 cover the concept of non-discrimination with respect to
23 compensation?

24 A Yes.

25 Q Do you know if these trainings are required?

1 A They are mandatory.

2 MS. CONNELL: I have no further questions.

3 JUDGE CLARK: Okay.

4 Mr. Garcia?

5 CROSS-EXAMINATION

6 BY MR. GARCIA:

7 Q Do you know someone named Sue Charley?

8 A I do.

9 Q How do you know her?

10 A I used to work for Sue.

11 Q And she was the vice president of Compensation
12 before Phil Jenish, correct?

13 A Yes, she was.

14 Q And Phil Jenish replaced her, correct?

15 A Yes.

16 Q Now, you worked as a communication consultant
17 between 2005 and 2012, correct?

18 A A compensation consultant, not communication.

19 Q I apologize.

20 A But yes.

21 Q I'm trying to go a little faster. Okay. And what
22 aspect did you have any relationship with Product
23 Development?

24 A Product Development was one of my client groups.

25 Q Okay. And from 2012 to 2017, Product Development

1 was no longer your client group, correct?

2 A I managed the people who -- for whom Product
3 Development was their client.

4 Q So, Lisa Gordon and you were peers, correct?

5 A Lisa Gordon and I were peers and she took Product
6 Development -- I forget what year it was, but there was a
7 time in the 2017 -- because you said 2017, but to 2017, there
8 was a time early on when I still had Product Development.

9 Q Okay. So, in 2013, did you have Product
10 Development?

11 A I think so, I'm not positive. I don't remember all
12 of the dates.

13 Q I see. Because wasn't Lisa Gordon's responsibility
14 Product Development support?

15 MS. CONNELL: Objection, lacks foundation.

16 JUDGE CLARK: Overruled.

17 You can answer that question.

18 THE WITNESS: So, I don't remember what year Lisa
19 Gordon joined. She came from the Sun acquisition. There was
20 a time -- as we've said there's Product Development in
21 various areas -- there was a time when Lisa supported some of
22 the Product Development leaders and I supported some of the
23 Product Development leaders. I don't know precisely when
24 that break was, I don't recall.

25 BY MR. GARCIA:

1 Q Now, you and Lisa Gordon divided up who did the
2 compensation processes, correct?

3 A We did.

4 Q You had Sales and Equity and she had Non-Sales and
5 Corporate Bonus, correct?

6 A That's correct.

7 Q And that was from 2013 to 2016, correct?

8 A I don't remember the dates.

9 Q So, during the period of time that Lisa Gordon had
10 it, then you did not know what was going on in terms of
11 Product Development, correct?

12 A As I said, I supported some Product Development
13 areas and so did Lisa.

14 Q Did you support Thomas Kurian?

15 MS. CONNELL: Objection, vague.

16 BY MR. GARCIA:

17 Q Did you support the Product Development of Thomas
18 Kurian?

19 MS. CONNELL: Objection, vague.

20 JUDGE CLARK: Overruled.

21 You can answer if you can.

22 THE WITNESS: Again, I don't know the precise year.

23 There was a time when Lisa supported John Fowler and I had
24 Thomas Kurian. Where that divide was, I don't recall
25 precisely.

1 MR. GARCIA: Okay.

2 BY MR. GARCIA:

3 Q So, you would admit that during the times that Lisa
4 Gordon had Product Development and you did not, you did not
5 know what was going on at that time, correct?

6 A What -- when I -- so when my new boss, Phil Jenish
7 came, it was about five years ago, and I took programs, I
8 took on this global role and took programs, and Lisa had the
9 consultative ring of compensation. I don't know, precisely,
10 when that happened. So, that would be correct, when Lisa was
11 managing the programs and I no longer had a direct client,
12 then yeah, I wasn't intimately involved with the Product
13 Development leadership.

14 Q And when Lisa Gordon administered the Focal Review
15 for Non-Sales, and you were administering the Focal for
16 Sales, you didn't have any involvement in terms of what was
17 going on during the focals for the Non-Sales, correct?

18 A There were times in there -- again I don't remember
19 the date -- but Lisa was administering the Non-Sales focal,
20 but my team still had clients within the Product Development
21 organization.

22 Q My question --

23 A Or Product Development function under many leaders.

24 Q My question --

25 MR. GARCIA: Strike as non-responsive.

1 JUDGE CLARK: Overruled.

2 BY MR. GARCIA:

3 Q What I'm talking about is the focals for Non-Sales,
4 during the time that Lisa Gordon administered those focals
5 for Non-Sales, you do not know how those focals were
6 administered and the approval process therein, correct?

7 A That is not true.

8 Q You did know?

9 A I did know, because I still had some clients who
10 were Non-Sales, and my team was part of supporting those
11 clients.

12 Q Okay.

13 MR. GARCIA: Pull up Exhibit P-51, please?

14 JUDGE CLARK: P-51?

15 MR. GARCIA: P-51, yes, Your Honor.

16 BY MR. PARKER:

17 Q Do you recognize that exhibit, Ms. Waggoner?

18 A No.

19 Q You don't recall that exhibit?

20 A Well, I recall it being presented to me in a
21 deposition and not knowing what it was at that time.

22 Q Understand. And do you recall stating in your
23 deposition that no one in Compensation would have drafted
24 that exhibit, because it mentions Compensation Policy?

25 A I do, yes, I do recall that conversation.

1 Q Do you know if Sue Charley drafted it?

2 A Sue Charley was in Compensation, so I don't believe
3 Sue Charley drafted that.

4 Q Okay.

5 MR. GARCIA: Can you pull up P-16, page 171?

6 BY MR. GARCIA:

7 Q This is from Shauna Holman-Harries. I would like
8 you to focus on lines 12 and 13.

9 MS. CONNELL: Objection, Your Honor. I'm not sure
10 what the purpose -- and this is hearsay.

11 JUDGE CLARK: Well, what is the purpose of this,
12 Mr. Garcia? What are you trying to do here?

13 MR. GARCIA: Because Shauna Holman-Harries knows
14 who drafted this document, Your Honor. And Shauna
15 Holman-Harries identifies that Sue Charley drafted P-51.

16 JUDGE CLARK: So, how would that be something she
17 would know?

18 MR. GARCIA: I'm saying, Your Honor, is that
19 someone from Compensation drafted P-51, in fact the VP of
20 Compensation, her boss. And it specifically states, in P-51,
21 at two locations, that Oracle had Compensation Policies.

22 JUDGE CLARK: The objection is sustained. Ask
23 another question.

24 BY MR. GARCIA:

25 Q Let's go back to P-51, is your testimony here today

1 that Oracle didn't have any Compensation Policies in 2015?

2 MS. CONNELL: Objection, misstates testimony.

3 JUDGE CLARK: Overruled.

4 You can answer the question.

5 THE WITNESS: We -- in 2015?

6 MR. GARCIA: 2015, 1-5.

7 THE WITNESS: We've had Compensation Guidelines,
8 but to my knowledge I have not seen a Compensation Policy
9 until our 2017 policy to not ask about prior pay.

10 BY MR. GARCIA:

11 Q You mentioned Workforce Compensation as one of the
12 tools?

13 A Yes.

14 Q And it had a predecessor of Compensation Workbench,
15 correct?

16 A Correct.

17 Q And those were the only two tools or system
18 programs that you used between 2013 and the present, correct?

19 A Yes. To run a Global Program, that's what we used.

20 Q And as part of the compensation processes for
21 Compensation Workbench it was identified that no
22 communications regarding the salary recommendations, that
23 managers made, should be communicated until LJE gave his
24 approval, correct?

25 MS. CONNELL: Objection, lacks foundation.

1 JUDGE CLARK: Lay a little foundation as to how she
2 might know that.

3 BY MR. GARCIA:

4 Q You stated that you participated in focals,
5 correct?

6 A Correct.

7 Q And that there were guidelines provided from them,
8 correct?

9 A They were part of our Comp 101 training, yes.

10 Q Okay. So, you used to be part of Corporate
11 Compensation, correct?

12 A Yes.

13 Q Okay. And Corporate Compensation administered
14 guidelines for how to run the compensation processes and
15 focals, corporate bonus and equity, correct?

16 A Yes.

17 Q And in those guidelines it talked about the initial
18 manager making pay recommendations and these recommendations
19 went up the chain of command, correct?

20 A Yes.

21 Q And then the final approver on them was LJE,
22 correct?

23 MS. CONNELL: Objection, lacks foundation.

24 JUDGE CLARK: Overruled.

25 THE WITNESS: So, I think I know what you're

1 speaking to. Yes, we did say that the quote/unquote "within
2 the system," the final "approver" is at the very top.

3 Q And that was -- sometimes it was listed as LJE and
4 sometimes it was listed as Larry J. Ellison, correct?

5 A I believe that is within the Compensation Workbench
6 old system, yes.

7 Q Okay. And LJE stands for Larry Ellison, correct?

8 A It does.

9 Q And so again, they were up for recommendations only
10 until he gave his approval, correct?

11 A No.

12 Q Until his office gave the approval, correct?

13 A As I spoke to before, that approval is a sanity
14 check -- did they stay within budget? And we, I actually,
15 would click the button when we got the final go ahead to
16 proceed with processing the increases from that program.

17 MR. GARCIA: Motion to strike everything after
18 "yes," Your Honor, as non-responsive.

19 JUDGE CLARK: Overruled.

20 BY MR. GARCIA:

21 Q So, you're the person giving Larry Ellison's
22 approval on all of those focal reviews, corporate bonuses and
23 equity?

24 MS. CONNELL: Objection, misstates testimony.

25 JUDGE CLARK: Overruled.

1 You can answer the question.

2 THE WITNESS: So, whoever -- it was Lisa or it was
3 me, or today it's someone on my team, we push the button,
4 because we present the summary of each of the direct reports,
5 here was their budget, here were the number of eligible
6 employees, here were how many got an increase, this is what
7 was spent. And then what's left in the budget, if they
8 didn't spend everything. So, we laid out the summary and I'd
9 send that summary to Safra, to get her final approver to push
10 that button. Larry didn't go in and push the button, Safra
11 didn't go in and push the button, we sought that approval
12 based on our summary e-mail, to say this is the focal
13 recommendations, the focal increases have been submitted,
14 this is what everything looks like at a high level, and then
15 they would reply back and Safra would say: "approved," or
16 "LJE approves," and then Lisa or I, or the person on my team
17 today would go in and push the button in the system.

18 Q Okay. So, you talked about sanity checks. Were
19 you reviewing all the recommendations for sanity checks?

20 A Was I, personally?

21 Q Yeah.

22 A No.

23 Q Who was?

24 A The people in the chain of command, in the
25 hierarchy, that's the way it moves up the hierarchy.

1 Q And how do you know they were reviewing it for
2 sanity checks?

3 A In the case of the Larry, Mark and Safra reviews, I
4 know because I'm sending them summaries, and because
5 sometimes they reply as quickly as 10 minutes. There's no
6 way they reviewed all of the employees in any level of detail
7 when I sent them the summary and they're just saying okay to
8 proceed.

9 Q That was not my question. I was talking about that
10 you just mentioned that the various levels going up to Safra
11 Catz, Larry Ellison, and Mark Hurd levels, were reviewing for
12 sanity checks. My question is how do you know they were just
13 reviewing for sanity checks?

14 A The levels prior to Larry, Mark and Safra?

15 Q Yes.

16 A From conversations with the business partners who
17 support them, and sometimes we can see it work through fast
18 and for sanity it's as much as you could --

19 Q So, you're talking really double hearsay. That the
20 business partners, the HR business partners is who you're
21 referring to, correct?

22 A The business partners that support them.

23 Q Right. So, you have the person like Steve Miranda,
24 Andrew Mendelsohn, makes it. Then you're getting the
25 information from a business partner. So, you have two levels

1 of hearsay there.

2 MR. GARCIA: So, I checked through all the prior
3 testimony, because it was hearsay, Your Honor.

4 MS. CONNELL: She was explaining the basis for her
5 knowledge. She's not speaking as to any out of court
6 statements. She's just explaining -- I mean these are her
7 job duties, it's what she does. So, I --

8 JUDGE CLARK: I'm going to overrule the objection.

9 MR. GARCIA: Okay.

10 BY MR. GARCIA:

11 Q Now, you mentioned earlier that there was an office
12 of an approver, when Ms. Connell --

13 JUDGE CLARK: Did you say "office of improver," did
14 you say?

15 MR. GARCIA: Approver.

16 JUDGE CLARK: Approver. I'm sorry.

17 BY MR. GARCIA:

18 Q Okay. And now you're mentioning there's not. So,
19 what is this "Office of Approvers"?

20 MS. CONNELL: Objection, misstates prior testimony.

21 JUDGE CLARK: So, overruled.

22 If you know, answer that question.

23 THE WITNESS: So, the Board of Directors, the
24 Office of Approvers, is part of the -- they do reviews of off
25 cycles, things that are new hire reviews or off cycle

1 increases that are submitted through Workflow. Workflows go
2 to the Carolyn Balkenhol team of the Board of Directors,
3 Office of Approvers, and they do the sanity checks on behalf
4 of Larry and Safra, and formerly Mark Hurd. That's what that
5 stops. The difference is, in a Global Program, where my team
6 runs a Global Program, an Equity Program, or a Bonus Program,
7 I do that. The Board of Directors, Office of Approvers, does
8 not get involved in our annual programs, that's managed by my
9 team and I'm responsible, with my boss Phil Jenish, for
10 seeking that final approval based on the summary that we put
11 forth to them.

12 MR. GARCIA: I'd like to pull up Exhibit J-108,
13 please.

14 BY MR. GARCIA:

15 Q Do you recognize that document?

16 A I don't.

17 Q So, the title of the document is: "Compensation
18 Process For Global Corporate Bonus If Used In The Workforce
19 Compensation." And so this is -- so, you're not familiar
20 with it. Let me ask you --

21 A I --

22 Q -- if you're familiar with the slide.

23 MR. GARCIA: Please go to slide -- the last slide,
24 46, please. Can you blow that slide up?

25 BY MR. GARCIA:

1 Q Are you familiar with that slide, in J-108?

2 A I'm not.

3 Q Okay. Let me ask you this question, since you're
4 not familiar with the Access Level Guide for a Corporate
5 Bonus program, managers have the option of cascading down or
6 not, correct?

7 A Yes, I testified to that.

8 Q And managers can restrict people's ability to see
9 the budget, correct?

10 MS. CONNELL: Objection, vague.

11 JUDGE CLARK: Overruled.

12 BY MR. GARCIA:

13 Q The allocated budget during a focal, a manager can
14 restrict someone's -- a lower level manager's ability to see
15 it, correct?

16 JUDGE CLARK: You can answer that question.

17 THE WITNESS: Yes.

18 BY MR. GARCIA:

19 Q And a manager can also restrict the lower level
20 manager's ability to allocate for that budget, correct?

21 A Yes, that capability is in the tool.

22 Q Okay. The majority of salary increases occur
23 during Oracle's focal reviews, correct?

24 A Yes.

25 Q And off cycle salary adjustments are not very

1 common at Oracle, correct?

2 A I would not say that's correct.

3 MR. GARCIA: Can you pull up J-24, please? Can you
4 go to page 18?

5 BY MR. GARCIA:

6 Q Well, first, do you recognize this slide? This was
7 from the ones that you testified earlier about when the
8 modules run?

9 A Yes.

10 Q And this was a 2011 module, correct?

11 A Correct, it's one of our Comp 101 modules.

12 Q Okay. Can you see the notes in the slide, the
13 first sentence, it says: "Off cycle reviews are not very
14 common at Oracle, but they do occur." Correct?

15 A Yes, that's what it says.

16 Q So, does that refresh your memory in terms of the
17 frequency of off cycle reviews?

18 A That note was part of the training from 2011. Off
19 cycle salary reviews are more common now than they were in
20 2011.

21 Q Okay. So, has anything else changed from the 2011
22 presentations till now?

23 A I don't remember all of the exact content within
24 the 2011 training. So, if you want to pull up something
25 specific, I will speak to it.

1 Q Okay. Now, in Workflow, a Workflow transaction
2 goes all the way up from the manager all the way to the top,
3 to Larry Ellison's office, correct?

4 A It's the BOD Office of Approvers.

5 Q Okay. And you testified that Carolyn Balkenhol
6 makes a sanity check, correct?

7 A Yes.

8 Q But she just approves compensation just for the
9 CEO's office or the CTO's office, or the Board of Approvers,
10 correct?

11 A I'm not following that question.

12 Q She only makes the approve -- she only gets the
13 approval at the very top of the approval chain, correct?

14 A She and her team are the last review prior to
15 committing to the system.

16 Q And you have never, personally, approved
17 compensation at the very top level, correct?

18 MS. CONNELL: Objection, vague.

19 THE WITNESS: I just testified to --

20 JUDGE CLARK: So, I'm going to -- rephrase your
21 question.

22 MR. GARCIA: Okay.

23 BY MR. GARCIA:

24 Q Before we talked about focal reviews. So, now I'm
25 talking about the Workflow processes. And I understand the

1 Workflow processes go all the way up to the top for any off
2 cycles and starting pay decisions, correct?

3 A Yes.

4 Q Okay. Have you ever been given part of the last
5 approval level for Workflows for hiring, starting pay and for
6 off cycle?

7 A I have not.

8 Q Okay. How do you know what happens there?

9 A I've worked with Carolyn for a very long time and
10 we've had conversations about her reviews.

11 Q Okay. So, it's based on what she's told you,
12 correct?

13 A Yes, because I was supporting some of the people
14 who were submitting these.

15 MR. GARCIA: Motion to strike everything after
16 "yes," Your Honor.

17 JUDGE CLARK: Overruled.

18 BY MR. GARCIA:

19 Q Do you know the frequency that salary
20 recommendations get rejected during a focal review, from the
21 time the first manager makes them to at the end?

22 MS. CONNELL: Objection, assumes facts.

23 JUDGE CLARK: Overruled.

24 THE WITNESS: At each specific level, do I know the
25 frequency?

1 BY MR. GARCIA:

2 Q No. I'm talking about the frequency that it gets
3 rejected at anytime after the first direct manager makes the
4 salary recommendations?

5 A I don't know the frequency.

6 Q Do you know if it's more common for salary
7 recommendations to be rejected at a lower level as opposed to
8 the very top?

9 A I don't have any idea.

10 Q Do you know if records are kept of these
11 rejections?

12 A I don't know.

13 Q You had your deposition taken in a state case
14 called Jewett (phonetic) correct?

15 A Yes.

16 Q And did you state in that case, when they were
17 talking about the review process for focals -- strike that.

18 You had that deposition taken last year in 2018,
19 correct?

20 A I don't remember. I've had a few taken that I
21 don't -- I think summer of 2018, I think, I'm not sure.

22 Q Okay. And do you recall stating in that
23 deposition, when you were asked questions about what happened
24 in the review process, you said you have not been in the
25 review process for a few years, since 2013?

1 A I don't recall saying that.

2 MR. GARCIA: Can you bring up P-22, please? Page
3 105, P-22.

4 MS. CONNELL: Again, I'll object that there's no
5 basis for impeachment. She said she didn't recall, so I'm
6 not really sure where he's going with the deposition, again,
7 but --

8 JUDGE CLARK: Overruled. I'm going to let him ask
9 the question.

10 Go ahead, Mr. Garcia.

11 MR. GARCIA: Okay. Can you show pages 105 and 106?

12 BY MR. GARCIA:

13 Q Okay. So, you see on page 105, you're asking about
14 the initial salaries are approved all the way up the chain of
15 command.

16 MS. CONNELL: Where are you?

17 MR. GARCIA: I'm looking at 105, line 1.

18 BY MR. GARCIA:

19 Q And then you acknowledge that they were approved.
20 And then I'm going to go over to page 106 and I'm looking at
21 line 5,, where they talk about the people have the power to
22 reject. And your response is: "I suppose they do," correct?

23 MS. CONNELL: I'll just object that this testimony
24 is not about the focal review process on its face.

25 JUDGE CLARK: Mr. Garcia, it doesn't appear to be

1 what you said it was going to be.

2 MR. GARCIA: I thought I said review process, if I
3 misstated focal, I apologize.

4 JUDGE CLARK: So, ask a different question.

5 MR. GARCIA: Okay.

6 BY MR. GARCIA:

7 Q So, the review process, the Workflow review
8 process, you haven't been involved with that for years, since
9 2013, correct?

10 A It appears that my statement was:

11 "I haven't been part of it in a few years, I was
12 during the period from going back to
13 2013, I was part of it."

14 I stated that I was part of it, not that I wasn't.

15 Q Right. But for a few years prior to 2018, you
16 haven't been involved in that Workflow review process,
17 correct?

18 A Yes, by the time -- when we did this deposition, it
19 had been a few years since I was involved in that. But I did
20 call out that in 2013 I was.

21 Q Now, previously you identified that -- or let me
22 clarify. Is Oracle's compensation philosophy to pay for
23 performance and potential?

24 MS. CONNELL: Objection, lacks foundation.

25 JUDGE CLARK: Sustained.

1 BY MR. GARCIA:

2 Q Do you know what Oracle's compensation philosophy
3 is?

4 MS. CONNELL: Objection, vague.

5 JUDGE CLARK: Overruled.

6 THE WITNESS: We don't really have a full stated
7 compensation philosophy. We speak to our practice of paying
8 for knowledge, skills, abilities, experience, being market
9 competitive, recognizing people for their performance. But I
10 don't -- at this point we don't really say it's a
11 compensation philosophy of the pay for performance.

12 MR. GARCIA: Okay. Can you pull up J-70, please?
13 Can you go to page 3, please?

14 BY MR. GARCIA:

15 Q First, do you recognize the document on page 1 of
16 J-70?

17 A Yes, I think so.

18 Q And that's by your boss, Phil Jenish, right?

19 A That is by -- oh -- yes, I do know what this one
20 is.

21 Q So, you recognize --

22 A I do, yes, I do recognize this.

23 Q Okay. Please go to page 3. So, in this
24 presentation it talks about a compensation philosophy,
25 correct?

1 A Okay. Yes, yeah.

2 Q Okay. And it talks about pay for performance and
3 potential as being one of the elements of that compensation
4 philosophy, right?

5 A Yes. It brings the pay for performance, which I
6 have spoken to about performance factoring into payment
7 decisions.

8 Q We'll get to performance in a little while. So, it
9 talks about for pay for performance with the employees --
10 doing it for the employees who have the highest performance
11 and potential, correct?

12 A That's what it says.

13 Q And is that a true accounting of what Oracle's
14 philosophy is?

15 MS. CONNELL: Objection, misstates the document.

16 JUDGE CLARK: So, rephrase your question, Mr.
17 Garcia.

18 MR. GARCIA: Okay.

19 BY MR. GARCIA:

20 Q It talks about pay for performance and potential,
21 and it says, quote:

22 "Employees with highest
23 performance/potential, along with those
24 in critical roles, should be rewarded at
25 a greater level."

1 Unquote. Correct?

2 A That's what it says.

3 Q And is that -- I'm asking you, is that currently
4 Oracle's compensation philosophy?

5 MS. CONNELL: Objection, misstates the document.

6 JUDGE CLARK: Sustained.

7 MR. GARCIA: I'm not asking about the document.

8 I'm asking --

9 JUDGE CLARK: Ask your question again and rephrase
10 it, ask it again.

11 BY MR. GARCIA:

12 Q Is what is stated here in this document, about
13 Oracle's compensation philosophy, actually true?

14 A Well, yes, and it factors in the total -- it speaks
15 to the total compensation focus, the looking at performance
16 and potential when you make decisions, being market
17 competitive, paying within our means, all of that would
18 factor into our general overall compensation philosophy at
19 Oracle.

20 Q Now, paying for products or the compensation
21 philosophy doesn't list anything regarding compensation for
22 products, correct?

23 A It is not listed here.

24 Q And it doesn't list anything for a Cost Center,
25 correct?

1 A It is not listed there.

2 Q Okay.

3 MR. GARCIA: Let's go to slide J-114.

4 BY MR. GARCIA:

5 Q And I believe this is one of the slides that you
6 testified to earlier today, correct?

7 A It is.

8 MR. GARCIA: Please go to Slide 17? And can you
9 show the notes, so all the notes are visible?

10 BY MR. GARCIA:

11 Q So, I believe we talked about the notes and you
12 said -- strike that.

13 To the fact that Oracle stated its compensation
14 training to include the one at J-114, is that it considers,
15 for pay, "our business client and budget," correct?

16 A Where are we? Okay. So, repeat the question,
17 please?

18 Q Okay. So, if you look down to the third paragraph?

19 A Yes.

20 Q It says: "How do we determine the correct placement
21 of an employee in their salary range?"

22 A Yes.

23 Q And it says:

24 "The business climate and salary
25 increase budgets play a key role in how

1 managers are able to position employees
2 within the range."

3 A That is not what that says.

4 Q Okay. So, I'll just -- it says, quote:

5 "The business climate and salary
6 increase budgets play a key role in how
7 managers are able to position employees
8 within the range."

9 Did I quote that correctly?

10 A That is what it says.

11 Q Okay. And that was in response to the question
12 early on in that paragraph:

13 "So how do we determine the correct
14 placement of an employee in their salary
15 range?"

16 Correct?

17 MS. CONNELL: Objection, misstates the document.

18 JUDGE CLARK: Overruled.

19 You can answer the question.

20 THE WITNESS: So, the first question of how do we
21 determine the placement of the employee -- we start answering
22 that question with the caveat of the business climate and the
23 budgets that we are able to give our managers play a key role
24 in how managers are able to position the employees in the
25 range. So, we answer that question with saying managers,

1 keep in mind that our climate and what our budget is
2 determines whether we're able to account for and place
3 everybody ideally where they belong in the range. So, that's
4 just setting the stage that the climate and the budget that
5 we have matters a lot in being able to position people
6 appropriately. But then it goes into how to determine where
7 you would position them.

8 JUDGE CLARK: Mr. Garcia, it's 5:45 o'clock p.m.,
9 so I want to talk about this witness' availability and the
10 scheduling at this point.

11 So, Ms. Connell, you indicated that -- tell me what
12 the problem was with her coming back tomorrow or a different
13 day?

14 MS. CONNELL: Well, she would like to get back to
15 Denver, is possible, tomorrow morning. But you know, if we
16 could finish with her tomorrow or tonight, that would be our
17 preference. I don't know how much questioning Mr. Garcia
18 still has, though.

19 MR. GARCIA: So, Your Honor, in looking at -- we
20 estimated two hours on direct for Ms. Waggoner, and one hour
21 on cross. So, we estimated more time than just one hour. I
22 would also say that Oracle had the opportunity to decide if
23 Ms. Waggoner had to get back to Colorado. They could have
24 chosen for her to be first instead of Steve Miranda. And if
25 they did that, we would likely finish.

1 JUDGE CLARK: So, Mr. Garcia, I don't think you
2 really -- the question is how much more time do you have?

3 MR. GARCIA: I probably have a couple hours, Your
4 Honor.

5 JUDGE CLARK: A couple hours, okay. So, you guys
6 are going to -- Mr. Garcia and Ms. Bremer, you are all going
7 to have to readjust your times, because I've estimated this
8 hearing based upon what you've said. So, you don't just get
9 to decide that you're going to take three hours to interview
10 a witness that you said you were going to take 60 minutes on.

11 So, you don't get to unilaterally decide to change how much
12 time you've allocated for witnesses. So, I want you to meet
13 and confer -- I need to hear from you, Ms. Bremer -- I want
14 you to meet and confer and reevaluate the estimates of these
15 witnesses, so that we can better account for people's time
16 here, so that we don't have people staying late or we don't
17 finish the hearing on time. We're still scheduled to finish
18 Thursday.

19 So, we're going to break for the day. You're going
20 to have to figure out how to -- either she comes back in the
21 morning -- I apologize for that, Ms. Waggoner -- you had a
22 number of witnesses that you were scheduling to call
23 tomorrow, at this pace I think you'll probably have to let
24 some of those witnesses go. But we will finish this hearing
25 within the allotted time. And if that means we come in at

1 8:00 o'clock a.m. and we stay until 7:00 o'clock p.m., we
2 will start doing that Monday. Do you understand?

3 MR. GARCIA: Yes, Your Honor.

4 JUDGE CLARK: Anything further for the record
5 today, Ms. Bremer?

6 MS. BREMER: No, Your Honor. Although, I did want
7 to clarify that we did estimate a total of three hours with
8 this particular witness.

9 MS. CONNELL: But they did not include her on their
10 revised witness list, and so I don't think three hours of
11 cross-examination based on my one-hour of direct is
12 appropriate.

13 JUDGE CLARK: I appreciate there's a problem, I get
14 that. I don't want to hear the problem anymore. I want you
15 to fix it. I want you to estimate better for these witnesses
16 or we're going to have to start early and stay late, because
17 we're not going to stay and come back and finish this hearing
18 weeks after the holidays or the week of Christmas, we're just
19 not going to do it. Understood?

20 MS. BREMER: Yes, Your Honor.

21 JUDGE CLARK: Okay.

22 Ms. Waggoner, you're free to go.

23 We'll be adjourned until 9:00 o'clock tomorrow
24 morning. We're off the record.

25 Oh, I'm sorry -- Ms. Connell, I didn't have a

1 chance -- do you have anything further for the record today?

2 MR. PARKER: I run the risk of adding to the fire.

3 JUDGE CLARK: Go ahead, Mr. Parker.

4 MR. PARKER: You asked us to provide the order of
5 witnesses we would call tomorrow. Some of that is a little
6 impacted by this schedule, but would you like me to read
7 that to the Court, or certainly we're going to provide it to
8 OFCCP.

9 JUDGE CLARK: You can just provide it to them,
10 that's fine.

11 MR. PARKER: Okay. Thank you.

12 JUDGE CLARK: Thank you very much.

13 We're off the record.

14 (Whereupon, the proceedings adjourned at 5:48
15 o'clock p.m.)

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REPORTER'S CERTIFICATE

TITLE: Federal Contract Compliance Programs v. Oracle

America, Inc.

CASE NUMBER: 2017-OFC-00006

OWCP NUMBER: N/A

DATE: December 12, 2019

LOCATION: San Francisco, CA

This is to certify that the attached proceedings before the United States Department of Labor, were held according to the record and that this is the original, complete, true and accurate transcript which has been compared to the reporting or recording accomplished at the hearing.

SIGNATURE OF REPORTER

DATE