UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES

OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS, UNITED STATES DEPARTMENT OF LABOR, Plaintiff, v. ORACLE AMERICA, INC., Defendant.	OALJ Case No. 2017-OFC-00006

Exhibit P-266

STATEMENT OF GENUINE DISPUTES OF MATERIAL FACT

Oracle's Allegedly Uncontested Material Facts	OFCCP's Response
1. Oracle's long-time President and current co-CEO, Safra Catz, is female. **Alleged Supporting Evidence:** Thrasher Decl., ¶ 6.	**Undisputed.**
2. One-third of Oracle's Board of Directors is female or from a diverse background. **Alleged Supporting Evidence:** Thrasher Decl., ¶ 6.	**Undisputed.** 1) OFCCP does not dispute the fact that two-thirds of Oracle's Board of Directors are white males.
3. Oracle's General Counsel, Lead Employment Counsel, Global Director of Compensation, Head of Human Resources for the Americas and Global Head of Human Resources are all women. **Alleged Supporting Evidence:** Thrasher Decl., ¶ 6	**Undisputed.**
4. Thomas Kurian, who led Oracle's Product Development line of business for most of the relevant time period, is Asian. **Alleged Supporting Evidence:** Thrasher Decl., ¶ 6.	**Undisputed.**

5. Oracle's managers are required to take regular non-discrimination training. **Alleged Supporting Evidence:** Yakkundi Decl., ¶ 20; Eckard Decl., ¶ 14; Hsin Decl., ¶ 15; Fox Decl., ¶ 17; Oden Decl., ¶ 12; Talluri Decl., ¶ 17; Suri Decl., ¶ 23; Ousterhout Decl., ¶ 18; Galka Decl., ¶ 11.	**Disputed.** 1) OFCCP contests this fact because Oracle's managers were not required to take affirmative action training until October 2015, and when they did take it, it did not address compensation. A) Oracle first made affirmative action training mandatory for all US managers and HR personnel in October 2015. Citation: • OFCCP Statement of Undisputed Facts, Filed October 21, 2019 (OFCCP SUF), Fact 228; • Ex. 77,[1] "Affirmative Action Training at Oracle," dated 10/12/15, slide 2 (notes), slide 6, and slide 6 (notes), ORACLE_HQCA_0000416488 -2, -11, -12 in Vol. 3. B) Vice President of Human Resources Madhavi Cheruvu (Ms. Cheruvu), Oracle's Human Resource Partner for President Thomas Kurian's Product Development line of business (LOB) and seven other LOBs, testified that she has not taken any affirmative action training and does not know any affirmative action requirements that Oracle has to meet. Citation: • OFCCP SUF: Facts 48, 49, 231; • OEx. 4, Dep. of Madhavi Cheruvu, dated 6/11/19 (Cheruvu Dep.) 11:8-17, 60:12-19, 240:23–241:11, 276:3–14.

[1] OFCCP will be using two exhibit references in this Statement of Genuine Disputes of Material Fact. The first is "Ex." that will refer to the exhibits that were filed attached to the Norman E. Garcia Declaration Supporting OFCCP's Motion for Summary Judgment in the four bound volumes and the four exhibits physically attached to his declaration. These exhibits will be referenced by the "Ex." reference. The second is "OEx" that represents the new exhibits that are attached to the Laura C. Bremer Declaration Opposing Oracle America, Inc.'s (Oracle) Motion for Summary Judgment, or, in the Alternative, for Partial Summary Judgment.

	C) Ms. Cheruvu testified that she has not taken any affirmative action training and does not know any affirmative action requirements that Oracle has to meet. Citation: • OFCCP SUF: Fact 231; • OEx. 4, Cheruvu Dep. 23:2-10, 240:23–241:11. D) Oracle's Executive Vice President of Human Resources Joyce Westerdahl (Ms. Westerdahl) testified that she did not know if Oracle conducted any affirmation action plan training. She just assumed that it did. Citation: • OFCCP SUF: Fact 42; • OEx. 1, Dep. of Joyce Westerdahl dated 5/30/19 (Westerdahl Dep.) 12:14-16, 306:16-23. E) The U.S. Employee Handbook that Oracle provided to OFCCP in the audit contains a section titled "Internal Training and Development" with subsections titled "Required Training" and "Online Training" that do not list any training for affirmative action. Citation: • OFCCP SUF: Fact 225; • Ex. 11, "U.S. Employee Handbook," latest revision date February 2014 (Handbook) (Ex. 25 at Holman-Harries May Dep.), ORACLE_HQCA_0000000509-10 in Vol. 1. F) The Affirmative Action Section of the U.S. Employee Handbook that Oracle provided to OFCCP in the audit did not address compensation. Citation: • OFCCP SUF: Fact 226; • Ex. 11, ORACLE_HQCA_0000000474 in Vol. 1. G) Oracle has never revised the U.S. Employee Handbook to address equity or affirmative action with respect to employee compensation.

	Citation: • OFCCP SUF: Fact 227; • OEx. 5, Dep. of Shauna Holman-Harries dated 5/8/19 (Holman-Harries May Dep.) 159:22–160:8. H) While Oracle did conduct affirmative action non-discrimination training in 2015, its focus was on non-discrimination in hiring. This training did not address how to ensure compensation equity. Citation: • OEx. 3, "Affirmative Action at Oracle," copyright 2015, ORACLE_HQCA_0000417320-5. I) Former Senior Director of Global Organization and Talent Development Kristen Hanson Garcia (Ms. Hanson Garcia), a management position within Oracle's Human Resources Department, testified that she did receive any guidance or training as to how to ensure that men and women were paid equitably or how to ensure that minorities and whites were paid equitably. She was also not aware that Oracle had an Affirmative Action Plan. Citation: • OEx. 6, Kirstin Hanson Garcia Decl. (KHG Decl.) ¶ 9. J) Former Senior Director of Customer Experience User Experience Christina Kolotouros (Ms. Kolotouros) testified that while she worked at Oracle, she did not receive any training or guidance as to how to ensure that men and woman are paid equitably or how to ensure that minorities and white are paid equitably. Citation: • OEx 7, Christina Kolotouros Decl. (Kolotouros Decl.) ¶10. 2) OFCCP further disputes this fact because even though Oracle recognized its obligation to conduct affirmative action training for employees involved in personnel and compensation decisions of its employees, it only conducted the mandatory October 2015 training because of the administration's increased emphasis on regulatory

	compliance at that time. A) Oracle stated that this affirmative action training was "required" due to the Administration's focus on hiring, selection, promotional opportunities and pay, and other terms and conditions of employment. Citation: • OFCCP SUF: Fact 229; • Ex. 77, "Affirmative Action Training at Oracle," dated 10/12/15, slide 3, ORACLE_HQCA_0000416488-5 in Vol. 3. B) Oracle waited until enforcement to comply even though it recognized that the affirmation action training was "required" because federal contractor employees must take this course if they are involved in recruitment, screening, selection, hiring, promotion, or other related employment making decisions. Citation: • OFCCP SUF: Fact 230; • Ex. 77, slide 4, ORACLE_HQCA_0000416488-7 in Vol. 3.

6. Oracle's managers are instructed that pay "differences need to be based on fair, justifiable and non-discriminatory criteria." **Alleged Supporting Evidence:** Waggoner Decl., Ex. B (ORACLE_HQCA_0000364183 at 6), Ex. C (ORACLE_HQCA_0000364272 at 15); Connell Decl., Ex. B (8/1/19 Holman-Harries PMK Dep. 265:23-266:13).	**Disputed.** 1) OFCCP contests this fact because Oracle's managers are not required to take the training wherein this statement is made. If the managers do not take the training, they do not receive this instruction. A) Kate Waggoner (Ms. Waggoner), Oracle's Senior Director of Global Compensation who Oracle designated as the person most knowledgeable (PMK) about Oracle's compensation topics in *Jewett v. Oracle Corp. Inc.*, testified that managers are not required to listen to or go online to review the compensation training. Oracle confirmed that PMK admissions in *Jewett* are binding in this case. Citation: • OEx. 2, PMK Dep. of Kate Waggoner in *Jewett v. Oracle Corp. Inc.*, Case No. 17-cv-02669 (Sup. Ct. San Mateo), dated 7/26/18, (Waggoner PMK *Jewett* Dep.) ORACLE_HQCA_0000400660-62, 7:14-15, 77:3-78:5; • Ex. 85, Email from Oracle to OFCCP, dated 7/12/19, in Vol 3. B) Ms. Waggoner, who Oracle again designated as the PMK for compensation topics in this case a year later, and who continues to serve as Oracle's Senior Director of Global Compensation, again testified that managers are not required to take the compensation training. Citation: • OFCCP SUF: Fact 110; • OEx. 8, Dep. of Kate Waggoner under Rule 30(b)(6) dated 7/19/19 (Waggoner PMK Dep.) 7:12-15, 79:2-20, 81:19-82:4 in Vol. 2. C) Oracle's Senior Director of Diversity Compliance Shauna Holman-Harries (Ms. Holman-Harries) also did not also know whether this compensation training was required training for managers. Citation: • OEx. 5, Holman-Harries May Dep. 18:4-11; 121:25-126:17. D) Former Software Development Director Amit Sharma (Mr.

	Sharma) testified that he was never asked by his managers if he thought any of his reporting employees' pay should be adjusted because their pay was not equitable. Citation: • OEx. 9, Decl. of Amit Sharma Decl. (A. Sharma Decl.) ¶ 8. E) Current Director of User Assistance Colin McGregor (Mr. McGregor) testified that he did not have the authority to adjust the pay of his reporting employees if he believed the pay of an employee was too low for the work performed or too low as indicated by Oracle's compensation ratio. Citation: • OEx.10, Wilbur A. Colin McGregor Decl. (McGregor Decl.) ¶ 12. 2) OFCCP further contests this fact because Oracle prevents compliance by providing a limited budget. A) Oracle's Executive Vice President of Mission Critical Databases Juan Loaiza (EVP Loaiza) testified that 40-50% of the employees in his organization are paid below the market rate because not enough money is provided for them in the budget. Citation: • OFCCP SUF: Fact 40, 129; • OEx. 11, Dep. of Juan Loaiza, dated 6/14/19 (Loaiza Dep.) 16:3-12, 283:6–284:22, 305:7–306:3. B) While testifying as Oracle's PMK, Ms. Waggoner, stated that the budget Oracle provides its managers for salary increases is insufficient to keep up with the market rate and that only [redacted]% of the employees may get a raise in a year because of budget pressures. Citation: • OFCCP SUF: Fact 127; • OEx. 8, Waggoner PMK Dep. 247:4–13, 308:8–24 in Vol 2. C) Mr. McGregor testified that he had reporting employees who were paid below the range for their job, and the small raise pool

	he received was insufficient to put these employees in the salary range for their position. Citation: • OEx. 10, McGregor Decl. ¶ 12. 3) OFCCP additionally disputes this fact because in "dive and save" salary requests, other senior managers identify that they face significant "salary compression" for their employees because of the budget and face a "rob Peter to pay Paul" situation. Citation: • OFCCP SUF: 133, 134; • OEx. 11, Loaiza Dep. 282:15-285:11, 290:3-12; • Ex. 33, "Request for Dive-and-Save Salary Adjustment," dated 5/7/14, ORACLE_HQCA_0000437696–701, in Vol. 2; • Ex. 34, Out of Cycle Salary Adjustment Proposal, dated 6/15/15, ORACLE_HQCA_0000434971–72, in Vol. 2.

7. When making compensation decisions, managers are instructed to: a) consider how an employee's compensation compares to her peers; b) account for each employee's relevant knowledge, skills, abilities, and experience; c) balance external and internal equity considerations; d) differentiate rewards by performance; and e) consider the employee's importance to the company. **Alleged Supporting Evidence:** a) Waggoner Decl., ¶ 30, Ex. B (ORACLE_HQCA_0000364183 at 5), Ex. E (ORACLE_HQCA_0000056234 at 24). b) Waggoner Decl., ¶ 30, Ex. B (ORACLE_HQCA_0000364183 at 5), Ex. E (ORACLE_HQCA_0000056234 at 17, 22, 37); Connell Decl., Ex. A (ORACLE_HQCA_0000400584 at 204:11-20), Ex. B (8/1/19 Holman-Harries PMK Dep. 265:23-266:13), Ex. C (7/19/19 Waggoner PMK Dep. 111:10-22; 142:17-143:12; 180:16-181:21; 182:14-183:2), Ex. U (10/10/19 Madden Dep. 123:18-124:12). c) Waggoner Decl., ¶ 31, Ex. B (ORACLE_HQCA_0000364183	**Undisputed.**

at 6), Ex. C (ORACLE_HQCA_0000364272 at 15), Ex. E (ORACLE_HQCA_0000056234 at 17, 22, 37); Connell Decl., Ex. C (7/19/19 Waggoner PMK Dep. 84:25-85:25; 173:13-174:13). d) Waggoner Decl., Ex. C (ORACLE_HQCA_0000364272 at 15), Ex. E (ORACLE_HQCA_0000056234 at 16, 17, 22); Connell Decl., Ex. C (7/19/19 Waggoner PMK Dep. 111:10-22), Ex. K (ORACLE_HQCA_0000400313 at 313). e) Waggoner Decl., Ex. C (ORACLE_HQCA_0000364272 at 15); Connell Decl., Ex. C (7/19/19 Waggoner PMK Dep. 178:19-179:21).	
8. Oracle's managers can partner with HR business partners and compensation consultants to ensure compensation decisions are equitable. **Alleged Supporting Evidence:** Waggoner Decl., Ex. B (ORACLE_HQCA_0000364183 at 2, 22), Ex. C (ORACLE_HQCA_0000364272 at 8, 15, 37); Connell Decl., Ex. C (7/19/2019 Waggoner Dep. (PMK) at 122:9-17), Ex. H (6/11/19 Cheruvu Dep. 139:19-24), Ex. L (ORACLE_HQCA_0000400403 at 446, 448-49); Gill Decl., ¶ 6; Talluri Decl., ¶ 15; Abushaban Decl., ¶ 15.	**Disputed.** 1) The portion of Oracle's claim stating "to ensure compensation decisions are equitable" is unsupported by the alleged supporting evidence. The alleged support does not identify consulting occurred for this purpose.

9. Oracle is organized into lines of business ("LOBs"), which are organizations within Oracle that are focused on a distinct part of Oracle's business or operations. **Alleged Supporting Evidence:** Waggoner Decl., ¶ 12; Miranda Decl., ¶ 8.	**Undisputed.** 1) While the OFCCP does not dispute Oracle's Material Fact 9, OFCCP objects to paragraph 12 of Ms. Waggoner's declaration on the basis that she lacks personal knowledge about the facts contained therein.
10. Each LOB has an executive who oversees it, and who is responsible for the products within that LOB. **Alleged Supporting Evidence:** Connell Decl., Ex. A (ORACLE_HQCA_0000400584 at 85:1-19; 86:4-12; 87:9-88:3).	**Undisputed.**

11. LOBs are divided into specialized organizations and teams that differ by strategic importance or business criticality. **Alleged Supporting Evidence:** Waggoner Decl., ¶ 13; Miranda Decl., ¶¶ 8, 11.	**Disputed.** 1) Campbell Webb (Mr. Webb) testifies in his Oracle declaration that while he and his employees work in information technology and provide internal services to Oracle, his organization also provides application and infrastructure services to "Oracle's public cloud customers" and that several of Oracle's [information technology] vice presidents, who Mr. Webb managed, worked to supported "Oracle's Cloud Business." Citation: • Declaration of Campbell Webb in Support of Oracle's Motion (Webb Decl.), ¶¶ 2, 5, 6. 2) Mr. Webb also testifies in his Oracle declaration that parts of his team have skills that are interchangeable between the information technology and product development LOBs. In speaking of one of his team members, Mr. Webb states that "[t]his [information technology vice president] has since transitioned to the [product development vice president] role, where she and her team now apply many of the *same skills to a different kind of work* (performance testing of Oracle database code)." Citation: • Webb Decl., ¶ 6, emphasis added. 3) OFCCP additionally disputes this fact because it relies on paragraph 13 of Ms. Waggoner's declaration. OFCCP objects to Oracle's reliance on paragraph 13 of Ms. Waggoner's declaration because she lacks personal knowledge regarding the facts contained therein. 4) Oracle employees and managers testified that their skills are interchangeable as proved by the fact that they and/or their reports have transferred across teams as well as lines of business, and were able to perform their duties without additional trainings. Citation: • OEx. 12, Decl. of Avinash Pandey (Pandey Decl.) ¶¶ 6, 12; • OEx. 7, Kolotouros Decl. ¶ 4; • OEx. 13, Decl. of Diane Boross (Boross Decl.) ¶¶ 8, 9, 11; • OEx. 14, Decl. of Jill Arehart (Arehart Decl.) ¶ 10; • OEx. 15, Decl. of Donna Kit Yee Ng (Ng Decl.) ¶¶ 6, 10, 11.

12. Each LOB has a management reporting hierarchy that starts at the top and ends with first-level (or direct) managers who directly supervise individual contributors. **Alleged Supporting Evidence:** Waggoner Decl., ¶ 14.	**Undisputed.**
13. Where a particular employee's team is located in this LOB structure may impact her compensation, as budgeting decisions and bonus or raise allocations are distributed within this LOB. **Alleged Supporting Evidence:** Waggoner Decl., ¶ 15; Miranda Decl., ¶ 11; *see also* Connell Decl., Ex. A (ORACLE_HQCA_0000400584 at 182:18-183:16; 186:13-188:8).	**Undisputed.**
14. Oracle is a global technology company that provides more than 800 software and hardware products and related services to customers worldwide. **Alleged Supporting Evidence:** Waggoner Decl., ¶ 6; Miranda Decl., ¶¶ 3, 4, 9, Ex. A.	**Undisputed.**

15. Oracle's products include cloud computing services, software, hardware, and business analytics, as well as solutions for managing enterprise resources, human resources, customer relationships, and supply chains, and for assessing governance, risk, and compliance. **Alleged Supporting Evidence:** Waggoner Decl., ¶¶ 6-7; Robertson Decl., ¶¶ 6-9; Bashyam Decl., ¶ 4; Sarwal Decl., ¶¶ 5, 10; Miranda Decl., ¶¶ 4-5.	**Undisputed.**
16. Oracle offers product-related services, such as security assessments, software upgrades, and customer support and education services. **Alleged Supporting Evidence:** Waggoner Decl., ¶ 8; Yakkundi Decl., ¶¶ 3, 6, 10; Bashyam Decl., ¶¶ 2-4; Sarwal Decl., ¶¶ 5, 10.	**Undisputed.**

17. One catalyst to Oracle's growth is acquisitions, which have added hundreds of new products to Oracle's product portfolio, further increasing the diversity of technology products and services Oracle offers. **Alleged Supporting Evidence:** Waggoner Decl., ¶¶ 9-10; Yakkundi Decl., ¶¶ 6-7; Bashyam Decl., ¶ 8; Galka Decl., ¶ 4.	**Disputed**. 1) This fact is unsupported. The Yakkundi, Bashvam and Galka declarations combined only provide support for Oracle acquiring a handful of companies and less than twenty products. Their declarations do not identify Oracle's acquisitions as a "catalyst to Oracle's growth," or as "adding hundreds of new products to Oracle's product portfolio." Further, these declarations contain no statements claiming that Oracle's acquisitions increase the diversity of Oracle's products and services. Thus, these declarations leave Ms. Waggoner's declaration as the sole support for these factual assertions. As identified in the objections OFCCP filed against Ms. Waggoner's declaration, her statements as to Oracle's acquisitions lack foundation because of a lack of personal knowledge. 2) Dr. Saad testified that acquisitions were not relevant to this case because his data set for Oracle HQCA only contained seven employees whereas for the *Jewett* case the acquisitions contained a large share of the non-headquarters population. Citation: • Ex. 89, Dep. of Expert Ali Saad, dated 10/11/19 (Saad Dep.) 128:11-129:13.
18. Some of Oracle's products involve cutting-edge technology in high demand, and some constitute legacy products with infrequent updates or enhancements. **Alleged Supporting Evidence:** Bashyam Decl., ¶¶ 8-9; Sarwal Decl., ¶ 14.	**Undisputed.**

19. Not all of Oracle's products and services have the same value or profitability to the market, and the value of the skills, duties, and responsibilities associated with working on one product can differ among products and change over time. **Alleged Supporting Evidence:** Miranda Decl., ¶ 11; Sarwal Decl., ¶ 14.	**Disputed**. 1) OFCCP disputes this fact because Oracle's documents and witness declarations do not support and also contradict the statements therein. A) Oracle's factual assertions are repeatedly contradicted by its compensation instructions over the years, which clearly state that jobs having the same salary grade have the *same value* to Oracle. Citation: • Ex. 16, "Global Compensation Training: Salary Ranges at Oracle," copyright 2011, slide 8 (notes) ORACLE_HQCA_0000364272-15 in Vol. 1; • *See also* Ex. 8, "Q4FY15 HR Webinar Oracle Compensation" dated March 2015, slide 20 (notes), ORACLE_HQCA_0000056391-39 in Vol. 1; • Ex. 12, Untitled, Compensation-related presentation, copyright 2012 (Ex. 3 to the Waggoner May Dep.), slide 19 (notes), ORACLE_HQCA_0000042098-35 in Vol. 1; • Ex. 13, "Managing Compensation," July 2016 (Ex. 7 to the Waggoner May Dep.), slide 17 (notes), ORACLE_HQCA_0000056234-30 in Vol. 1; • Ex. 14, "Managing Compensation at Oracle," no date, slide 22 (notes) ORACLE_HQCA_0000382580-42 in Vol. 1. 2) Oracle's compensation training slides demonstrate that jobs can have the same salary grade (and thus the same value to Oracle) across individual contributor or manager positions and across different job functions. For example, one of Oracle's training slide's notes state: "you will also notice that Grade 8 has an IC4, IC5, M2 and M3." These four global career levels are for seven different job functions (A, B, F, G, H-J). Citation: • Ex. 16, slide 10 and slide 10 (notes), ORACLE_HQCA0000364272-18, -19 in Vol. 1; • Ex. C to Declaration of Kate Waggoner in Support of Oracle's Motion (Waggoner Oracle Decl.), ORACLE_HQCA_0000364272 at 10. 3) Multiple job codes can be assigned to the same salary grade, and therefore have the same salary range.

	Citation: • OFCCP SUF: Fact 87; • OEx. 16, Dep. of Lynne Carrelli dated 5/24/19 (Carrelli Dep.) 118:15–20 in Vol. 1; • OEx. 17, Dep. of Kate Waggoner dated 5/1/19 (Waggoner May Dep.) 118:8–20; • Ex. 13, slide 17 (notes), ORACLE_HQCA_0000056234-30 in Vol. 1; • Ex. 16, slide 10 and slide 10 (notes), ORACLE_HQCA0000364272-18, -19 in Vol. 1. 4) A comparison of the systems job titles in the three job functions that are at issue in this litigation identifies the following: a) Salary grade E.09 contained seventeen different job titles and three different job functions. b) Salary grade N.10 contained sixteen different job titles and two different job functions. c) Salary grade E.11 contained fourteen different job titles and three different job functions d) Salary grade E.12 contained twelve different job titles and three different job functions e) Salary grade E.10 contained twelve different job titles and two different job functions. f) Salary grade E.14 contained eight different job titles and three different job functions. g) Salary grade N.12 contained eight different job titles and three different job functions. h) Salary grade E.06 contained seven different job titles. i) Salary grade E.07 contained seven different job titles and three different job functions. j) Salary grade E.08 contained seven different job titles and two different job functions. k) Salary grade N.07 contained seven different job titles and two different job functions. l) Salary grade N.14 contained seven different job titles and three different job functions. Citation:

	• Ex. 17, Decl. of Hea Jung Atkins in Support of OFCCP's Motion for Summary Judgment, dated 10/16/19 ¶ 6-21 (Atkins MSJ Decl.), and Ex. B attached thereto (Table 2). 5) Noticeably, Oracle provides no compensation training reference or any support this fact from Ms. Waggoner, its Senior Director of Global Compensation. This is because not one of Oracle's compensation trainings tie skills, duties, and responsibilities to the product an employee performs work. Instead, Oracle ties skills, duties, and responsibilities to job code and its associated global career levels (e.g., individual contributor (IC) and Manager (M)). Citation: • Ex. 13, slide 4 (notes), ORACLE_HQCA_0000056234-6 in Vol. 1; • *See also* Ex. 8, slide 13 and slide 13 (notes), ORACLE_HQCA_0000056391 -24, -25 in Vol. 1; • Ex. 12, slide 12 and slide 12 (notes), ORACLE_HQCA_0000042098-20 to -21 in Vol. 1; • Ex. 14, slide 29 (notes), ORACLE_HQCA_0000382580-56 in Vol. 1; • Ex. 17, Atkins MSJ Decl., ¶ 8 & Ex. B, rows 31–47 in Vol. 1. 6) Ms. Kolotouros testified that the products an employee works on does not determine compensation. Citation: • OEx. 7, Kolotouros Decl. ¶ 9. 7) Managers testified that they had employees under them earning more than them, thereby showing that product is not tied wages. Citation: • OEx. 10, McGregor Decl., ¶ 9; • OEx. 9, A. Sharma Decl., ¶10.

20. Oracle categorizes the jobs in which its employees work by job functions. **Alleged Supporting Evidence:** Waggoner Decl., Ex. D (ORACLE_HQCA_0000364276 at 7); Connell Decl., Ex. C (7/19/19 Waggoner PMK Dep. 100:13-23).	**Undisputed.**
21. Job functions describe, at a very high level, "the general type of work performed" by employees within the function. **Alleged Supporting Evidence:** Waggoner Decl., ¶ 17, Ex. D (ORACLE_HQCA_0000364276 at 5), Ex. E (ORACLE_HQCA_0000056234 at 4); Connell Decl., Ex. C (7/19/19 Waggoner PMK Dep. 88:19-89:7).	**Disputed**. 1) OFCCP disputes this fact because none of the two training presentations Oracle cited as support and none of the trainings that Oracle produced to date in discovery state that job functions are described "at a very high level." Instead, these documents just state that "[t]he [job] function describes the general type of work the employee performs." Citation: • Ex. 13, slide 4 (notes), ORACLE_HQCA_0000056234-6 in Vol. 1; • OEx. 17, Waggoner May Dep. 74:11-15, 80:23–81:5, 30:8-15; • *See also* Ex. 12, slide 12 and slide 12 (notes), ORACLE_HQCA_0000042098-20 to -21 in Vol. 1; • Decl. of Kate Waggoner, attached to Oracle's MSJ, Ex. D, ORACLE_HQCA_0000364276 at 5. 2) OFCCP further disputes Oracle's Material Fact 21 because Ms. Waggoner's PMK testimony does not make or support this alleged fact.

22. Employees in Product Development are responsible for developing the various components of Oracle's products and services. Their duties are varied and range from writing software code for new products to product management, technical writing, and quality assurance. **Alleged Supporting Evidence:** Waggoner Decl., ¶ 17; Connell Decl., Ex. I (ORACLE_HQCA_0000399991 at 999), Ex. J (ORACLE_HQCA_0000400010 at 010); Robertson Decl., ¶¶ 3, 6-9; Kottaluru Decl., ¶¶ 8, 11; Oden Decl., ¶ 6; Chan Decl., ¶¶ 5-7.	**Disputed.** 1) Other employees in other functions also perform these duties. As such, they are not just limited to Product Development. For example, Mr.Webb identified that even though he and his employees, like his vice presidents (VPs) have an information technology job function, he also identified these employees as performing work akin to product development when he stated that they supply "application and infrastructure services to … Oracle's public cloud customers." Citation: • Webb Decl. ¶¶ 2, 4-6. 2) Oracle employees and managers testified that their skills are interchangeable as proved by the fact that they and/or their reports have transferred across teams as well as lines of business, and were able to perform their duties without additional trainings. Citation: • OEx. 12, Pandey Decl. ¶¶ 6, 12; • OEx. 7, Kolotouros Decl. ¶ 4; • OEx. 13, Boross Decl. ¶¶ 8, 9, 11; • OEx. 14, Arehart Decl. ¶10; • OEx. 15, Ng Decl. ¶¶ 6, 10, 11.

23. Employees within the IT job function specialize in business implementation and planning, data center services, network services, and risk management. **Alleged Supporting Evidence:** Waggoner Decl., ¶ 17; Webb Decl., ¶¶ 5-7; Talluri Decl., ¶¶ 6-8; Galka Decl., ¶¶ 3, 8.	**Disputed.** 1) Mr. Webb identified that even though he and his employees, like his vice presidents (VPs) have an information technology job function (INFTECH), he also identified that they had product development type responsibilities "for supplying application and infrastructure services to … Oracle's public cloud customers." Citation: • Webb Decl. ¶¶ 2, 4-6. 2) Oracle employees and managers testified that their skills are interchangeable as proved by the fact that they and/or their reports have transferred across teams as well as lines of business, and were able to perform their duties without additional trainings. Citation: • OEx. 12, Pandey Decl. ¶¶ 6, 12; • OEx. 7, Kolotouros Decl. ¶ 4; • OEx. 13, Boross Decl. ¶¶ 8, 9, 11; • OEx. 14, Arehart Decl. ¶10; • OEx. 15, Ng Decl. ¶¶ 6, 10, 11.
24. In the Support job function, employees work on everything from legacy on-premise solutions to cloud-based solutions and other emerging technologies. **Alleged Supporting Evidence:** Waggoner Decl., ¶ 17; Yakkundi Decl., ¶¶ 10-16; Eckward Decl., ¶¶ 3, 5; Wu Decl., ¶¶ 4, 6; Suri Decl., ¶ 3, 5.	**Disputed.** 1) Oracle employees and managers testified that their skills are interchangeable as proved by the fact that they and/or their reports have transferred across teams as well as lines of business, and were able to perform their duties without additional trainings. Citation: • OEx. 12, Pandey Decl. ¶¶ 6, 12; • OEx. 7, Kolotouros Decl. ¶ 4; • OEx. 13, Boross Decl. ¶¶ 8, 9, 11; • OEx. 14, Arehart Decl. ¶10; • OEx. 15, Ng Decl. ¶¶ 6, 10, 11.

25. Within each job function, employees are further divided into job families (*e.g.*, Applications Developers) and then into system job titles with a corresponding numeric job code. **Alleged Supporting Evidence:** Waggoner Decl., ¶ 20; Connell Decl., Ex. C (7/19/19 Waggoner PMK Dep. 100:13-23), Ex. I (ORACLE_HQCA_0000399991 at 98).	**Undisputed.**

26. System job titles reflect a progression of development within a job family (*e.g.*, Applications Developer 1, Applications Developer 2, and so on). **Alleged Supporting Evidence:** Waggoner Decl., ¶ 20; Yakkundi Decl., ¶ 16; Wu Decl., ¶ 8; *see* Connell Decl., Ex. I (ORACLE_HQCA_0000399991 at 997-99).	**Disputed.** 1) Oracle defines its "systems job title" "as "a brief description of the job" not a "progression of development within a job family." Furthermore, "job family" is not an element of Oracle's global job table since Oracle's global job table only consists of five core elements: job code, job function, specialty area, job title, and global career level. Citation: • Ex. 13, slide 4 and slide 4 (notes), ORACLE_HQCA_0000056234-5, -6 in Vol. 1; • Ex. 12, slide 12 and slide 12 (notes), ORACLE_HQCA_0000042098-20 to -21 in Vol. 1; • Decl. of Erin Connell, attached to Oracle's MSJ (Connell Decl.), Ex. I,ORACLE_HQCA_0000399998. 2) Oracle defines global career level as the element of its global job table that "indicates increased skill, knowledge, and responsibilities and performance expectations." Citation: • Ex. 13, slide 4 (notes), ORACLE_HQCA_0000056234-5 in Vol. 1; • *See also* Ex. 12, slide 12 (notes), ORACLE_HQCA_0000042098-21 in Vol. 1. 3) Additionally, Oracle's Employee Handbook and training materials define a promotion as a move from a job in one Global Career Level to a job in a higher Global Career Level with greater responsibility and impact on the Company's business. Promotions are not defined as a progression of development within a job family. Citation: • OFCCP SUF: Fact 180; • Ex. 14, slide 34 (notes), ORACLE_HQCA_0000382580-66 in Vol. 1; • Ex. 11, ORACLE_HQCA_0000000507 in Vol. 1; • Ex. 8, slide 27, ORACLE_HQCA_0000056391-51 in Vol. 1; • Ex. 18, "Global Compensation Training: Managing Pay Module," copyright 2011, slide 13, ORACLE_HQCA_0000000407-24 in Vol. 1.

27. Job functions, specialty areas, job families, and system job titles are broad and describe the type of work that a person performs at a high level of abstraction. **Alleged Supporting Evidence:** Waggoner Decl., ¶¶ 17, 22; Connell Decl., Ex. B (8/1/19 Holman-Harries PMK Dep. 35:24-36:16), Ex. C (7/19/19 Waggoner PMK Dep. 102:17-103:23), Ex. I (ORACLE_HQCA_0000399991 at 999), Ex. J (ORACLE_HQCA_0000400010 at 010).	**Disputed.** 1) OFCCP disputes Oracle's characterization that each of these categories "describe the type of work a person performs at a high level of abstraction." Oracle's supporting cite at ORACLE_HQCA_0000399999 does not address job family let alone identify that it is broad or describes the type of work being performed. Instead it identifies and example of the different elements of Oracle's global job tab. Oracle's description of "Job Functions, specialty areas, … and system titles" below does not attribute to them a "high level of abstraction." • "The function which describes the general type of work the employee performs. This is not the same as LOB."" • "The specialty area which is a subset of the function and is intended to further identify the work performed.' • "The job title which is a brief description of the job – known as the 'systems title.'" Citation: • Ex. 8, slide 12 (notes), ORACLE_HQCA_0000056391-25 in Vol. 1; • Connell Decl., Ex. I (ORACLE_HQCA_0000399999). Oracle uses some of these elements to compare Oracle's jobs to its competitors, and set salary ranges associated with each system job title. Citation: • OEx. 2 Waggoner PMK *Jewett* Dep., ORACLE_HQCA_0000400683-85, 100:23-102:4. 2) Additionally, Ex. D to Ms. Waggoner's declaration disputes Oracle's characterization of specialty area as describing work at a "high level of abstraction." It states "[t]he specialty area is more specific, and it describes the work the employee performs within the defined function." It further states that that "[t]he specialty area assigned to a job <u>helps to pinpoint the responsibilities</u> of that job." Citation: • Waggoner Dec., Ex. D, ORACLE_HQCA_0000364276 at 8. 3) This fact is is unsupported by the bits and pieces from different documents and testimony Oracle cites:

	A) Ms. Waggoner's PMK testimony did not address job functions, specialty areas or job families in the cited testimony, and cannot provide support for Oracle's statements about those categorizations. Citation: • Connell Decl., Ex. C (7/19/19 Waggoner PMK Dep. 102:17-103:23). B) There is a lack of foundation for Ms. Holman-Harries' deposition testimony, as her counsel noted in his objections. Further, Oracle omits additional testimony from Ms. Holman-Harries (SHH PMK 36:18-38:23), revealing her lack of foundation. Further, Ms. Holman-Harries' testimony did not mention the job functions, specialty areas, job families, systems job titles, physical location. Citation: • Connell Decl., Ex. B (8/1/19 Holman-Harries PMK Dep. 35:24-36:16). C) The Ex. I cite does not state that these four items are broad nor does it state that these items are defined at a high level of abstraction. It also does not address systems job title. It simply identifies some examples for some of the job functions at issue in this litigation. Additionally parts of it are not legible. Citation: • Connell Decl., Ex. I (ORACLE_HQCA_0000399991 at 999). D) The Ex. J cite does not address job families or systems job titles. It likewise does not state that job function or specialty areas are broad or highly abstract. Citation: • Connell Decl., Ex. J (ORACLE_HQCA_0000400010 at 010). 4) Fourth, Oracle's factual assertion that "[j]ob functions, specialty areas, job families, and system job titles are broad and describe the type

	of work that a person performs at a high level of abstraction" is contradicted by its compensation instructions over the years that do not apply "broad" and "a high level of abstraction" characteristics to these items. Citation: • Ex. 16, slide 8 (notes) ORACLE_HQCA_0000364272-15 in Vol. 1; • *See also* Ex. 12, slide 19 (notes) ORACLE_HQCA_0000042098-35 in Vol. 1; • Ex. 13, slide 17 (notes), ORACLE_HQCA_0000056234-30 in Vol. 1; • Ex. 8, slide 20 (notes), ORACLE_HQCA_0000056391-39 in Vol. 1; • Ex. 14, slide 22 (notes) ORACLE_HQCA_0000382580-42 in Vol. 1.

28. Employees who share the same job function, specialty area, job family, or system job title may have very different duties, skills, education, and experience. **Alleged Supporting Evidence:** Bashyam Decl., ¶¶ 7, 14; Webb Decl., ¶¶ 5-6, 8-11; Sarwal Decl., ¶¶ 4-12; Eckward Decl., ¶¶ 9-10; Kottaluru Decl., ¶ 13; Hsin Decl., ¶ 8; Fox Decl., ¶¶ 12-13; Oden Decl., ¶¶ 7-11; Abushaban Decl., ¶ 10; Suri Decl., ¶ 10; Chan Decl., ¶ 8; Adjei Decl., ¶¶ 8-9; Chechik Decl., ¶ 6; Ousterhout Decl., ¶¶ 11-13; Miranda Decl., ¶¶ 5-8; Budalakoti Decl., ¶ 8.	**Disputed.** 1) The element in Oracle's global job table that addresses skills, knowledge, responsibilities and performance is global career level. The higher a person's career level, the higher the complexity of the person's duties. Citation: • Ex. 13, slide 4 (notes), ORACLE_HQCA_0000056234-5 in Vol. 1; • *See also* Ex. 12, slide 12 (notes), ORACLE_HQCA_0000042098-21 in Vol. 1. 2) Oracle's global career level also takes into account experience. For example, Oracle's "Position Criteria" for IC positions, notes that an IC3, IC4, IC5 and IC6 typically have more than 2.5, 5, 10 and 15 years of experience respectively. Citation: • OEx. 18, "Position Criteria," dated April 2006, ORACLE_HQCA_0000360865. 3) In her *Jewett* PMK deposition, Ms. Waggoner, testified that Oracle's global career level concerns: "Responsibility, complexity, knowledge, skills, and abilities that the person brings to the table, their scope." Citation: • OEx. 2, Waggoner PMK *Jewett* Dep. ORACLE_HQCA_0000400756, 173:1-6. 4) Oracle employees and managers testified that their skills are interchangeable as proved by the fact that they and/or their reports have transferred across teams as well as lines of business, and were able to perform their duties without additional trainings. Citation: • OEx. 12, Pandey Decl. ¶¶ 6, 12; • OEx. 7, Kolotouros Decl. ¶ 4; • OEx. 13, Boross Decl. ¶¶ 8, 9, 11; • OEx. 14, Arehart Decl. ¶10; • OEx. 15, Ng Decl. ¶¶ 6, 10, 11.

29. Each system job title associates a given employee with a particular career level. **Alleged Supporting Evidence:** Waggoner Decl., ¶ 24; Connell Decl., Ex. B (8/1/19 Holman-Harries PMK Dep. 86:14-87:18).	**Undisputed.**

30. Career levels are broad steps that roughly reflect increased skill, knowledge, responsibility, and performance expectations. **Alleged Supporting Evidence:** Connell Decl., Ex. B (8/1/19 Holman-Harries PMK Dep. 86:14-88:13), Ex. C (7/19/19 Waggoner PMK Dep. 100:24-102:8), Ex. I (ORACLE_HQCA_0000399991 at 997); Bashyam Decl., ¶¶ 7, 14; Webb Decl., ¶ 12; Sarwal Decl., ¶ 13; Wu Decl., ¶ 8; Fox Decl., ¶ 11; Kite Decl., ¶¶ 9-10; Chechik Decl., ¶ 13; Desmond Decl., ¶¶ 5-6; Ousterhout Decl., ¶ 10; Miranda Decl., ¶ 9; Galka Decl., ¶ 4.	**Disputed**. 1) Oracle's compensation training did not define global career levels as "roughly reflecting" "skill, knowledge, responsibility, and performance expectations." Instead, they stated that Career Level "indicates skill, knowledge, and responsibilities and performance expectations." Citation: • Ex. 13, slide 4 (notes), ORACLE_HQCA_0000056234-5 in Vol. 1; • *See also* Ex. 12, slide 12 (notes), ORACLE_HQCA_0000042098-21 in Vol. 1. 2) Ms. Waggoner's PMK deposition testimony did not use the qualifiers Oracle includes in its "fact." She described a global career level as: "Responsibility, complexity, knowledge, skills, and abilities that the person brings to the table, their scope." Citation: • OEx. 2, Waggoner PMK *Jewett* Dep. ORACLE_HQCA_0000400756, 173:1-8. 3) Ms. Waggoner further identified in her *Jewett* PMK deposition that the global career level is "the level at which someone is performing their job." Citation: • OEx. 2, Waggoner PMK *Jewett* Dep. ORACLE_HQCA_0000400755, 172:9-12. 4) Ms. Waggoner identified in her *Jewett* PMK deposition that Oracle employees who share the same global career levels share the same level of responsibility and their impacts are similar. Citation: • OEx. 2, Waggoner PMK *Jewett* Dep. ORACLE_HQCA_0000400810-12, 227:15-229:9. 5) One of the exhibits attached to Ms. Waggoner's declaration identifies the clarity of Oracle's global career level by noting that "if a job in Finance has the same level of responsibilities and complexity as a job in Sales, the career level of the two jobs will be the same."

	Citation: • Waggoner Decl., Ex. D, ORACLE_HQCA_0000364276 at 9. 6) The evidence that Oracle cites to support this fact, including the training at ORACLE_HQCA_0000399997, just identifies increased skill, knowledge, responsibility, and performance expectations. It does not identify that a global career level "roughly" indicates these traits. In fact, the cited paragraphs in the declarations identify that Oracle's employees, as their career levels increase, have a higher degree of skills, knowledge, responsibility and experience.
31. Job functions are not tied to specific LOBs. **Alleged Supporting Evidence:** Waggoner Decl., Ex. D (ORACLE_HQCA_0000364276 at 5, 7), Ex. E (ORACLE_HQCA_0000056234 at 6).	**Undisputed**.

32. Unlike LOBs, job functions do not have a leader, and individuals within a given job function typically work across different LOBs and report to many different leaders. **Alleged Supporting Evidence:** Waggoner Decl., ¶ 19; Connell Decl., Ex. A (ORACLE_HQCA_0000400584 at 47:20-48:24; 51:9-21; 146:21-147:23).	**Disputed** 1) Job functions have leaders. A) For example, Joyce Westerdahl is the leader of the human resources job function and is the top human resources person at Oracle. Kate Waggoner reports to Phil Jenish and he reports to Ms. Westerdahl. Citation: • OEx. 1, Westerdahl Dep. 12:14 – 13:19, 14:1-18. B) Ms. Waggoner is in the human resources job function and reports to Phil Jenish. Citation: • OEx. 8, Waggoner PMK Dep. 9:5-6; • OEx. 1, Westerdahl Dep. 15:14-15. C) For example, Larry Ellison is the Chief Technology Officer and technology functions and leader of Product Development and Information Technology job functions such that he approved the hiring and salary increases of people within those functions from Juan Loaiza's organization within Thomas Kurian's organization.. Citation: • OFCCP SUF Facts 40, 41; • OEx. 31, Loaiza Dep. 28:22-29:2, 119:3-120:16; • Ex. 35, "Dimensions of Diversity Newsletter," dated 12/9/15, ORACLE_HQCA_0000049995 in Vol. 2.

33. An employee's direct manager plays the most significant role in setting that employee's compensation. **Alleged Supporting Evidence:** Waggoner Decl., ¶ 28, Ex. C (ORACLE_HQCA_0000364272 at 15), Ex. E (ORACLE_HQCA_000005234 at 16, 22); Connell Decl., Ex. C (7/19/19 Waggoner PMK Dep. 111:23-112:3); Chan Decl., ¶ 9.	**Disputed**. 1) An employee's direct manager plays a minimal role, if any, with an Oracle employee's compensation of an Oracle employee because the employee's compensation does not change when he changes supervisor, moves to a different product, or works on a different project. A) Oracle's managerial training provides that there will generally be no change in base salary and job level for U.S. domestic transfers unless Larry Ellison gives his approval. Citation: • OFCCP SUF: Fact 172; • Ex. 58, "Manager Essentials Product Development," dated March 2014, ORACLE_HQCA_0000380891 in Vol. 2. B) Oracle's compensation training states that the starting point for transfers should be lateral (targeting the same base salary compa-ratio in the employee's old and new roles). Citation: • OFCCP SUF: Fact 173; • Ex. 13, slide 31 ORACLE_HQCA_0000056234-57 in Vol. 1. • *See also* Ex. 59, "Global Compensation Guidelines Training North America: US, "dated May 2013, slide 6, ORACLE_HQCA_0000382399-8 in Vol. 1. C) Oracle's instructions for addressing "Internal Transfers" states that transfers should be at "equal career level and salary." Citation: • OFCCP SUF: Fact 174; • Ex. 28, slide 21, ORACLE_HQCA_0000057179-41; • Ex. 51, Untitled Oracle Hiring Presentation, copyright 2014, slide 32, ORACLE_HQCA_0000057093-32.OEx. 8, Waggoner PMK Dep. 327:24-328:12, 267:21-22. D) Oracle's compensation training to managers instructs them that internal transfers should not be used as a means to increase salaries. Citation:

	• OFCCP SUF: Fact 175; • Ex. 13, slide 31, ORACLE_HQCA_0000056234-57 in Vol. 1; • Ex. 21, slide 19, ORACLE_HQCA_0000380437-37 in Vol. 1; • Ex. 59, slide 6, ORACLE_HQCA_0000382399-8 in Vol. 2. E) When a person moves from one organization to another within the Product Development LOB, there is "very rarely" any change in salary. Citation: • OFCCP SUF: Fact 176; • Ex. 11, Loaiza Dep. 105:10–23; F) Oracle purposely discourages granting pay increases when its employees laterally transfer from one position to another because if employees were given raises with a transfer, the organization would be beset by infighting as managers sought to poach staff from other organizations with promises of increased compensation.. Citation: • OFCCP SUF: Fact 177; • OEx. 8, Waggoner 30b6 Dep. 312:10–20, 310:2–24. G) A transfer within Oracle can occur with no increase in salary or other compensation unless an employee's current salary places him or her below the minimum range for the new job. Citation: • OFCCP SUF: Fact 178; • Ex. 11, Handbook, ORACLE_HQCA_0000000508. H) Appropriate levels of management must approve any compensation adjustment associated with a transfer. Citation: • OFCCP SUF: Fact 178; • Ex. 11, Handbook, ORACLE_HQCA_0000000508-09.

	2) The decisions whether to do corporate wide focal salary increases, bonuses, and stock grants and the budgets or caps allocated for them are more significant in determining employee compensation than employees' direct managers. I) While, at times, Oracle calls its focal, aka focal reviews "annual focal reviews," they are not truly annual because Oracle did not have any in 2013 and 2018 and has them about every 14-18 months apart. Citation: • OFCCP SUF: Fact 137, 138; • OEx. 8, Waggoner PMK Dep. 248:7–17, 192:19-193:1; • Ex. 34, ORACLE_HQCA_0000434971 in Vol. 2. J) From January 1, 2013, to January 19, 2019, Oracle only gave bonuses in two years: 2014 and 2018. Citation: • Ex. 91, Madden Report at 13 n. 4, 26 n. 15, 38 n. 18 in Vol. 3. K) In Ms. Waggoner PMK testimony, she stated that Oracle has had lean budget years such that there is "little to no focal budget." She explained the impact of this situation by stating "if we give little to no focal budget, naturally we're not keeping up with the way the market has grown." She further testified that Oracle has had a lean budget for "the last many years." Citation: • OFCCP SUF: Fact 110, 111; • OEx. 8, Waggoner PMK Dep. 327:24-328:12, 267:21-22. L) Ms. Waggoner also testified as a PMK that "since 2013, this time period started, we've had incredibly lean corporate bonus budgets" and "[t]he bonus budgets have been very rare and very small when we've had them." Citation: • OFCCP SUF: Fact 110, 111; • OEx. 8, Waggoner PMK Dep. 263:12-14, 276:11-14.

	M) For equity grants (aka stocks or RSUs), Oracle caps the amount of people who can receive them at 35% such that Ms. Waggoner identified in her PMK testimony that they primarily go to managers and employees with higher global career levels. Citation: • Ex. 84, Email from Stefanie Wittner, dated 5/30/13, ORACLE_HQCA_0000022961 in Vol. 3; • OEx. 8, Waggoner PMK Dep. 272:20-274:19. N) Managers were instructed to issue shares of stock to [redacted] to [redacted] managers and to [redacted] to [redacted] individual contributors. Citation: • Ex. 84, ORACLE_HQCA_0000022961 in Vol. 3. O) EVP Loaiza testified that 40-50% of his organization is below the market rate because of the limited budgets. Citation: • OFCCP SUF: Fact 129; • OEx. 11, Loaiza Dep. 283:6–284:22, 305:7–306:3. P) Oracle's lean budget years have not extended to Co-CEOs Safra Catz and Mark Hurd who each have earned 1,205 times more in 2018 than the median employee compensation at Oracle, a ratio that ranks them in the 17 highest paid CEOs vis a vis average employee pay. Citation: • OEx. 19, New York Times, The Highest-Paid C.E.O.s of 2018: A Year So Lucrative, We Had to Redraw Our Chart, 5/29/19 at https://www.nytimes.com/interactive/2019/business/highest-paid-ceos-2018.html. 3) Oracle has a centralized starting pay process for its hires. A) One example of an employee's first-line or direct manager not primarily determining the starting pay for new hires is Oracle's hiring of college graduates, because Oracle's College Recruiting Organization determines the person's pay, not the employee's

	direct hiring manager. Ms. Waggoner admitted that Oracle's College Recruiting Organization sets the compensation package for the new hires hired through its program in her PMK *Jewett* deposition. Citation: • OEx. 2, Waggoner PMK *Jewett* Dep. ORACLE_HQCA_0000400696-98, 113:13- 115:1. B) EVP Loaiza also identified in his March 2015 audit interview with OFCCP that Oracle's college recruiting organization set salaries for the people Oracle hires from college: "We hire a lot from universities. Those salaries are set by the university recruiting department. We set compensation for those not coming from universities." Citation: • Decl. of Hea Jung Atkins in Opposition to Oracle America, Inc.'s Motion for Summary Judgement (Atkins Opp'n Decl.), ¶ 14, Ex. K, OFCCP's Interview Notes of the Juan Loaiza on March 25, 2015 (Loaiza Interview Notes), DOL 000000522. C) Oracle's College Recruiting organization sets narrow pay ranges for college hires and makes starting pay determination for them. Citation: • OEx. 22, Email from Zeira Singn to many people re LJE approved new college compensation package, dated 8/25/16, ORACLE_HQCA_0000380453. • OEx. 23, Email from Chantel Dumont to Milton Liu and Les Cundall re Salary Guidelines, dated 9/11/13 (Dumont 9/11/13 Email), ORACLE_HQCA_0000012587; • OEx. 24, Email from Chantel Dumont to various people re college compensation for FY14, dated 9/24/13, ORACLE_HQCA_0000023717; • OEx. 25, Email from Katie Rider to James Handley re College Hire Starting Salaries, dated 4/16/15, ORACLE_HQCA_ 0000380671; • OEx. 26, email from Chantel Dumont to Duhong Trinh re intern salary rule, dated 9/14/13,

	ORACLE_HQCA_0000012204; • OEx. 27, Email from Les Cundall to Elizabeth Lee re why [redacted], dated 3/14/14, ORACLE_HQCA_0000011640; • OEx. 28, Email from Chantel Dumont to Satarupa Bhattacharya, dated 5/17/13, ORACLE_HQCA_0000012173. D) Another example of the direct manager not being the primary decision-maker for the starting pay for new hire is the MAP program wherein the "[t]he offer originates from the CEOs [sic] office and it has all the elements of other offers except a specific job position…. Once the offer is accepted the graduate is temporarily assigned to the CEOs [sic] development staff." Citation: • OEx. 29, Emails between Wendy Lee and [redacted] re Oracle's MAP Program created by Larry Ellison dated 10/25/13, ORACLE_HQCA_0000036993-94. E) EVP Loaiza, at the M8 global career level, testified in his deposition that when he is reviewing a person during the hiring approval process, he is reviewing "the proposed compensation of the person." He emphasizes this a second time when he states: "What I get is not the current compensation. I get the proposed compensation." If he is only looking at the *proposed pay* at his high level, then the first level manager, many levels below, could not have already determined the starting pay for a new hire. Citation: • OEx. 11, Loaiza Dep. 16:3-16, 17:2-10, 44:16-45:20-18. F) EVP Loaiza testified in his deposition that the hiring approval process which included the compensation proposal went up the management chain of command to the final approver who was Thomas Kurian for a large majority of them. Citation: • OEx. 11, Loaiza Dep. 48:10-49:1. G) Ms. Waggoner testified that determining the pay of hires is a collaboration between the hiring manager and the recruiting organization with, at times, input by human resources or its

	compensation group. Citation: • OEx. 17, Waggoner May Dep. 91:24-92:6. H) Ms. Waggoner's declaration and deposition testimony lacks foundation because of a lack of personal knowledge since she testified in her July 2018 *Jewett* deposition that she had not been involved with the review process for years. Citation: • OEx. 2, Waggoner PMK *Jewett* Dep. ORACLE_HQCA_0000400688-89, 105:1-106:12. I) Oracle's Human Resources and Recruiters play significant role in determining an employee's compensation at hire, as they are the ones instructing hiring managers how employees should be paid. Citation: • OEx 20, Powers Decl. ¶11; • OEx 21, Decl. of Lynn Snyder (Snyder Decl.) ¶ 13. 4) This fact is also disputed on the grounds that direct managers only make pay *recommendations*, not decisions. These pay *recommendations* are subsequently reviewed up the chain of command until the ultimate approver approves them. At intermediate reviews, the reviewing managers can either give their approvals or reject the recommendation. The final approvers for all hirings have to be approved by "CEO(s) & Executive Chairman and CTO," "Office of the CEO," the Board of Directors, or Thomas Kurian. A) Oracle's Global Approval Matrices state that approvals for base salary increases, bonuses, and stock or stock options grants have to be made at the level of "CEO(s) & Executive Chairman and CTO," "Office of the CEO," the Board of Directors, or Thomas Kurian. Citation: • OFCCP SUF: Fact 113; • Ex. 20, Global Approval Matrix, dated 6/11/12, ORACLE_HQCA_0000062725-1 to -2; • Ex. 20, Global Approval Matrix, dated 2/1/13,

	ORACLE_HQCA_0000062732-1 to -2; • Ex. 20, Global Approval Matrix, dated 11/1/14, ORACLE_HQCA_0000062712-1 to -2; • Ex. 20, Global Approval Matrix, dated 6/1/15, ORACLE_HQCA_0000062710-1 to -2; • Ex. 20, Global Approval Matrix, dated 6/1/16, ORACLE_HQCA_0000062711-1 to -2; • Ex. 20, Global Approval Matrix, dated 3/30/17, ORACLE_HQCA_0000062720-1 and -2 all in Vol. 1. • Fact 4 herein by Oracle for Thomas Kurian's title and position. B) Oracle's compensation instructions for hiring likewise require managers to make pay recommendations that require approvals at the Executive Level (e.g., CEO. CTO) or their offices. Citation: • OFCCP SUF: Fact 116; • Ex. 28, "Recruit & Hire at Oracle: Module 6: How to Create an Offer in iRecruitment," copyright 2017, slide 11 (notes), ORACLE_HQCA_0000057179-22 in Vol. 2; • Ex. 13, slide 35 and slide 35 (notes) ORACLE_HQCA_0000056234-65 to -66 in Vol. 1. 5) Oracle's compensation instructions for focals and off-cycle salary increases (e.g., promotions, "dive and saves" used to counter an offer from a competitor) likewise require managers to make pay recommendations that require approvals at the Executive Level (e.g., CEO. CTO) or their offices. Citation: • OFCCP SUF: Fact 116; • Ex. 28, slide 11 (notes), ORACLE_HQCA_0000057179-22 in Vol. 2; • Ex. 13, slide 35 and slide 35 (notes) ORACLE_HQCA_0000056234-65 to -66 in Vol. 1. A) The approvals for base salary increases goes all the way up through the CEO's office. Citation: • OFCCP SUF: Fact 117; • OEx. 8, Waggoner PMK Dep. 155:7-25.

	B) Oracle's focal review trainings refer to the managers role as making "recommendations" and state that "[t]his isn't to say that your recommendations won't be changed by someone further up in your hierarchy, but it is a way to inform your manager of how you would like to allocate increases to your team." Citation: • Ex. 14, at slide 43 (notes), ORACLE_HQCA_0000382580-84 in Vol. 1. C) In a 2014 compensation training, managers were instructed: "**Do not communicate** any changes [in compensation] until the 'Last Approval Action' shows 'Larry Ellison.'" Citation: • OFCCP SUF: Fact 120; • Ex. 25, slide 39, ORACLE_HQCA_0000056242-48 (emphasis in original) in Vol. 1. D) In a 2011 compensation training, managers were instructed: "**You should not communicate any changes until we obtain final approval from LJE**." Citation: • OFCCP SUF: Fact 121; • Ex. 26, slide 49, ORACLE_HQCA_0000056957-55 (emphasis in original) in Vol. 2. E) LJE stands for Larry J. Ellison. Citation: • OFCCP SUF: Fact 122; • OEx. 17, Waggoner May Dep. 106:25–107:4. F) Subsequent to these 2011 and 2014 trainings, Oracle expanded this approval beyond Larry Ellison to include Safra Catz. Citation: • OFCCP SUF: Fact 123;

	• OEx. 16, Carrelli Dep. 212:9–213:1, 214:12–14. H) Oracle's managers cannot communicate any pay changes earlier because changes can happen during the approval process. Citation: • OFCCP SUF: Fact 124; • Ex. 24, slide 39 (notes), ORACLE_HQCA_0000381306-76 in Vol. 1. I) Even in Oracle's declarations provided to this Court to support its summary judgment motion, managers acknowledge that they only make pay recommendations in focal reviews. E.g., Christina Kite, a VP, stated: "I am responsible for recommending salary increases and bonuses for my team." Citation: • Decl. of Christina Kite, ¶¶ 3, 11. J) President Thomas Kurian gave his required approval to off-cycle dive and save requests. Citation: • OFCCP SUF: Fact 119; • Ex. 30, Dive-and-Save Emails between Oracle Managers, July 2014, ORACLE_HQCA_0000432004 in Vol. 2. 6) In addition, OFCCP objects to paragraph 28 of Ms. Waggoner's declaration because she lacks personal knowledge of the facts about which she testifies, fails to use the best evidence, and proffers an improper summary. 7) Oracle's Human Resources and Recruiters play significant role in determining an employee's compensation at hire, as they are the ones instructing hiring managers how employees should be paid. Citation: • OEx 20, Powers Decl. ¶11; • OEx 21, Snyder Decl. ¶ 13.

34. First-line (or direct) managers primarily determine the starting pay for new hires. **Alleged Supporting Evidence:** Waggoner Decl., ¶ 28, Ex. E (ORACLE_HQCA_0000056234 at 36); Connell Decl., Ex. C (7/19/19 Waggoner PMK Dep. 113:14-114:24; 117:3-11), Ex. H (6/11/19 Cheruvu Dep. 74:22-25); Gill Decl., ¶ 6; Ousterhout Decl., ¶ 16.	**Disputed**. 1) One example of an employee's first-line or direct manager not primarily determining the starting pay for new hires is Oracle's hiring of college graduates, because Oracle's College Recruiting Organization determines the person's pay, not the employee's direct hiring manager. Ms. Waggoner admitted that Oracle's College Recruiting Organization sets the compensation package for the new hires hired through its program in her PMK *Jewett* deposition. Citation: • OEx. 2, Waggoner PMK *Jewett* Dep. ORACLE_HQCA_0000400696-98, 113:13- 115:1. 2) EVP Loaiza also identified in his March 2015 audit interview with OFCCP that Oracle's college recruiting organization set salaries for the people Oracle hires from college: "We hire a lot from universities. Those salaries are set by the university recruiting department. We set compensation for those not coming from universities." Citation: • Atkins, Opp. Decl., ¶ 7, Ex. 14, Loaiza Interview Notes, DOL 000000522. 3) Oracle's College Recruiting organization sets narrow pay ranges for college hires and makes starting pay determination for them. Citation: • OEx. 22, Email from Zeira Singn to many people re LJE approved new college compensation package, ORACLE_HQCA_0000380453. • OEx. 23, Email from Chantel Dumont to Milton Liu and Les Cundall re Salary Guidelines, dated 9/11/13 (Dumont 9/11/13 Email), ORACLE_HQCA_0000012587; • OEx. 24, Email from Chantel Dumont to various people re college compensation for FY14, dated 9/24/13, ORACLE_HQCA_0000023717; • OEx. 25, Email from Katie Rider to James Handley re College Hire Starting Salaries, dated 4/16/15, ORACLE_HQCA_ 0000380671; • OEx. 26, Email from Chantel Dumont to Duhong Trinh re

	Intern Salary Rule, dated 0/14/13, ORACLE_HQCA_0000012204; • OEx. 27, Email from Les Cundall to Elizabeth Lee re University Offer Approval Request, dated 3/14/14, ORACLE_HQCA_0000011640; • OEx. 28, Email from Chantel Dumont to Satarupa Bhattacharya re University Offer Approval Request, dated 5/17/13, ORACLE_HQCA_0000012173. 4) Another example of the direct manager not being the primary decision-maker for the starting pay for new hire is the MAP program wherein the "[t]he offer originates from the CEOs [sic] office and it has all the elements of other offers except a specific job position…. Once the offer is accepted the graduate is temporarily assigned to the CEOs [sic] development staff." Citation: • OEx. 29, Emails between Wendy Lee and [redacted] regarding Oracle's MAP Program created by Larry Ellison dated 10/25/13, ORACLE_HQCA_0000036993-94. 5) EVP Loaiza, at the M8 global career level, testified in his deposition that when he is reviewing a person during the hiring approval process, he is reviewing "the proposed compensation of the person." He emphasizes this a second time when he states: "What I get is not the current compensation. I get the proposed compensation." If he is only looking at the *proposed pay* at his high level, then the first level manager, many levels below, could not have already determined the starting pay for a new hire. Citation: • OEx. 11, Loaiza Dep. 16:3-16, 17:2-10, 44:16 to 45, 45:20-18. 6) EVP Loaiza testified in his deposition that the hiring approval process which included the compensation proposal went up the management chain of command to the final approver who was Thomas Kurian for a large majority of them. Citation: • OEx. 11, Loaiza Dep. 48:10 to 49:1.

	7) Ms. Waggoner testified that determining the pay of hires is a collaboration between the hiring manager and the recruiting organization with, at times, input by human resources or its compensation group. Citation: • OEx. 17, Waggoner May Dep. 91:24-92:6. 8) Ms. Waggoner's declaration and deposition testimony lacks foundation because of a lack of personal knowledge since she testified in her July 2018 *Jewett* deposition that she had not been involved with the review process for years. Citation: • OEx. 2, Waggoner PMK *Jewett* Dep. ORACLE_HQCA_0000400688-89, 105:1-106:12. 9) In addition, OFCCP objects to paragraph 28 of Ms. Waggoner's declaration because she fails to use the best evidence, and proffers an improper summary. 10) Oracle's Human Resources and Recruiters play significant role in determining an employee's compensation at hire, as they are the ones instructing hiring managers how employees should be paid. Citation: • OEx. 20, Powers Decl. ¶11; • OEx. 21, Snyder Decl. ¶ 13. 11) This fact is also disputed on the grounds that direct managers only make pay *recommendations*, not decisions. These pay *recommendations* are subsequently reviewed up the chain of command until the ultimate approver approves them. At intermediate reviews, the reviewing managers can either give their approvals or reject the recommendation. The final approvers for all hirings have to be approved by "CEO(s) & Executive Chairman and CTO," "Office of the CEO," the Board of Directors, or Thomas Kurian. A) Oracle's Global Approval Matrices state that approvals for base salary increases bonuses, and stock or stock options grants have to be made at the level of "CEO(s) & Executive Chairman and CTO," "Office of the CEO," the Board of Directors, or Thomas Kurian.

	Citation: • OFCCP SUF: Fact 113; • Ex. 20, Global Approval Matrix, dated 6/11/12, ORACLE_HQCA_0000062725-1 to -2; • Ex. 20, Global Approval Matrix, dated 2/1/13, ORACLE_HQCA_0000062732-1 to -2; • Ex. 20, Global Approval Matrix, dated 11/1/14, ORACLE_HQCA_0000062712-1 to -2; • Ex. 20, Global Approval Matrix, dated 6/1/15, ORACLE_HQCA_0000062710-1 to -2; • Ex. 20, Global Approval Matrix, dated 6/1/16, ORACLE_HQCA_0000062711-1 to -2; • Ex. 20, Global Approval Matrix, dated 3/30/17, ORACLE_HQCA_0000062720-1 and -2 all in Vol. 1. • Fact 4 herein by Oracle for Thomas Kurian's title and position. B) Oracle's compensation instructions for hiring likewise require managers to make pay recommendations that require approvals at the Executive Level (e.g., CEO. CTO) or their offices. Citation: • OFCCP SUF: Fact 116; • Ex. 28, "Recruit & Hire at Oracle: Module 6: How to Create an Offer in iRecruitment," copyright 2017, slide 11 (notes), ORACLE_HQCA_0000057179-22 in Vol. 2; • Ex. 13, slide 35 and slide 35 (notes) ORACLE_HQCA_0000056234-65 to -66 in Vol. 1. C) EVP Loaiza, at the M8 global career level, testified in his deposition that when he is reviewing a person during the hiring approval process, he is reviewing "the proposed compensation of the person." He emphasizes this a second time when he states: "What I get is not the current compensation. I get the proposed compensation." If he is only looking at the proposed pay at his high level, then the first level manager, many levels below, could not have already determined the salary increases. Citation: • OEx. 11, Loaiza Dep. 17:2-10, 44:16-45:1, 45:20-46:18.

35. Direct managers also primarily determine salary increases. **Alleged Supporting Evidence:** Waggoner Decl., ¶ 27; Fox Decl., ¶ 14; Kite Decl., ¶ 11; Suri Decl., ¶ 16; Chan Decl., ¶ 8.	**Disputed**. 1) The decisions whether to provide focal salary increases and the budgets or caps allocated for them are more significant in determining employee compensation than the employees' direct managers. A) Oracle did not have focal reviews in 2013 and 2018 and has them about every 14-18 months. Thus, direct managers have no bearing pm when focal reviews and the potential salary increases that flow from them may occur. Citation: • OFCCP SUF: Fact 137, 138; • OEx. 8, Waggoner PMK Dep. 192:19-193:1, 248:7–17. • Ex. 34, ORACLE_HQCA_0000434971 in Vol. 2. B) Ms. Waggoner's PMK testimony also identified that Oracle has had lean budget years such that there is "little to no focal budget." She explained the impact of this situation by stating "if we give little to no focal budget, naturally we're not keeping up with the way the market has grown." She also identified that Oracle has had a lean budget for "the last many years." Thus, the ability to give salary increases is severely limited. Citation: • OEx. 8, Waggoner 30b6 Dep. 327:24-328:12, 267:21-22. C) Oracle's lean budget years have not extended to Co-CEOs Safra Catz and Mark Hurd who each have earned 1,205 times more in 2018 than the median employee compensation at Oracle, a ratio that ranks them in the 17 highest paid CEOs vis a vis average employee pay. Citation: • OEx. 19, New York Times, The Highest-Paid C.E.O.s of 2018: A Year So Lucrative, We Had to Redraw Our Chart, 5/29/19 at https://www.nytimes.com/interactive/2019/business/highest-paid-ceos-2018.html. D) In her PMK testimony, Ms. Waggoner further testified that while M1 managers have people reporting to them, they do not have "hire/fire, compensation decision type of authority."

	Citation: • OEx. 8, Waggoner 30b6 Dep. 116:20-117:2. E) Ms. Waggoner testified further still as the PMK that at times, the budget is not even cascaded down to the M2 manager. Citation: • OEx. 8, Waggoner 30b6 Dep. 253:20-254:6. 2) This fact is also disputed on the grounds that when direct managers receive a budget allocation, they only make pay *recommendations*, not decisions. These pay *recommendations* are subsequently reviewed up the chain of command until the ultimate approver approves them. At intermediate reviews, the reviewing managers can either give their approvals or reject the compensation recommendation. The final approvers for all salary increase (focal reviews and off-cycle) have to be approved by "CEO(s) & Executive Chairman and CTO," "Office of the CEO," the Board of Directors, or Thomas Kurian. Moreover, to get off-cycle decisions approved, managers are required to submit written justification. A) Oracle's Global Approval Matrices state that approvals for base salary increases bonuses, and stock or stock options grants have to be made at the level of "CEO(s) & Executive Chairman and CTO," "Office of the CEO," the Board of Directors, or Thomas Kurian. Citation: • OFCCP SUF: Fact 113; • Ex. 20, Global Approval Matrix, dated 6/11/12, ORACLE_HQCA_0000062725-1 to -2; • Ex. 20, Global Approval Matrix, dated 2/1/13, ORACLE_HQCA_0000062732-1 to -2; • Ex. 20, Global Approval Matrix, dated 11/1/14, ORACLE_HQCA_0000062712-1 to -2; • Ex. 20, Global Approval Matrix, dated 6/1/15, ORACLE_HQCA_0000062710-1 to -2; • Ex. 20, Global Approval Matrix, dated 6/1/16, ORACLE_HQCA_0000062711-1 to -2; • Ex. 20, Global Approval Matrix, dated 3/30/17, ORACLE_HQCA_0000062720-1 and -2 all in Vol. 1. • Fact 4 herein for Thomas Kurian's title and position.

	B) Oracle requires that all pay increases be approved by the top of an employee's management chain of command. Citation: • OFCCP SUF: Fact 114; • OEx. 17, Waggoner May Dep. 106:2–4, in Vol. 1. C) Oracle's instructions for conducting salary reviews (aka focals or focal reviews) and allocating bonuses and stock grants instruct managers on a process by which managers make recommendations that are reviewed by each successive level of management until they are finally approved at the top of the management chain of command or the office of that top executive. Citation: • OFCCP SUF: Fact 115; • Ex. 24, slides 28–39 and associated notes, ORACLE_HQCA_0000381306-52 to -75 in Vol. 1; • Ex. 25, slides 33–39, ORACLE_HQCA_0000056242-42 to -48 in Vol. 1; • Ex. 26, slides 3–4, 13, 34–39; ORACLE_HQCA_0000056957-3, -4, -16, -38 to -45 in Vol. 2; • OEx. 8, Waggoner PMK Dep. 118:18-23. 3) Oracle's compensation instructions for hiring and for off-cycle salary increases (e.g., "dive and saves" used to counter an offer from a competitor) likewise require managers to make pay recommendations that require approvals at the Executive Level (e.g., CEO. CTO) or their offices. Citation: • OFCCP SUF: Fact 116; • Ex. 28, slide 11 (notes), ORACLE_HQCA_0000057179-22 in Vol. 2; • Ex. 13, slide 35 and slide 35 (notes) ORACLE_HQCA_0000056234-65 to -66 in Vol. 1. D) The approvals for base salary increases goes all the way up through the CEO's office.

	Citation: • OFCCP SUF: Fact 117; • OEx. 8, Waggoner PMK Dep. 155:7-25. E) Oracle's focal review trainings refer to the managers role as making "recommendations" and state that "[t]his isn't to say that your recommendations won't be changed by someone further up in your hierarchy, but it is a way to inform your manager of how you would like to allocate increases to your team." Citation: • Ex. 14, at slide 43 (notes), ORACLE_HQCA_0000382580-84 in Vol. 1. F) In a 2014 compensation training, managers were instructed: "**Do not communicate** any changes [in compensation] until the 'Last Approval Action' shows 'Larry Ellison.'" Citation: • OFCCP SUF: Fact 120; • Ex. 25, slide 39, ORACLE_HQCA_0000056242-48 (emphasis in original) in Vol. 1. G) In a 2011 compensation training, managers were instructed: "**You should not communicate any changes until we obtain final approval from LJE**." Citation: • OFCCP SUF: Fact 121; • Ex. 26, slide 49, ORACLE_HQCA_0000056957-55 (emphasis in original) in Vol. 2. H) LJE stands for Larry J. Ellison. Citation: • OFCCP SUF: Fact 122; • OEx. 17, Waggoner May Dep. 106:25–107:4. I) Subsequent to these 2011 and 2014 trainings, Oracle expanded this approval beyond Larry Ellison to include Safra Catz.

	Citation: • OFCCP SUF: Fact 123; • OEx. 16, Carrelli Dep. 212:9–213:1, 214:12–14. J) Oracle's managers cannot communicate any pay changes earlier because changes can happen during the approval process. Citation: • OFCCP SUF: Fact 124; • Ex. 24, slide 39 (notes), ORACLE_HQCA_0000381306-76 in Vol. 1. K) EVP Loaiza, at the M8 global career level, testified in his deposition that when he is reviewing a person during the hiring approval process, he is reviewing "the proposed compensation of the person." He emphasizes this a second time when he states: "What I get is not the current compensation. I get the proposed compensation." If he is only looking at the proposed pay at his high level, then the first level manager, many levels below, could not have already determined the salary increases. Citation: • OEx. 11, Loaiza Dep. 17:2-10, 44:16-45:1, 45:20-46:18. L) Even in Oracle's declarations provided to this Court to support its summary judgment motion, managers acknowledge that they only make pay recommendations in focal reviews. E.g., Christina Kite, a VP, stated: "I am responsible for recommending salary increases and bonuses for my team." Citation: • Decl. of Christina Kite, attached to Oracle's MSJ (Kite Oracle MSJ Decl.), ¶¶ 3, 11. K) President Thomas Kurian gave his required approval to off-cycle dive and save requests. Citation: • OFCCP SUF: Fact 119; • Ex. 30, Dive-and-Save Emails between Oracle Managers,

	July 2014, ORACLE_HQCA_0000432004 in Vol. 2. 4) Ms. Waggoner's declaration lacks foundation because of a lack of personal knowledge since she testified in her July 2018 PMK *Jewett* deposition that she has "no idea" how frequently base salary recommendations get rejected below the very top approval level. Citation: • OEx. 2, Waggoner PMK *Jewett* Dep. ORACLE_HQCA_0000400718-20, 135:24-137:1. 5) Managers testified that their pay recommendations were not always followed. Citation: • OEx. 12, Pandey Decl. ¶14; • OEx. 10, McGregor Decl. ¶13.

36. Although individual compensation decisions for new hires and promotions are subject to an approval process by more senior management to ensure they are within budget and/or are not wholly unreasonable, those senior managers generally defer to the decisions of the lower-level managers and only rarely are decisions not approved. **Alleged Supporting Evidence:** Balkenhol Decl., ¶¶ 6-9; Waggoner Decl., ¶ 28; Connell Decl., Ex. C (7/19/19 Waggoner PMK Dep. 113:14-114:24; 117:12-121:18; 155:7-156:10; 161:10-162:13; 164:10-165:1; 167:22-169:8; 170:10-23; 171:4-20; 195:16-198:13); Abushaban Decl., ¶ 15; Hsin Decl., ¶ 11; Ousterhout Decl., ¶ 16; Robertson Decl., ¶ 11; Shah Decl., ¶ 14; Talluri Decl., ¶ 14; Eckard Dec., ¶ 13; Yakkundi Decl., ¶ 19; Suri Dec., ¶ 22; Chan Decl., ¶ 13; Desmond Decl., ¶ 13.	**Disputed**. Lower levels managers make compensation recommendations, not compensation decisions. 1) Compensation *recommendations* for hiring and salary increases for promotions are reviewed by a person's management chain until it reaches the final approvers. The final approvers for all salary increases (focal reviews and off-cycle) due to promotions have to be approved by "CEO(s) & Executive Chairman and CTO," "Office of the CEO," the Board of Directors, or Thomas Kurian. Moreover, to get off-cycle decisions approved, *recommending* managers are required to submit written justification. OFCCP is disputing this issue because the lower level managers do not make the compensation *decisions*, they only make *recommendations*. • Oracle's Global Approval Matrices state that approvals for base salary increases; bonuses and stock or stock options grants; and hiring have to be made at the level of "CEO(s) & Executive Chairman and CTO," "Office of the CEO," the Board of Directors, or Thomas Kurian. Citation: • OFCCP SUF: Fact 113; • Ex. 20, Global Approval Matrix, dated 6/11/12, ORACLE_HQCA_0000062725-1 to -2; • Ex. 20, Global Approval Matrix, dated 2/1/13, ORACLE_HQCA_0000062732-1 to -2; • Ex. 20, Global Approval Matrix, dated 11/1/14, ORACLE_HQCA_0000062712-1 to -2; • Ex. 20, Global Approval Matrix, dated 6/1/15, ORACLE_HQCA_0000062710-1 to -2; • Ex. 20, Global Approval Matrix, dated 6/1/16, ORACLE_HQCA_0000062711-1 to -2; Ex. 20, Global Approval Matrix, dated 3/30/17, ORACLE_HQCA_0000062720-1 and -2, in Vol. 1. B) Oracle requires that all pay increases be approved by the top of an employee's management chain of command. Citation: • OFCCP SUF: Fact 114; • OEx. 17, Waggoner May Dep. 106:2–4.

	C) Oracle's focal reviews instructions require managers to make recommendations that are reviewed by each successive level of management until they are finally approved at the top of the management chain of command or the office of that top executive. Citation: • OFCCP SUF: Fact 115; • Ex. 24, slides 28–39 and associated notes, ORACLE_HQCA_0000381306-52 to -75 in Vol. 1; • Ex. 25, slides 33–39, ORACLE_HQCA_0000056242-42 to -48 a in Vol. 1; • Ex. 26, slides 3–4, 13, 34–39, ORACLE_HQCA_0000056957-3, -4, -16, -38 to -45 in Vol. 2; • OEx. 8, Waggoner PMK Dep. 118:18-23. D) Oracle's compensation instructions for hiring and for off-cycle salary increases (e.g., for promotions) likewise require managers to make pay recommendations that require the approvals all the way up to the Executive Level or their offices. Citation: • OFCCP SUF: Fact 116; • Ex. 28, slide 11 (notes), ORACLE_HQCA_0000057179-22, in Vol. 2; • Ex. 13, slide 35 and slide 35 (notes) ORACLE_HQCA_0000056234-65 to -66 in Vol. 1. E) The approvals for base salary increase recommendations go all the way up through the CEO's office wherein the final decision is made. Citation: • OFCCP SUF: Fact 117; • OEx. 8, Waggoner PMK Dep. 155:7-25. F) In a 2014 compensation training, managers were instructed: "**Do not communicate** any changes [in compensation] until the 'Last Approval Action' shows 'Larry Ellison.'" Citation: • OFCCP SUF: Fact 120;

	• Ex. 25, slide 39, ORACLE_HQCA_0000056242-48 (emphasis in original), in Vol. 1. G) In a 2011 compensation training, managers were instructed: "**You should not communicate any changes until we obtain final approval from LJE**." Citation: • OFCCP SUF: Fact 121; • Ex. 26, slide 49, ORACLE_HQCA_0000056957-55 (emphasis in original) in Vol. 2. H) LJE stands for Larry J. Ellison. Citation: • OFCCP SUF: Fact 122; • OEx. 17, Waggoner May Dep. 106:25–107:4. I) Subsequent to these 2011 and 2014 trainings, Oracle expanded this approval beyond Larry Ellison to include Safra Catz. Citation: • OFCCP SUF: Fact 123; • OEx. 16, Carrelli Dep. 212:9–213:1, 214:12–14. J) Oracle's managers cannot communicate any pay changes earlier because changes can happen during the approval process. Citation: • OFCCP SUF: Fact 124; • Ex. 24, slide 39 (notes), ORACLE_HQCA_0000381306-76, in Vol. 1. K) EVP Loaiza, at the M8 global career level, testified in his deposition that when he is reviewing a person during the hiring approval process, he is reviewing "the proposed compensation of the person." He emphasizes this a second time when he states: "What I get is not the current compensation. I get the proposed compensation." If he is only looking at the proposed pay at his high level, then the first level manager, many levels below, could not have already determined the salary increases.

	Citation: • OEx. 11, Loaiza Dep. 17:2-10, 44:16-45:1, 45:20-46:18. L) Managers testified to specific examples of their pay recommendations not being followed. Citation: • OEx. 12, Pandey Decl. ¶14; • OEx. 10, McGregor Decl. ¶13. 2) Senior levels of management at the VP level and above level do more than just review hiring submissions that contain proposed compensation to see if hiring recommendations are "within budget and/or are not wholly unreasonable." A) EVP Loaiza, at an M8 global career level, gave a detailed explanation of what he reviewed to determine if he should approve or reject a hiring recommendation containing the proposed compensation. He stated that he looked at: the person's proposed compensation; whether Oracle hiring in the area of the person's expertise; a person's education; the person's resume; the interview notes by Oracle personnel; the person's competitive offer by another company, if applicable; and that he would generally review anything in the hiring packet. Thus, contrary to the claim only supported by Ms. Balkenhol's declaration, senior managers like EVP Loaiza do extensive review of offers Citation: • OEx. 11, Loaiza Dep. 44:16-45:19, 46:16-47:2, 47:21-23, 68:19-69:8. B) HR Business Partner and VP Madhawi Cheruvu for seven lines of businesses (LOB) and Thomas Kurian's Product Development LOB testified that as an approving manager, she looks at a person's experience (years and type), skills, resume, the other companies the person worked, the similarity between where the person worked and at Oracle, the salary range, the person's current compensation, the role the person will play, the criticality of the skills, and the deliverables the person will make. Citation:

	• OEx. 4, Cheruvu Dep. 70:12-71:4, 77:3-78:3, 190:25-191:9, 259:12-22 C) EVP Loaiza also gave an interview to OFCCP on March 25, 2015, when he identified that he was a Senior Vice President during OFCCP's audit. In the interview summary for him it noted that EVP Loaiza commented extensively on his involvement in the hiring process to include reviewing the proposed compensation and the person's current compensation such that almost a whole typed page, single space, reflected his comments. Citation: • Atkins Opp'n Decl. ¶14, Ex. K, Loaiza Interview Notes, DOL0000000522. D) HR Business Partner and VP Madhawi Cheruvu for seven lines of businesses (LOB) and Thomas Kurian's Product Development LOB also gave an interview that OFCCP summarized that described her extensive involvement in hiring and off-cycle compensation decisions. The interview summary identified that she looks at: resumes, current compensation, the job they are performing, the skills they are bring and how important these skills are to Oracle, the salary ranges involved, the immediate need of the person, the level of market demand for the person's skills, the difference between what the applicant is currently making and the proposed salary, compares what is being offered to current employees, examines what competitors are offering. Thus, contrary to the claim only supported by Ms. Balkenhol's declaration, senior managers like HR Business Partner and VP Cheruvu do extensive review of offers or off-cycle pay adjustments. Citation: • Atkins Opp'n Decl. ¶6, Ex. C, OFCCP's Interview Notes of the Madhawi Cheruvu on March 24 & 26, 2015 (Cheruvu Interview Notes), DOL000000535-37. 3) This fact is also disputed because it is unsupported because of lack of foundation on several grounds having more detail below: • Waggoner's claims are contradicted by her *Jewett* PMK

	testimony; • Balkenhol's claims only concern what happens at the very top for the CEOs and CTO. • None of the remaining 11 declarations concern promotion salary increases. • Three declaration concern neither promotion salary increases or starting pay; • Oracle's cherry picking of the eight remaining declarations are insufficient to establish what happened for three job functions over six years when there was 1,516 managers in these three job functions on January 1, 2014, alone. A) Ms. Waggoner's declaration and deposition testimony lack foundation because of a lack of personal knowledge since she testified in her July 2018 PMK *Jewett* deposition that she has "no idea" how frequently base salary recommendations get rejected below the very top approval. Citation: • OEx. 2, Waggoner PMK *Jewett* Dep. ORACLE_HQCA_0000400718-20, 135:24-137:1. B) Ms. Waggoner's declaration and deposition testimony lacks foundation because of a lack of personal knowledge since she testified in her July 2018 *Jewett* deposition that she had not been involved with the review process for initial salaries for years. Citation: • OEx. 2, Waggoner PMK *Jewett* Dep. ORACLE_HQCA_0000400688-89, 105:1-106:12. C) Ms. Balkenhol Decl. is disputed because of a lack of foundation. She only addresses whether rejections occurred at the CEO or CTO level at the apex of the approval levels. She states nothing about any of the approvals at the lower levels. D) This is a lack of foundation for the remaining 11 declarations on several grounds. First, none of them addressed salaries increases for promotions. The one that came the closest only address not having his promotion decision changed. This statement did not address whether a salary increase accompanied this promotion, let alone whether it was approved.

	This declaration stated nothing about the salary increase that may have accompanied the promotion. Three of the 11 declarations stated nothing about either starting pay or salary increases for promotions such that this only left eight declarations remaining for perhaps starting pay since one did not address the types of compensation decisions made. The breakdown of these declarations is as follows: • ¶ 15 of the Abushaban Decl. only addresses hiring pay and not salary increases for promotions; • ¶ 11 of the Hsin Decl. also only addressed hiring pay and not salary increases for promotions; • ¶ 16 of the Ousterhout Decl. qualifies rejections to just those that occurred that were within the salary range and she never identified whether her other compensation decisions related to promotions; • ¶ 11 of the Robertson Decl. only references hiring pay, not salary increases for promotion and admits to rejecting starting salary recommendations received from below but does not identify the scope of his rejections; • ¶ 14 of the Shah Decl. only references hiring pay and not salary increases for promotions; • ¶ 14 of the Talluri Decl. only references hiring pay, not salary increases for promotion; • ¶ 13 of the Eckard Dec. does not reference the approval process for salary for either hiring or promotions; • ¶ 19 of the Yakkundi Decl. does not reference the approval process for salary for either hiring or promotions; • ¶ 22 of the Suri Dec. does not reference the approval process for salary for either hiring or promotions; • ¶ 13 of the Chan Decl. does not reference the type of compensation decisions she made or reviewed for anyone to evaluate whether she ever had any hiring pay or promotion salary decisions; and • ¶ 13 of the Desmond Decl. does not address starting salaries or increasing salaries for promotions. E) Additionally, on just January 1, 2014 alone, the number of employees at Oracle having the M management global career level in the three job functions at issue in this litigation was 1,516. Making the false assumption that Oracle never added

	any other manager between January 1, 2014, to January 19, 2019, means that these eight declarations represent only 0.53% of Oracle's management work force for these three job functions. Thus, Oracle's claim lacks foundation because the people giving declaration vastly under represent management in these three job functions. Citation: • OFCCP SUF: Fact 118; • Ex. 17, Atkins MSJ Decl., Ex. A (Table 1). 4) OFCCP objects to all of the statements made in all of the declarations Oracle used to support this alleged fact regarding the number of approvals and rejections the declarant made under Rule 1002 Fed. R. Evid. (best evidence). Oracle electronically tracks it approval process as demonstrated in the "Approval History" Section for "Candidate Details." In this Approval History Section, it notes, amongst other things, the order of approvals, the name or organization of the actual approver, the approval status, the date and time down to the second that the action was taken and any comments any person made. Thus, instead of managers relying on their memory and perhaps speculating, Oracle should have provided documentation of the decisions made. To the extent Oracle claims that it was providing a summary, OFCCP objects under Rule 1006 Fed. R. Evid. (improper summary). Citation: • OFCCP SUF: Fact 118; • Ex. 29, iRecruitment Candidate Details for Applicant Number 452780, dated 2/17/14, ORACLE_HQCA_0000001729 in Vol. 2. 5) Lastly, OFCCP disputes this fact because the person making the "individual compensation decisions" was not defined nor was "senior managers" defined.

37. Senior management reviews front-line managers' starting offers and off-cycle compensation decisions, including promotions, transfers, and other off-cycle compensation changes, to ensure that the decisions are reasonable under the circumstances – generally a high level "sanity check," and not a deep dive into the specifics of any particular decision. **Alleged Supporting Evidence:** Balkenhol Decl., ¶¶ 6, 9, 12.	**Disputed**. 1) Compensation *recommendations* for hiring and salary off-cycle increases are reviewed by a person's management chain until it reaches the final approvers. The final approvers for all salary increases (focal reviews and off-cycle) due to promotions have to be approved by "CEO(s) & Executive Chairman and CTO," "Office of the CEO," the Board of Directors, or Thomas Kurian. Moreover, to get off-cycle decisions approved, *recommending* managers are required to submit written justification. OFCCP is disputing this issue because the lower level managers do not make the compensation *decisions*, they only make *recommendations*. A) Oracle's Global Approval Matrices state that approvals for base salary increases; bonuses and stock or stock options grants; and hiring have to be made at the level of "CEO(s) & Executive Chairman and CTO," "Office of the CEO," the Board of Directors, or Thomas Kurian. Citation: • OFCCP SUF: Fact 113; • Ex. 20, Global Approval Matrix, dated 6/11/12, ORACLE_HQCA_0000062725-1 to -2; • Ex. 20, Global Approval Matrix, dated 2/1/13, ORACLE_HQCA_0000062732-1 to -2; • Ex. 20, Global Approval Matrix, dated 11/1/14, ORACLE_HQCA_0000062712-1 to -2; • Ex. 20, Global Approval Matrix, dated 6/1/15, ORACLE_HQCA_0000062710-1 to -2; • Ex. 20, Global Approval Matrix, dated 6/1/16, ORACLE_HQCA_0000062711-1 to -2; Ex. 20, Global Approval Matrix, dated 3/30/17, ORACLE_HQCA_0000062720-1 and -2, in Vol. 1. B) Oracle requires that all pay increases be approved by the top of an employee's management chain of command. Citation: • OFCCP SUF: Fact 114; • OEx. 17, Waggoner May Dep. 106:2–4. C) Oracle's compensation instructions for hiring and for off-cycle salary increases (e.g., for promotions) likewise require

	managers to make pay recommendations that require the approvals all the way up to the Executive Level or their offices. Citation: • OFCCP SUF: Fact 116; • Ex. 28, slide 11 (notes), ORACLE_HQCA_0000057179-22 in Vol. 2; • Ex. 13, slide 35 and slide 35 (notes) ORACLE_HQCA_0000056234-65 to -66 in Vol. 1. D) The approvals for base salary increase recommendations go all the way up through the CEO's office wherein the final decision is made. Citation: • OFCCP SUF: Fact 117; • OEx. 8, Waggoner PMK Dep. 155:7-25. E) In a 2014 compensation training, managers were instructed: "**Do not communicate** any changes [in compensation] until the 'Last Approval Action' shows 'Larry Ellison.'" Citation: • OFCCP SUF: Fact 120; • Ex. 25, slide 39, ORACLE_HQCA_0000056242-48 (emphasis in original) in Vol. 1. F) In a 2011 compensation training, managers were instructed: "**You should not communicate any changes until we obtain final approval from LJE**." Citation: • OFCCP SUF: Fact 121; • Ex. 26, slide 49, ORACLE_HQCA_0000056957-55 (emphasis in original) in Vol. 2. G) LJE stands for Larry J. Ellison. Citation: • OFCCP SUF: Fact 122; • Ex. 7, Waggoner May Dep. 106:25–107:4.

	H) Subsequent to these 2011 and 2014 trainings, Oracle expanded this approval beyond Larry Ellison to include Safra Catz. Citation: • OFCCP SUF: Fact 123; • OEx. 16, Carrelli Dep. 212:9–213:1, 214:12–14. J) Oracle's managers cannot communicate any pay changes earlier because changes can happen during the approval process. Citation: • OFCCP SUF: Fact 124; • Ex. 24, slide 39 (notes), ORACLE_HQCA_0000381306-76 in Vol. 1. K) EVP Loaiza, at the M8 global career level, testified in his deposition that when he is reviewing a person during the hiring approval process, he is reviewing "the proposed compensation of the person." He emphasizes this a second time when he states: "What I get is not the current compensation. I get the proposed compensation." If he is only looking at the proposed pay at his high level, then the first level manager, many levels below, could not have already determined the salary increases. Citation: • OEx. 11, Loaiza Dep. 17:2-10, 44:16-45:1, 45:20-46:18. 2) Oracle's senior management does more than just institute "a high-level 'sanity check,' and not a deep dive into the specifics of any particular decision." A) EVP Loaiza, at an M8 global career level, gave a detailed explanation of what he reviewed to determine if he should approve or reject a hiring recommendation containing the proposed compensation. He stated that he looked at: the person's proposed compensation; whether Oracle hiring in the area of the person's expertise; a person's education; the person's resume; the interview notes by Oracle personnel; the person's competitive offer by another company, if applicable; and that he would generally review anything in the hiring packet. Thus, contrary to the claim only supported by Ms. Balkenhol's declaration, senior managers like EVP Loaiza do

	extensive review of offers Citation: • OEx. 11, Loaiza Dep. 44:16-45:19, 46:16-47:2, 47:21-23, 68:19-69:8. B) HR Business Partner and VP Madhawi Cheruvu for seven lines of businesses (LOB) and Thomas Kurian's Product Development LOB testified that as an approving manager, she looks at a person's experience (years and type), skills, resume, the other companies the person worked, the similarity between where the person worked and at Oracle, the salary range, the person's current compensation, the role the person will play, the criticality of the skills, and the deliverables the person will make. Citation: • OEx. 4, Cheruvu Dep. 70:12-71:4, 77:3-78:3, 190:25-191:9, 259:12-22 C) EVP Loaiza also gave an interview to OFCCP on March 25, 2015, when he identified that he was a Senior Vice President during OFCCP's audit. In the interview summary for him it noted that EVP Loaiza commented extensively on his involvement in the hiring process to include reviewing the proposed compensation and the person's current compensation such that almost a whole typed page, single space, reflected his comments. Citation: • Atkins Opp'n Decl. ¶14, Ex. K, Loaiza Interview Notes, DOL0000000522. D) HR Business Partner and VP Madhawi Cheruvu for seven lines of businesses (LOB) and Thomas Kurian's Product Development LOB also gave an interview that OFCCP summarized that described her extensive involvement in hiring and off-cycle compensation decisions. The interview summary identified that she looks at: resumes, current compensation, the job they are performing, the skills they are bring and how important these skills are to Oracle, the salary ranges involved, the immediate need of the person, the level of market demand for the person's skills, the difference between what the applicant

	is currently making and the proposed salary, compares what is being offered to current employees, examines what competitors are offering. Citation: • Atkins Opp'n Decl. ¶14, Ex. C, Cheruvu Interview Notes, DOL000000535-37. 3) Ms. Balkenhol's declaration lacks foundation because she has a lack of personal knowledge about what is approved or rejected below her. Ms. Balkenhol only established a foundation for what she reviewed for the CEOs and the CTO. Balkenhol Decl., ¶4. 4) Ms. Balkenhol's declaration in ¶5 is unsupported because she provided no foundation or personal knowledge demonstrating how she knows what direct managers do and did not define this direct manager term. Furthermore, in Oracle's SUF it defined "direct" in Fact 12 as pertaining to "first-line" manager wherein this Fact uses a different term: "front-line" manager." 5) OFCCP objects to all of Ms. Balkenhol's statements regarding the number of approvals and rejections she made under Rule 1002 Fed. R. Evid. (best evidence). Oracle electronically tracks it approval process as demonstrated in the "Approval History" Section for "Candidate Details." In this Approval History Section, it notes, amongst other things, the order of approvals, the name or organization of the actual approver, the approval status, the date and time down to the second that the action was taken and any comments any person made. Thus, instead of managers relying on their memory and perhaps speculating, Oracle should have provided documentation of the decisions made. To the extent Oracle claims that it was providing a summary, OFCCP objects under Rule 1006 Fed. R. Evid. (improper summary). Citation: • OFCCP SUF: Fact 118; • Ex. 29, ORACLE_HQCA_0000001729 in Vol. 2. 6) OFCCP has filed objections to Ms. Balkenhol's declaration on numerous grounds to include lack of personal knowledge and best evidence. 7) Ms. Balkenhol also gave an interview to OFCCP during the audit on March 26, 2015. In OFCCP's interview summary prepared from that

	audit, OFCCP documented how Ms. Balkenhol did more than a high-level sanity check. This summary noted that Ms. Balkenhol referred to her job as being like a goalie. Ms. Balkenhol described the many items she reviews for hiring and salary increases. For example, she looks at: the global career level (e.g., IC2, IC3); the person's current pay, resume, experience, education, frequency of job changes, the size of the compensation change, transcripts, skills, amount of competitive offers, etc. Citation: • Atkins Opp'n Decl. ¶5, Ex. B, OFCCP's Interview Notes of the Carolyn Balkenhol interview on March 26, 2015 (Balkenhol Interview Notes), DOL000036706-09.

38. Senior management reviews front-line managers' starting offers and off-cycle compensation decisions, including promotions, transfers, and other off-cycle compensation changes, to look for potential errors or outliers that do not seem sensible from a high-level perspective. **Alleged Supporting Evidence:** Balkenhol Decl., ¶¶ 7, 12.	**Disputed**. 1) Compensation *recommendations* for hiring and salary off-cycle increases are reviewed by a person's management chain until it reaches the final approvers. The final approvers for all salary increases (focal reviews and off-cycle) due to promotions have to be approved by "CEO(s) & Executive Chairman and CTO," "Office of the CEO," the Board of Directors, or Thomas Kurian. Moreover, to get off-cycle decisions approved, *recommending* managers are required to submit written justification. OFCCP is disputing this issue because the lower level managers do not make the compensation *decisions*, they only make *recommendations*. A) Oracle's Global Approval Matrices state that approvals for base salary increases; bonuses and stock or stock options grants; and hiring have to be made at the level of "CEO(s) & Executive Chairman and CTO," "Office of the CEO," the Board of Directors, or Thomas Kurian. Citation: • OFCCP SUF: Fact 113; • Ex. 20, Global Approval Matrix, dated 6/11/12, ORACLE_HQCA_0000062725-1 to -2; • Ex. 20, Global Approval Matrix, dated 2/1/13, ORACLE_HQCA_0000062732-1 to -2; • Ex. 20, Global Approval Matrix, dated 11/1/14, ORACLE_HQCA_0000062712-1 to -2; • Ex. 20, Global Approval Matrix, dated 6/1/15, ORACLE_HQCA_0000062710-1 to -2; • Ex. 20, Global Approval Matrix, dated 6/1/16, ORACLE_HQCA_0000062711-1 to -2; Ex. 20, Global Approval Matrix, dated 3/30/17, ORACLE_HQCA_0000062720-1 and -2, in Vol. 1. B) Oracle requires that all pay increases be approved by the top of an employee's management chain of command. Citation: • OFCCP SUF: Fact 114; • OEx. 17, Waggoner May Dep. 106:2–4. C) Oracle's compensation instructions for hiring and for off-cycle salary increases (e.g., for promotions) likewise require managers to make pay recommendations that require the

	approvals all the way up to the Executive Level or their offices. Citation: • OFCCP SUF: Fact 116; • Ex. 28, slide 11 (notes), ORACLE_HQCA_0000057179-22 in Vol. 2; • Ex. 13, slide 35 and slide 35 (notes) ORACLE_HQCA_0000056234-65 to -66 in Vol. 1. D) The approvals for base salary increase recommendations go all the way up through the CEO's office wherein the final decision is made. Citation: • OFCCP SUF: Fact 117; • OEx. 8, Waggoner PMK Dep. 155:7-25. E) In a 2014 compensation training, managers were instructed: "**Do not communicate** any changes [in compensation] until the 'Last Approval Action' shows 'Larry Ellison.'" Citation: • OFCCP SUF: Fact 120; • Ex. 25, slide 39, ORACLE_HQCA_0000056242-48 (emphasis in original) in Vol. 1. F) In a 2011 compensation training, managers were instructed: "**You should not communicate any changes until we obtain final approval from LJE**." Citation: • OFCCP SUF: Fact 121; • Ex. 26, slide 49, ORACLE_HQCA_0000056957-55 (emphasis in original) in Vol. 2. G) LJE stands for Larry J. Ellison. Citation: • OFCCP SUF: Fact 122; • OEx. 17, Waggoner May Dep. 106:25–107:4.

	H) Subsequent to these 2011 and 2014 trainings, Oracle expanded this approval beyond Larry Ellison to include Safra Catz. Citation: • OFCCP SUF: Fact 123; • OEx. 16, Carrelli Dep. 212:9–213:1, 214:12–14. I) Oracle's managers cannot communicate any pay changes earlier because changes can happen during the approval process. Citation: • OFCCP SUF: Fact 124; • Ex. 24, slide 39 (notes), ORACLE_HQCA_0000381306-76 in Vol. 1. J) EVP Loaiza, at the M8 global career level, testified in his deposition that when he is reviewing a person during the hiring approval process, he is reviewing "the proposed compensation of the person." He emphasizes this a second time when he states: "What I get is not the current compensation. I get the proposed compensation." If he is only looking at the proposed pay at his high level, then the first level manager, many levels below, could not have already determined the salary increases. Citation: • OEx. 11, Loaiza Dep. 17:2-10, 44:16-45:1, 45:20-46:18. 2) Oracle's senior management does more than just institute "a high-level sanity check." A) EVP Loaiza, at an M8 global career level, gave a detailed explanation of what he reviewed to determine if he should approve or reject a hiring recommendation containing the proposed compensation. He stated that he looked at: the person's proposed compensation; whether Oracle hiring in the area of the person's expertise; a person's education; the person's resume; the interview notes by Oracle personnel; the person's competitive offer by another company, if applicable; and that he would generally review anything in the hiring packet. Thus, contrary to the claim only supported by Ms. Balkenhol's declaration, senior managers like EVP Loaiza do extensive review of offers

	Citation: • OEx. 11, Loaiza Dep. 44:16-45:19, 46:16-47:2, 47:21-23, 68:19-69:8. B) HR Business Partner and VP Madhawi Cheruvu for seven lines of businesses (LOB) and Thomas Kurian's Product Development LOB testified that as an approving manager, she looks at a person's experience (years and type), skills, resume, the other companies the person worked, the similarity between where the person worked and at Oracle, the salary range, the person's current compensation, the role the person will play, the criticality of the skills, and the deliverables the person will make. Citation: • OEx. 4, Cheruvu Dep. 70:12-71:4, 77:3-78:3, 190:25-191:9, 259:12-22. C) EVP Loaiza also gave an interview to OFCCP on March 25, 2015, when he identified that he was a Senior Vice President during OFCCP's audit. OFCCP's summary of his interview noted that EVP Loaiza commented extensively on his involvement in the hiring process to include reviewing the proposed compensation and the person's current compensation such that almost a whole typed page, single space, reflected his comments. Citation: • Atkins Opp'n Decl. ¶14, Ex. K, Loaiza Interview Notes, DOL0000000522. D) HR Business Partner and VP Madhawi Cheruvu for seven lines of businesses (LOB) and Thomas Kurian's Product Development LOB also gave an interview that OFCCP summarized that described her extensive involvement in hiring and off-cycle compensation decisions. The interview summary identified that she looks at: resumes, current compensation, the job they are performing, the skills they are bring and how important these skills are to Oracle, the salary ranges involved, the immediate need of the person, the level of market demand for the person's skills, the difference between what the applicant is currently making and the proposed salary, compares what is being offered to current employees, examines what competitors

	are offering. Thus, contrary to the claim only supported by Ms. Balkenhol's declaration, senior managers like HR Business Partner and VP Cheruvu do extensive review of offers or off-cycle pay adjustments. Citation: • Atkins Opp'n Decl. ¶14, Ex. C, Cheruvu Interview Notes, DOL000000535-37. 3) Ms. Balkenhol's Decl. lacks foundation because of a lack of personal knowledge about what is approved or rejected below her. Ms. Balkenhol only established a foundation for what she reviewed for the CEOs and the CTO. Balkenhol Decl., ¶4. 4) Ms. Balkenhol's testimony in ¶5 is unsupported because she provided no foundation or personal knowledge demonstrating how she knows what direct managers do and did not define this direct manager term. 5) OFCCP has separately filed objections to Ms. Balkenhol's declaration on numerous grounds to include lack of personal knowledge and best evidence. 5) Carolyn Balkenhol also gave an interview to OFCCP during the audit on March 26, 2015. In OFCCP's interview summary prepared from that audit, OFCCP documented how Ms. Balkenhol did more than just a high-level sanity check that is not a deep dive. This interview summary noted that Ms. Balkenhol referred to her job as being like a goalie. Ms. Balkenhol described the many items she reviews for hiring and salary increases. For example, she looks at: the global career level (e.g., IC2, IC3); the person's current pay, resume, experience, education, frequency of job changes, the size of the compensation change, transcripts, skills, amount of competitive offers, etc. Citation: • Atkins Opp'n Decl. ¶5, Ex. B, Balkenhol Interview Notes, DOL000000511-14.

39. The majority of salary increases occur during a "focal" review, which is a company-wide review process undertaken periodically, as determined by Oracle's financial performance. **Alleged Supporting Evidence:** Waggoner Decl., ¶ 28; Connell Decl., Ex. A (ORACLE_HQCA_0000400584 at 177:16-178:25), Ex. C (7/19/19 Waggoner PMK Dep. 187:14-19; 190:5-16; 192:6-193:16), Ex. K (ORACLE_HQCA_0000400313 at 313).	**Undisputed**.
40. During a focal review, LOB heads receive a budget for salary increases, which they can allocate in their discretion to lower-level managers within their organizations. **Alleged Supporting Evidence:** Waggoner Decl., ¶ 28; Connell Decl., Ex. C (7/19/2019 Waggoner PMK Dep. at 252:15-253:19); Oden Decl., ¶ 13; Ousterhout Decl., ¶ 17.	**Undisputed**

41. Lower-level managers within an LOB make further decisions about if and how to "cascade" budget down through the organization, which may involve pushing budgetary authority to different levels in different slices of the same organization. **Alleged Supporting Evidence:** Waggoner Decl., ¶¶ 15, 28, 29, Ex. A (ORACLE_HQCA_0000380438 at 6); Connell Decl., Ex. C (7/19/19 Waggoner PMK Dep. 252:15-253:19); Oden Decl., ¶ 13.	**Disputed.** 1) This is disputed because lower level managers have to propose to the managers who gave them the budget how the lower level manager recommends to distribute the budget. Moreover, this lower level manager has to obtain feedback from this higher level manager before the lower level manager can distribute it. Thus, lower level managers within an LOB are not making independent decisions about how the budget will be further distributed. Citation: • OEx. 11, Loaiza Dep. 53:21-55:24. 2) At times, the lower level manager's proposal (e.g., Senior Vice President) has to go above his higher level manager who allocated him the budget (e.g., Executive Vice President like Andrew Mendelson) to the higher level manager's manager (e.g. President Thomas Kurian).[2] Citation: • OEx. 11, Loaiza Dep. 53:21-55:24. 56:2-5. 3) OFCCP objects to Ms. Waggoner's declaration at paragraph 15 because she lacks personal knowledge, and at 28 because she lacks personal knowledge, fails to use the best evidence, and proffers an improper summary. OFCCP has separately filed objections to Ms. Waggoner's declaration.

[2] EVP Loaiza in 2015 was a senior VP under Andrew Mendelson who was an EVP under President Thomas Kurian. Atkins Opp'n. Decl., Ex. K, Loaiza Interview Notes, ¶14, DOL0000000521.

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42. The manager who is the last recipient of an LOB's allocation distributes that amount in her discretion as raises to individual employees. **Alleged Supporting Evidence:** Waggoner Decl., ¶¶ 16, 29-30; Connell Decl., Ex. C (7/19/19 Waggoner PMK Dep. 195:9-15), Ex. G (5/30/19 Westerdahl Dep. 80:23-81:10); Yakkundi Decl., ¶ 19; Eckard Decl., ¶ 11; Kite Decl., ¶ 11; Suri Decl., ¶ 17.	**Disputed**. 1) The decisions whether to provide focal salary increases and the budgets or caps allocated for them are more significant in determining employee compensation than the employees' direct managers. A) Oracle did not have focal reviews in 2013 and 2018 and has them about every 14-18 months. Thus, direct managers have no bearing pm when focal reviews and the potential salary increases that flow from them may occur. Citation: • OFCCP SUF: Fact 137, 138; • OEx. 8, Waggoner PMK Dep. 192:19-193:1, 248:7–17. • Ex. 34, ORACLE_HQCA_0000434971 in Vol. 2. B) Ms. Waggoner's PMK testimony also identified that Oracle has had lean budget years such that there is "little to no focal budget." She explained the impact of this situation by stating "if we give little to no focal budget, naturally we're not keeping up with the way the market has grown." She also identified that Oracle has had a lean budget for "the last many years." Thus, the ability to give salary increases is severely limited. Citation: • OEx. 8, Waggoner PMK Dep. 327:24-328:12, 267:21-22. C) Oracle's lean budget years have not extended to Co-CEOs Safra Catz and Mark Hurd who each have earned 1,205 times more in 2018 than the median employee compensation at Oracle, a ratio that ranks them in the 17 highest paid CEOs vis a vis average employee pay. Citation: • OEx. 19, New York Times, The Highest-Paid C.E.O.s of 2018: A Year So Lucrative, We Had to Redraw Our Chart, 5/29/19 at https://www.nytimes.com/interactive/2019/business/highest-paid-ceos-2018.html. D) In her PMK testimony, Ms. Waggoner further testified that while M1 managers have people reporting to them, they do not have "hire/fire, compensation decision type of authority." Citation:

	• OEx. 8, Waggoner PMK Dep. 116:20-117:2. E) Ms. Waggoner testified further still as the PMK that at times, the budget is not even cascaded down to the M2 manager. Citation: • OEx. 8, Waggoner PMK Dep. at 253:20-254:6. 2) This fact is also disputed on the grounds that when direct managers receive a budget allocation, they only make pay *recommendations*, not decisions. These pay *recommendations* are subsequently reviewed up the chain of command until the ultimate approver approves them. At intermediate reviews, the reviewing managers can either give their approvals or reject the compensation recommendation. The final approvers for all salary increase (focal reviews and off-cycle) have to be approved by "CEO(s) & Executive Chairman and CTO," "Office of the CEO," the Board of Directors, or Thomas Kurian. Moreover, to get off-cycle decisions approved, managers are required to submit written justification. A) Oracle's Global Approval Matrices state that approvals for base salary increases bonuses, and stock or stock options grants have to be made at the level of "CEO(s) & Executive Chairman and CTO," "Office of the CEO," the Board of Directors, or Thomas Kurian. Citation: • OFCCP SUF: Fact 113; • Ex. 20, Global Approval Matrix, dated 6/11/12, ORACLE_HQCA_0000062725-1 to -2; • Ex. 20, Global Approval Matrix, dated 2/1/13, ORACLE_HQCA_0000062732-1 to -2; • Ex. 20, Global Approval Matrix, dated 11/1/14, ORACLE_HQCA_0000062712-1 to -2; • Ex. 20, Global Approval Matrix, dated 6/1/15, ORACLE_HQCA_0000062710-1 to -2; • Ex. 20, Global Approval Matrix, dated 6/1/16, ORACLE_HQCA_0000062711-1 to -2; • Ex. 20, Global Approval Matrix, dated 3/30/17, ORACLE_HQCA_0000062720-1 and -2 all in Vol. 1. • Fact 4 herein for Thomas Kurian's title and position. B) Oracle requires that all pay increases be approved by the top of

	an employee's management chain of command. Citation: • OFCCP SUF: Fact 114; • OEx. 17, Waggoner May Dep. 106:2–4. C) Oracle's instructions for conducting salary reviews (aka focals or focal reviews) and allocating bonuses and stock grants instruct managers on a process by which managers make recommendations that are reviewed by each successive level of management until they are finally approved at the top of the management chain of command or the office of that top executive. Citation: • OFCCP SUF: Fact 115; • Ex. 24, slides 28–39 and associated notes, ORACLE_HQCA_0000381306-52 to -75 in Vol. 1; • Ex. 25, slides 33–39, ORACLE_HQCA_0000056242-42 to -48 in Vol. 1; • Ex. 26, slides 3–4, 13, 34–39; ORACLE_HQCA_0000056957-3, -4, -16, -38 to -45 in Vol. 2; • OEx. 8, Waggoner PMK Dep. 118:18-23. 3) Oracle's compensation instructions for hiring and for off-cycle salary increases (e.g., "dive and saves" used to counter an offer from a competitor) likewise require managers to make pay recommendations that require approvals at the Executive Level (e.g., CEO. CTO) or their offices. Citation: • OFCCP SUF: Fact 116; • Ex. 28, slide 11 (notes), ORACLE_HQCA_0000057179-22 in Vol. 2; • Ex. 13, slide 35 and slide 35 (notes) ORACLE_HQCA_0000056234-65 to -66 in Vol. 1. A) The approvals for base salary increases goes all the way up through the CEO's office. Citation:

	• OFCCP SUF: Fact 117; • OEx. 8, Waggoner PMK Dep. 155:7-25. B) Oracle's focal review trainings refer to the managers role as making "recommendations" and state that "[t]his isn't to say that your recommendations won't be changed by someone further up in your hierarchy, but it is a way to inform your manager of how you would like to allocate increases to your team." Citation: • Ex. 14, at slide 43 (notes), ORACLE_HQCA_0000382580-84 in Vol. 1. C) In a 2014 compensation training, managers were instructed: "**Do not communicate** any changes [in compensation] until the 'Last Approval Action' shows 'Larry Ellison.'" Citation: • OFCCP SUF: Fact 120; • Ex. 25, slide 39, ORACLE_HQCA_0000056242-48 (emphasis in original) in Vol. 1. D) In a 2011 compensation training, managers were instructed: "**You should not communicate any changes until we obtain final approval from LJE**." Citation: • OFCCP SUF: Fact 121; • Ex. 26, slide 49, ORACLE_HQCA_0000056957-55 (emphasis in original) in Vol. 2. E) LJE stands for Larry J. Ellison. Citation: • OFCCP SUF: Fact 122; • OEx. 17, Waggoner May Dep. 106:25–107:4. F) Subsequent to these 2011 and 2014 trainings, Oracle expanded this approval beyond Larry Ellison to include Safra Catz. Citation:

	• OFCCP SUF: Fact 123; • OEx. 16, Carrelli Dep. 212:9–213:1, 214:12–14. H) Oracle's managers cannot communicate any pay changes earlier because changes can happen during the approval process. Citation: • OFCCP SUF: Fact 124; • Ex. 24, slide 39 (notes), ORACLE_HQCA_0000381306-76 in Vol. 1. I) EVP Loaiza, at the M8 global career level, testified in his deposition that when he is reviewing a person during the hiring approval process, he is reviewing "the proposed compensation of the person." He emphasizes this a second time when he states: "What I get is not the current compensation. I get the proposed compensation." If he is only looking at the proposed pay at his high level, then the first level manager, many levels below, could not have already determined the salary increases. Citation: • OEx. 11, Loaiza Dep. 17:2-10, 44:16-45:1, 45:20-46:18. J) Even in Oracle's declarations provided to this Court to support its summary judgment motion, managers acknowledge that they only make pay recommendations in focal reviews. E.g., Christina Kite, a VP, stated: "I am responsible for recommending salary increases and bonuses for my team." Citation: • Oracle MSJ Decl. of Christina Kite, ¶¶ 3, 11. K) President Thomas Kurian gave his required approval to off-cycle dive and save requests. Citation: • OFCCP SUF: Fact 119; • Ex. 30, ORACLE_HQCA_0000432004, in Vol. 2. 3) This is disputed because lower level managers have to propose to the managers who gave them the budget how the lower level manager

	recommends to distribute the budget. Moreover, this lower level manager has to obtain feedback from this higher level manager before the lower level manager can distribute it. Thus, lower level managers within an LOB are not making independent decisions about how the budget will be further distributed. Citation: • OEx. 11, Loaiza Dep. 53:21-55:24. 4) At times, the lower level manager's proposal (e.g., Senior Vice President) can go above his higher level manager who allocated him the budget (e.g., Executive Vice President like Andrew Mendelson) to the higher level manager's manager (e.g. President Thomas Kurian). Citation: • OEx. 11, Loaiza Dep. 53:21-55:24, 56:2-5. 5) Ms. Waggoner's declaration provides no foundation for her claims regarding the discretion of managers and the approval process. In fact, Ms. Waggoner's declaration and deposition testimony lacks foundation because of a lack of personal knowledge since she testified in her July 2018 *Jewett* deposition that she had not been involved with the review process for years. Citation: • OEx. 2, Waggoner PMK *Jewett* Dep. ORACLE_HQCA_0000400688-89, 105:1-106:12. 6) Furthermore, OFCCP objects to paragraph 30 of Ms. Waggoner's declaration because she lacks personal knowledge, fails to use the best evidence, and proffers an improper summary. 7) The declarations by Yakkundi, Eckard, Kite and Suri likewise lack the foundation to support this fact because the information technology job function is not even represented, there is only one person for the product development job function and the lack of scope of these declarations. First, of the four remaining declarations, three are from the support job function (Yakkundi Decl., ¶ 3; Eckard Decl., ¶ 3; Suri Decl., ¶ 3)., one is from the product development job function Kite Decl., ¶ 11; and none are from information technology. Second, their scope is limited because they either have a lower M3 salary grade level (Yakkundi Decl., ¶ 3) or only have a small number of people reporting to them such as 5 (Kite Decl., ¶ 9). Lastly, there were 1,516 managers

	on January 1, 2014, (Ex. 17, total of managers in Table I at Exhibit A on January 1, 2014) in Oracle and Oracle only provided four declarations. Citation: • Ex. 17, Atkins MSJ Decl. Ex. A (Table 1). 8) Managers testified to specific examples of their pay reccomendations not being followed. Citation: • OEx. 12, Pandey Decl. ¶14; • OEx. 10, McGregor Decl. ¶13.

43. In determining salary increases, managers may exercise their own judgment or consult other managers (for example, if they do not directly supervise the employees at issue). **Alleged Supporting Evidence:** Waggoner Decl., ¶ 30; Yakkundi Decl., ¶ 19; Eckard Decl., ¶¶ 11-13; Balkenhol Decl., ¶¶ 9, 12; Hsin Decl., ¶ 11; Fox Decl., ¶¶ 14-15; Kite Decl., ¶ 11; Abushaban Decl., ¶¶ 16-18; Suri Decl., ¶ 17; Chan Decl., ¶ 9.	**Disputed.** 1) The decisions whether to provide focal salary increases and the budgets or caps allocated for them are more significant in determining employee compensation than the employees' direct managers. A) Oracle did not have focal reviews in 2013 and 2018 and has them about every 14-18 months. Thus, direct managers have no bearing pm when focal reviews and the potential salary increases that flow from them may occur. Citation: • OFCCP SUF: Fact 137, 138; • OEx. 8, Waggoner PMK Dep. 192:19-193:1, 248:7–17. • Ex. 34, ORACLE_HQCA_0000434971 in Vol. 2. B) Ms. Waggoner's PMK testimony also identified that Oracle has had lean budget years such that there is "little to no focal budget." She explained the impact of this situation by stating "if we give little to no focal budget, naturally we're not keeping up with the way the market has grown." She also identified that Oracle has had a lean budget for "the last many years." Thus, the ability to give salary increases is severely limited. Citation: • OEx. 8, Waggoner PMK Dep. 327:24-328:12, 267:21-22. C) Oracle's lean budget years have not extended to Co-CEOs Safra Catz and Mark Hurd who each have earned 1,205 times more in 2018 than the median employee compensation at Oracle, a ratio that ranks them in the 17 highest paid CEOs vis a vis average employee pay. Citation: • OEx. 19, New York Times, The Highest-Paid C.E.O.s of 2018: A Year So Lucrative, We Had to Redraw Our Chart, 5/29/19 at https://www.nytimes.com/interactive/2019/business/highest-paid-ceos-2018.html. D) In her PMK testimony, Ms. Waggoner further testified that while M1 managers have people reporting to them, they do not have "hire/fire, compensation decision type of authority." Citation:

	• OEx. 8, Waggoner PMK Dep. 116:20-117:2. E) Ms. Waggoner testified further still as the PMK that at times, the budget is not even cascaded down to the M2 manager. Citation: • OEx. 8, Waggoner PMK Dep. at 253:20-254:6. 2) This fact is also disputed on the grounds that when direct managers receive a budget allocation, they only make pay *recommendations*, not decisions. These pay *recommendations* are subsequently reviewed up the chain of command until the ultimate approver approves them. At intermediate reviews, the reviewing managers can either give their approvals or reject the compensation recommendation. The final approvers for all salary increase (focal reviews and off-cycle) have to be approved by "CEO(s) & Executive Chairman and CTO," "Office of the CEO," the Board of Directors, or Thomas Kurian. Moreover, to get off-cycle decisions approved, managers are required to submit written justification. A) Oracle's Global Approval Matrices state that approvals for base salary increases bonuses, and stock or stock options grants have to be made at the level of "CEO(s) & Executive Chairman and CTO," "Office of the CEO," the Board of Directors, or Thomas Kurian. Citation: • OFCCP SUF: Fact 113; • Ex. 20, Global Approval Matrix, dated 6/11/12, ORACLE_HQCA_0000062725-1 to -2; • Ex. 20, Global Approval Matrix, dated 2/1/13, ORACLE_HQCA_0000062732-1 to -2; • Ex. 20, Global Approval Matrix, dated 11/1/14, ORACLE_HQCA_0000062712-1 to -2; • Ex. 20, Global Approval Matrix, dated 6/1/15, ORACLE_HQCA_0000062710-1 to -2; • Ex. 20, Global Approval Matrix, dated 6/1/16, ORACLE_HQCA_0000062711-1 to -2; • Ex. 20, Global Approval Matrix, dated 3/30/17, ORACLE_HQCA_0000062720-1 and -2 all in Vol. 1. • Fact 4 herein for Thomas Kurian's title and position. B) Oracle requires that all pay increases be approved by the top of

	an employee's management chain of command. Citation: • OFCCP SUF: Fact 114; • OEx. 8, Waggoner May Dep. 106:2–4. C) Oracle's instructions for conducting salary reviews (aka focals or focal reviews) and allocating bonuses and stock grants instruct managers on a process by which managers make recommendations that are reviewed by each successive level of management until they are finally approved at the top of the management chain of command or the office of that top executive. Citation: • OFCCP SUF: Fact 115; • Ex. 24, slides 28–39 and associated notes, ORACLE_HQCA_0000381306-52 to -75 in Vol. 1; • Ex. 25, slides 33–39, ORACLE_HQCA_0000056242-42 to -48 in Vol. 1; • Ex. 26, slides 3–4, 13, 34–39; ORACLE_HQCA_0000056957-3, -4, -16, -38 to -45 in Vol. 2; • OEx. 8, Waggoner PMK Dep. 118:18-23. 3) Oracle's compensation instructions for off-cycle salary increases (e.g., "dive and saves" used to counter an offer from a competitor) likewise require managers to make pay recommendations that require approvals at the Executive Level (e.g., CEO. CTO) or their offices. Citation: • OFCCP SUF: Fact 116; • Ex. 28, slide 11 (notes), ORACLE_HQCA_0000057179-22 in Vol. 2; • Ex. 13, slide 35 and slide 35 (notes) ORACLE_HQCA_0000056234-65 to -66 in Vol. 1. A) The approvals for base salary increases goes all the way up through the CEO's office. Citation: • OFCCP SUF: Fact 117;

	• OEx. 8, Waggoner PMK Dep. 155:7-25. B) Oracle's focal review trainings refer to the managers role as making "recommendations" and state that "[t]his isn't to say that your recommendations won't be changed by someone further up in your hierarchy, but it is a way to inform your manager of how you would like to allocate increases to your team." Citation: • Ex. 14, at slide 43 (notes), ORACLE_HQCA_0000382580-84. C) In a 2014 compensation training, managers were instructed: "**Do not communicate** any changes [in compensation] until the 'Last Approval Action' shows 'Larry Ellison.'" Citation: • OFCCP SUF: Fact 120; • Ex. 25, slide 39, ORACLE_HQCA_0000056242-48 (emphasis in original) in Vol. 1. D) In a 2011 compensation training, managers were instructed: "**You should not communicate any changes until we obtain final approval from LJE**." Citation: • OFCCP SUF: Fact 121; • Ex. 26, slide 49, ORACLE_HQCA_0000056957-55 (emphasis in original) in Vol. 2. E) LJE stands for Larry J. Ellison. Citation: • OFCCP SUF: Fact 122; • Ex. 7, Waggoner May Dep. 106:25–107:4. G) Subsequent to these 2011 and 2014 trainings, Oracle expanded this approval beyond Larry Ellison to include Safra Catz. Citation:

	• OFCCP SUF: Fact 123; • OEx. 16, Carrelli Dep. 212:9–213:1, 214:12–14. H) Oracle's managers cannot communicate any pay changes earlier because changes can happen during the approval process. Citation: • OFCCP SUF: Fact 124; • Ex. 24, slide 39 (notes), ORACLE_HQCA_0000381306-76 in Vol. 1. I) Even in Oracle's declarations provided to this Court to support its summary judgment motion, managers acknowledge that they only make pay recommendations in focal reviews. E.g., Christina Kite, a VP, stated: "I am responsible for recommending salary increases and bonuses for my team." Citation: • Oracle MSJ Decl. of Christina Kite, ¶¶ 3, 11. J) President Thomas Kurian gave his required approval to off-cycle dive and save requests. Citation: • OFCCP SUF: Fact 119; • Ex. 30, ORACLE_HQCA_0000432004, in Vol. 2. 4) Second, managers do not exercise their "own" judgment. Instead, they consult with at least one managerial level above them as identified by EVP Loaiza. A) Lower level managers after they get the budget allocated to them from a higher level manager have to propose to that manager how the lower level manager proposes to distribute the budget and has to obtain feedback from this higher level managers before the lower level manager can distribute it. Thus, lower level managers within an LOB do not have unfettered discretion for how the budget will be further distributed. Citation: • OEx. 11, Loaiza Dep. 53:21-55:24.

	B) At times, the lower level manager's proposal (e.g., Senior Vice President) can go above his higher level manager who allocated him the budget (e.g., Executive Vice President like Andrew Mendelson) to the higher level manager's manager (e.g. President Thomas Kurian). Citation: • OEx 11, Loaiza Dep. 56:2-5. 5) Some managers received detailed guidelines as to how their raise pools must be allocated. Citation: • OEx. 12, Pandey Decl. ¶ 13. .

44. For the vast majority of salary increases, the senior management approval process acts as a check to review whether managers stay within allotted budgets. **Alleged Supporting Evidence:** Waggoner Decl., ¶ 28.	**Disputed**. 1) The decisions whether to provide focal salary increases and the budgets or caps allocated for them are more significant in determining employee compensation than the employees' direct managers. A) Oracle did not have focal reviews in 2013 and 2018 and has them about every 14-18 months. Thus, direct managers have no bearing pm when focal reviews and the potential salary increases that flow from them may occur. Citation: • OFCCP SUF: Fact 137, 138; • OEx. 8, Waggoner PMK Dep. 192:19-193:1, 248:7–17. • Ex. 34, ORACLE_HQCA_0000434971 in Vol. 2. B) Ms. Waggoner's PMK testimony also identified that Oracle has had lean budget years such that there is "little to no focal budget." She explained the impact of this situation by stating "if we give little to no focal budget, naturally we're not keeping up with the way the market has grown." She also identified that Oracle has had a lean budget for "the last many years." Thus, the ability to give salary increases is severely limited. Citation: • OEx. 8, Waggoner 30b6 Dep. 327:24-328:12, 267:21-22. C) Oracle's lean budget years have not extended to Co-CEOs Safra Catz and Mark Hurd who each have earned 1,205 times more in 2018 than the median employee compensation at Oracle, a ratio that ranks them in the 17 highest paid CEOs vis a vis average employee pay. Citation: • OEx. 19, New York Times, The Highest-Paid C.E.O.s of 2018: A Year So Lucrative, We Had to Redraw Our Chart, 5/29/19 at https://www.nytimes.com/interactive/2019/business/highest-paid-ceos-2018.html. D) In her PMK testimony, Ms. Waggoner further testified that while M1 managers have people reporting to them, they do not have "hire/fire, compensation decision type of authority."

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	B) Oracle requires that all pay increases be approved by the top of an employee's management chain of command. Citation: • OFCCP SUF: Fact 114; • OEx. 8, Waggoner May Dep. 106:2–4. C) Oracle's instructions for conducting salary reviews (aka focals or focal reviews) and allocating bonuses and stock grants instruct managers on a process by which managers make recommendations that are reviewed by each successive level of management until they are finally approved at the top of the management chain of command or the office of that top executive. Citation: • OFCCP SUF: Fact 115; • Ex. 24, ORACLE_HQCA_0000381306-52 to -75 in Vol. 1; • Ex. 25, slides 33–39, ORACLE_HQCA_0000056242-42 to -48 in Vol. 1; • Ex. 26, slides 3–4, 13, 34–39; ORACLE_HQCA_0000056957-3, -4, -16, -38 to -45 in Vol. 2; • OEx. 8, Waggoner PMK Dep. 118:18-23. 3) Oracle's compensation instructions for off-cycle salary increases (e.g., "dive and saves" used to counter an offer from a competitor) likewise require managers to make pay recommendations that require approvals at the Executive Level (e.g., CEO. CTO) or their offices. Citation: • OFCCP SUF: Fact 116; • Ex. 28, slide 11 (notes), ORACLE_HQCA_0000057179-22 in Vol. 2; • Ex. 13, slide 35 and slide 35 (notes) ORACLE_HQCA_0000056234-65 to -66 in Vol. 1. A) The approvals for base salary increases goes all the way up through the CEO's office. Citation:

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	• OFCCP SUF: Fact 123; • OEx. 16, Carrelli Dep. 212:9–213:1, 214:12–14. G) Oracle's managers cannot communicate any pay changes earlier because changes can happen during the approval process. Citation: • OFCCP SUF: Fact 124; • Ex. 24, slide 39 (notes), ORACLE_HQCA_0000381306-76 in Vol. 1. H) Even in Oracle's declarations provided to this Court to support its summary judgment motion, managers acknowledge that they only make pay recommendations in focal reviews. E.g., Christina Kite, a VP, stated: "I am responsible for recommending salary increases and bonuses for my team." Citation: • Oracle MSJ Decl. of Christina Kite, ¶¶ 3, 11. I) President Thomas Kurian gave his required approval to off-cycle dive and save requests. Citation: • OFCCP SUF: Fact 119; • Ex. 30, ORACLE_HQCA_0000432004, in Vol. 2. 4) Second, managers do not exercise their "own" judgment. Instead, they consult with at least one managerial level above them as identified by EVP Loaiza. A) Lower level managers after they get the budget allocated to them from a higher level manager have to propose to that manager how the lower level manager proposes to distribute the budget and has to obtain feedback from this higher level managers before the lower level manager can distribute it. Thus, lower level managers within an LOB do not have unfettered discretion for how the budget will be further distributed. Citation: • OEx. 11, Loaiza Dep. 53:21-55:24.

	B) At times, the lower level manager's proposal (e.g., Senior Vice President) can go above his higher level manager who allocated him the budget (e.g., Executive Vice President like Andrew Mendelson) to the higher level manager's manager (e.g. President Thomas Kurian). Citation: • OEx 11, Loaiza Dep. 56:2-5. 5) Some managers received detailed guidelines as to how their raise pools must be allocated. Citation: • OEx. 12, Pandey Decl. ¶ 13. 6) Carolyn Balkenhol also gave an interview to OFCCP during the audit on March 26, 2015. In OFCCP's interview summary prepared from that audit, OFCCP documented how Ms. Balkenhol did more than just a high-level sanity check that is not a deep dive. This interview summary noted that Ms. Balkenhol referred to her job as being like a goalie. Ms. Balkenhol described the many items she reviews for hiring and salary increases. For example, she looks at: the global career level (e.g., IC2, IC3); the person's current pay, resume, experience, education, frequency of job changes, the size of the compensation change, transcripts, skills, amount of competitive offers, etc. Citation: • Atkins Opp'n Decl. ¶5, Ex. B, Balkenhol Interview Notes, DOL000000511-14. 7) EVP Loaiza stated in his March 25, 2015 interview with OFCCP that the process he just stated that he went through to approve a hire is the same process that he went through for focal reviews. In this interview, he identified himself as a Senior Vice President and made extensive comments about all of the different factors that he looked at during his hiring approval process such that they took up t almost a whole typed page, single space, reflected his comments. Citation: • Atkins Opp'n Decl. ¶14, Ex. K, Loaiza Interview Notes, DOL0000000522-23.

	8) This fact is also disputed because Ms. Waggoner's declaration lacks foundation because of a lack of personal knowledge since she testified in her July 2018 PMK *Jewett* deposition that she has "no idea" how frequently base salary recommendations get rejected below the very top approval. Ms. Waggoner also fails to use the best evidence, and provides an improper summary. Citation: • OEx. 2, Waggoner PMK *Jewett* Dep. ORACLE_HQCA_0000400718-20, 135:24-137:1.
45. Bonuses, like salaries, are distributed from a budget within each LOB and can reflect differing allocations to different teams and units based on (among other things) the importance of retaining and motivating employees on that team. **Alleged Supporting Evidence:** Waggoner Decl., ¶¶ 15, 29; Connell Decl., Ex. C (7/19/19 Waggoner PMK Dep. 265:14-23; 266:2-267:1), Ex. G (5/30/19 Westerdahl Dep. 107:2-19).	**Disputed.** 1) Each LOB does not have bonus budgets. For example, the Corporate Bonus Budget is not distributed to sales organizations. Citation: • OEx. 16, Carrelli Dep. 99: 6-9, 231:5-16 in Vol. 1. 2) OFCCP objects to paragraph 15 of Ms. Waggoner's declaration because she does not have personal knowledge of the facts contained therein. Furthermore, Ms. Waggoner admitted that she has not been involved in the approval process for years in her *Jewett* PMK testimony. This fact further demonstrates that she does not know how the budget process was administered, let along support claims as to how it was done, why it was done for each LOB in the United States when the United States has its own compensation team to which Ms. Waggoner is not a part. Citation: • OEx. 2, Waggoner PMK *Jewett* Dep. ORACLE_HQCA_0000400688-89, 105:1-106:12; • OEx. 16, Carrelli Dep. 88:15–22, 224:22–225:9; • OEx. 17, Waggoner May Dep. 8:1-4. 3) OFCCP also objections to the deposition cited for Ms. Westerdahl. She gave an example for just one LOB that was not her own and did not state that this applied to each LOB at Oracle let alone address different allocations to different teams or the basis for giving them.

46. First- and second-line managers usually play the primary role in making a bonus decision. **Alleged Supporting Evidence:** Waggoner Decl., ¶¶ 29-30; Connell Decl., Ex. A (ORACLE_HQCA_0000400584 at 192:4-194:13), Ex. C (7/19/19 Waggoner PMK Dep. 267:2-12; 268:19-25); Fox Decl., ¶ 14; Suri Decl., ¶ 21; Chan Decl., ¶ 11.	**Disputed.** 1) The decisions whether to give bonuses and the budgets allocated for them are more significant in determining employee compensation than employees' direct managers. A) From January 1, 2013, to January 19, 2019, Oracle only gave bonuses in two years: 2014 and 2018. Thus, senior management was the primary decision makers in four of the six years when they decided to give no bonuses. Citation: • Ex. 91, Madden Report at 13 n. 4, 26 n. 15, 38 n. 18 in Vol 3. B) Ms. Waggoner testified as the PMK that "since 2013, this time period started, we've had incredibly lean corporate bonus budgets" and "[t]he bonus budgets have been very rare and very small when we've had them." Citation: • OFCCP SUF: Fact 110, 111; • OEx. 8, Waggoner PMK Dep. 263:12-14, 276:11-14. C) Oracle's lean budget years have not extended to Co-CEOs Safra Catz and Mark Hurd who each have earned 1,205 times more in 2018 than the median employee compensation at Oracle, a ratio that ranks them in the 17 highest paid CEOs vis a vis average employee pay. Citation: • OEx. 19, New York Times, The Highest-Paid C.E.O.s of 2018: A Year So Lucrative, We Had to Redraw Our Chart, 5/29/19 at https://www.nytimes.com/interactive/2019/business/highest-paid-ceos-2018.html.. 2) This fact is also disputed on the grounds that when direct managers receive a budget allocation, they only make pay *recommendations*, not decisions. These pay *recommendations* are subsequently reviewed up the chain of command until the ultimate approver approves them. At intermediate reviews, the reviewing managers can either give their approvals or reject the compensation recommendation. The final

	approvers for all salary increase (focal reviews and off-cycle) have to be approved by "CEO(s) & Executive Chairman and CTO," "Office of the CEO," the Board of Directors, or Thomas Kurian. Moreover, to get off-cycle decisions approved, managers are required to submit written justification. A) Oracle's Global Approval Matrices state that approvals for base salary increases bonuses, and stock or stock options grants have to be made at the level of "CEO(s) & Executive Chairman and CTO," "Office of the CEO," the Board of Directors, or Thomas Kurian. Citation: • OFCCP SUF: Fact 113; • Ex. 20, Global Approval Matrix, dated 6/11/12, ORACLE_HQCA_0000062725-1 to -2; • Ex. 20, Global Approval Matrix, dated 2/1/13, ORACLE_HQCA_0000062732-1 to -2; • Ex. 20, Global Approval Matrix, dated 11/1/14, ORACLE_HQCA_0000062712-1 to -2; • Ex. 20, Global Approval Matrix, dated 6/1/15, ORACLE_HQCA_0000062710-1 to -2; • Ex. 20, Global Approval Matrix, dated 6/1/16, ORACLE_HQCA_0000062711-1 to -2; • Ex. 20, Global Approval Matrix, dated 3/30/17, ORACLE_HQCA_0000062720-1 and -2 all in Vol. 1. • Fact 4 herein for Thomas Kurian's title and position. B) Oracle's instructions for allocating bonuses instruct managers on a process by which managers make recommendations that are reviewed by each successive level of management until they are finally approved at the top of the management chain of command or the office of that top executive. Citation: • OFCCP SUF: Fact 115; • Ex. 24, slides 28–39 and associated notes, ORACLE_HQCA_0000381306-52 to -75 in Vol. 1; • Ex. 25, slides 33–39, ORACLE_HQCA_0000056242-42 to -48 in Vol. 1; • Ex. 26, slides 3–4, 13, 34–39, ORACLE_HQCA_0000056957-3, -4, -16, -38 to -45 in Vol. 2; • OEx. 8, Waggoner PMK Dep. 118:18-23.

	C) In her PMK testimony, Ms. Waggoner testified that while M1 managers have people reporting to them, they do not have "hire/fire, compensation decision type of authority." Citation: • OEx. 8, Waggoner PMK Dep. 116:20-117:2. D) Ms. Waggoner testified further still as the PMK that at times, the budget is not even cascaded down to the M2 manager. Citation: • OEx. 8, Waggoner PMK Dep. at 253:20-254:6. E) Oracle's compensation trainings refer to the managers role as making "recommendations" and state that "[t]his isn't to say that your recommendations won't be changed by someone further up in your hierarchy, but it is a way to inform your manager of how you would like to allocate increases to your team." Citation: • Ex. 14, at slide 43 (notes), ORACLE_HQCA_0000382580-84 in Vol. 1. F) In a 2014 compensation training, managers were instructed: "**Do not communicate** any changes [in compensation] until the 'Last Approval Action' shows 'Larry Ellison.'" Citation: • OFCCP SUF: Fact 120; • Ex. 25, slide 39, ORACLE_HQCA_0000056242-48 (emphasis in original) in Vol. 1. G) In a 2011 compensation training, managers were instructed: "**You should not communicate any changes until we obtain final approval from LJE**." Citation: • OFCCP SUF: Fact 121; • Ex. 26, slide 49, ORACLE_HQCA_0000056957-55

	(emphasis in original) in Vol. 2. H) LJE stands for Larry J. Ellison. Citation: • OFCCP SUF: Fact 122; • OEx. 17, Waggoner May Dep. 106:25–107:4. I) Subsequent to these 2011 and 2014 trainings, Oracle expanded this approval beyond Larry Ellison to include Safra Catz. Citation: • OFCCP SUF: Fact 123; • OEx. 16, Carrelli Dep. 212:9–213:1, 214:12–14. J) Oracle's managers cannot communicate any pay changes earlier because changes can happen during the approval process. Citation: • OFCCP SUF: Fact 124; • Ex. 24, slide 39 (notes), ORACLE_HQCA_0000381306-76 in Vol. 1. 3) It is further disputed because, managers do not exercise their own judgment. Instead, they consult with at least one managerial level above them as identified by EVP Loaiza. A) Lower level managers after they get the budget allocated to them from a higher level manager have to propose to that manager how the lower level manager proposes to distribute the budget and has to obtain feedback from this higher level managers before the lower level manager can distribute it. Citation: • OEx. 11, Loaiza Dep. 53:21-55:24. B) At times, the lower level manager's proposal (e.g., Senior Vice President) can go above his higher level manager who allocated him the budget (e.g., Executive Vice President like Andrew Mendelson) to the higher level manager's manager (e.g. President Thomas Kurian).

	Citation: • OEx. 11, Loaiza Dep. 56:2-5. 4) OFCCP objects to paragraph 30 of Ms. Waggoner's declaration because she lacks personal knowledge, fails to use the best evidence, and presents an improper summary.
47. Bonuses at Oracle are discretionary and are not entitlements; instead, they are designed to reward employees for achieving strategic company goals, such as profitability. **Alleged Supporting Evidence:** Connell Decl., Ex. K (ORACLE_HQCA_0000400313 at 314).	**Undisputed**.

48. Managers may award greater compensation—particularly bonuses—to those employees working on products that are particularly complex or for which the labor market is particularly competitive. **Alleged Supporting Evidence:** Waggoner Decl., ¶ 30; Connell Decl., Ex. C (7/19/19 Waggoner PMK Dep. 267:13-25); Gill Decl., ¶¶ 5-8; Fox Decl., ¶ 14; Suri Decl., ¶ 21; Chan Decl., ¶ 11.	**Disputed:** 1) Ms. Waggoner's declaration and deposition testimony lack foundation because she lacks personal knowledge since she testified in her July 2018 *Jewett* deposition that she had not been involved with the review process of compensation programs for years. Citation: • OEx. 2, Waggoner PMK *Jewett* Dep. ORACLE_HQCA_0000400688-89, 105:1-106:12. 2) FCCP objects to paragraph 30 of Ms. Waggoner's declaration because she lacks personal knowledge, fails to use the best evidence, and presents an improper summary. 3) Oracle cites to no training policy for the contention that compensation, let alone bonuses should be awarded to employees working on products that are "particularly complex or for which the labor market is particularly competitive." Instead, the guidance Oracle provided in both training and in emails is to award performance, especially to top performers. In fact, the first time Ms. Waggoner was deposed by OFCCP, she stated nothing of product, labor market or complexity (e.g., "If you have a limited [bonus] budget and you have five people, the correct way to do things and the way we speak about it as guidelines in training would be that you reward your high performers first.") Citation: • Ex. 8, slide 8 and slide 8 (notes), ORACLE_HQCA_0000056391-15-, -16 in Vol. 1.; • Ex. 12, slide 7 and slide 7 (notes), ORACLE_HQCA_0000042098-11, -12 in Vol. 1, • OEx. 11], Loaiza Dep. 147:7-24 (major difference between focal and bonus processes is to focus on accomplishments since last bonus), 130:17-25 (email guidance for focals is to reward top performers.). • OEx. 17, Waggoner May Dep. 139:11-19. 5) None of the four declarations provided in support state anything about bonuses being given to "to those employees working on products that are particularly complex or for which the labor market is particularly competitive": a) The Gill declaration's only comment for bonuses is that they are

	part of the compensation package and she does not specifically link bonuses to "those employees working on products that are particularly complex or for which the labor market is particularly competitive." Gill Decl., ¶¶ 5-8. In fact, most of the cited paragraphs for her are about hiring. *Id.* b) The Suri declaration likewise states nothing about bonuses being awarded due to someone "working on products that are particularly complex or for which the labor market is particularly competitive." Suri Decl., ¶ 21. Instead, she states that she "look[s] to reward a direct report for something critical they performed during a 6-month or 1-year cycle." *Id.* c) The Fox declaration for bonuses simply states that she "participat[s] in allocating compensation increases to my direct reports in the form of focals …, bonuses (one-time merit increase)…." Fox Decl., ¶ 14. She too states nothing about "working on products that are particularly complex or for which the labor market is particularly competitive." *Id.* d) The Chan declaration states that she uses bonuses to "reward the superstars on my team." Chan Decl., ¶ 11. She states nothing about bonuses being given to "to those employees working on products that are particularly complex or for which the labor market is particularly competitive." *Id.* 6) To have no other managers besides Waggoner make this point out of the over 1500 that were managers as of January 1, 2014, and the 28 other declarations that Oracle crafted for its summary judgment motion speaks volumes of the lack of support. Citation: • Ex. 17, Atkins MSJ Decl. Ex. A (Table 1). 7) Ms. Kolotouros testified that the products an employee works on do not determine compensation. Citation: • OEx 7. Kolotouros Decl. ¶9. 8) Ms. Kolotorous testified that employees may work on different products throughout their careers at Oracle, but doing so will not determine their compensation. Citation: • OEx 7. Kolotouros Decl. ¶9.

49. First-line (or direct) managers primarily determine equity for their reports. **Alleged Supporting Evidence:** Gill Decl., ¶ 6; Robertson Decl., ¶ 12; Fox Decl., ¶ 16; Oden Decl., ¶ 14; Talluri Decl., ¶ 16; Suri Decl., ¶ 21; Chan Decl., ¶ 12; Ousterhout Decl., ¶ 17; Shah Decl., ¶ 15.	**Disputed.** 1) The decisions whether to provide equity and the budgets or caps allocated for them are more significant in determining employee compensation than employees' direct managers. 2) Ms. Waggoner testified in her PMK deposition in this matter that "equity is held at a much higher level at Oracle. . . . It doesn't go down like, the [redacted] and [redacted]. It's generally more [redacted] and above, probably who make those decisions because it really is about the retention of our higher-level, critical." Citation: • OEx. 8, Waggoner PMK Dep. 272:5-19. 2) Several of the declarations do not support Oracle's assertion that first-line managers determine equity for their direct reports. Citation: • Yakkundi Decl., ¶ 19 ("I do not participate in bonus or equity distributions."); • Suri Decl., ¶ 21 ("I do not typically decide the amount of equity distributions because [redacted]); • OEx. 9, Amit Decl., ¶¶8-9. 3) Oracle submitted 29 non-attorney declarations in support of its motion for summary judgment, but only submitted 9 of those declarations in support of this fact, one of which disputed the fact (Suri Decl., ¶ 21). Oracle had 1,516 managers as of January 1, 2014, alone. Citation: • Ex. 17, Atkins MSJ Decl., Ex. A (Table 1). 4) Mr. Sharma testified that he was only permitted to rank his employees for the focal review, he was not permitted to make recommendations, let alone determine, equity for his reports. Citation: • OEx 9. A. Sharma Decl. ¶8.

50. Compensation decisions are made on a case-by-case basis and are based on a variety of factors, including performance, skills, experience, duties, and pay equity among team members. **Alleged Supporting Evidence:** Connell Decl., Ex. L (ORACLE_HQCA_0000400403 at 438); Waggoner Decl., Ex. B (ORACLE_HQCA_0000364183 at 21), Ex. E (ORACLE_HQCA_0000056234 at 37); Gill Decl., ¶¶ 6-8; Webb Decl., ¶ 13; Eckard Decl., ¶¶ 11-12; Hsin Decl., ¶¶ 11-12; Fox Decl., ¶ 14; Oden Decl., ¶ 14; Talluri Decl., ¶ 17; Abushaban Decl., ¶¶ 13-16.	**Disputed**. 1) Compensation decisions is not defined and can include decisions whether to conduct a company-wide focal, bonus, equity grant and the amount allotted for such company-wide program. It also includes all of the cascading down allocations. A) This fact is disputed on many grounds to include Oracle's very senior management making the decisions whether to have a company-wide program and the amounts it decides to allocate to these company-wide programs. B) While, at times, Oracle calls its focal reviews "annual focal reviews," they are not truly annual because Oracle did not have ones in 2013 and 2018 and has them about every 14-18 months apart. Citation: • OFCCP SUF: Facts 137-138; • OEx. 8, Waggoner PMK Dep. 248:7–17, 192:19-193:1; • Ex. 34, ORACLE_HQCA_0000434971 in Vol. 2. C) From January 1, 2013, to January 19, 2019, Oracle only gave bonuses in two years: 2014 and 2018. Citation: • Ex. 91, Madden Report at 13 n. 4, 26 n. 15, 38 n. 18 in Vol. 3. D) Ms. Waggoner testified as Oracle's PMK that the budget that Oracle provides its managers for salary increases are insufficient to keep up with the market rate and that because of budget pressures, only [redacted] of the employees may get a raise in a year. Citation: • OFCCP SUF: Fact 127; • OEx. 8, Waggoner PMK Dep. 247:4–13, 308:8–24. E) EVP Loaiza testified that 40-50% of employees in his organization are paid below the market rate because not enough money is provided for them in the budget. Citation:

	• OFCCP SUF: Fact 40, 129; • OEx. 11, Loaiza Dep. 16:3-12, 283:6–284:22, 305:7–306:3; F) Ms. Waggoner further testified as the PMK that Oracle has had lean budget years such that there is "little to no focal budget." She explained the impact of this situation by stating "if we give little to no focal budget, naturally we're not keeping up with the way the market has grown." She further testified that Oracle has had a lean budget for "the last many years." Citation: • OFCCP SUF: 110, 111; • OEx. 8, Waggoner PMK Dep. 327:24-328:12, 267:21-22. G) Ms. Waggoner testified further still in her PMK testimony that "since 2013, this time period started, we've had incredibly lean corporate bonus budgets" and "[t]he bonus budgets have been very rare and very small when we've had them." Citation: • OFCCP SUF: Fact 110, 111; • OEx. 8, Waggoner PMK Dep. at 263:12-14, 276:11-14. H) Oracle's lean budget years have not extended to Co-CEOs Safra Catz and Mark Hurd who each have earned 1,205 times more in 2018 than the median employee compensation at Oracle, a ratio that ranks them in the 17 highest paid CEOs vis a vis average employee pay. Citation: • OEx. 19, New York Times, The Highest-Paid C.E.O.s of 2018: A Year So Lucrative, We Had to Redraw Our Chart, 5/29/19. I) In Oracle's "dive and save" salary requests, senior managers identify that they are unable to comply because they face significant "salary compression" for their employees because of a limited budget and face a "rob Peter to pay Paul" situation. Citation: • OEx. 11, Loaiza Dep. 282:15-285:11 (discussing salary compression and robbing Peter to pay Paul);

	• *Id.* at 290:3-12; • Ex. 33, ORACLE_HQCA_0000437696–701 in Vol. 2; • Ex. 34, ORACLE_HQCA_0000434971–72 in Vol. 2. 2) This fact is also disputed on the grounds that the compensation decisions to conduct company-wide programs such as focal reviews, bonuses and equity grants are not based upon such as "a variety of factors, including performance, skills, experience, duties, and pay equity among team members. Instead, Oracle's "CEOs" make the decisions to have them based upon "business conditions and what [it] can afford at the time." The amounts to be distributed under these programs are developed by using country budgets and a percentage of eligible salaries. Citation: • OEx. 8, Waggoner PMK Dep. 192:19-194:5. 3) Managers testified that they were not asked to consider pay equity. Citation: • OEx. 9, A. Sharma Decl. ¶ 8; • OEx. 12, Pandey Decl. ¶13.
51. Oracle faces substantial and continuous competition for highly-skilled and talented employees. **Alleged Supporting Evidence:** Gill Decl., ¶¶ 4-5; Bashyam Decl., ¶ 10; Miranda Decl., ¶ 11; Webb Decl., ¶ 13; Sarwal Decl., ¶ 14.	**Undisputed**.

52. To compete against other companies for employees, Oracle's compensation tools include base salary, bonuses, restricted stock awards, and performance stock and stock options (*i.e.*, equity grants). **Alleged Supporting Evidence:** Gill Decl., ¶ 6; Balkenhol Decl., ¶¶ 5, 10-11; Waggoner Decl., ¶ 31; Fox Decl., ¶ 16; Chan Decl., ¶ 12.	**Undisputed.**

53. Particular teams or projects at Oracle often require highly specialized, rare, and valuable technical skills, and to stay competitive Oracle must actively recruit and retain employees with those specialized skills. **Alleged Supporting Evidence:** Gill Decl., ¶ 5; Yakkundi Decl., ¶ 17; Sarwal Decl., ¶ 14; Fox Decl., ¶ 16.	**Disputed.** 1) This fact is disputed because it is unsupported. A) Oracle only provides four declarations to support this alleged fact. Two are from the support job function (Sarwal and Yakkundi, ¶ 3), one from product development (Fox, ¶ 3) and one from human resources (Gill,) B) Ms. Fox's ¶ 16 just talks in general about her compensation decisions. She states nothing in this paragraph about "projects at Oracle often require highly specialized, rare, and valuable technical skills, and to stay competitive Oracle must actively recruit and retain employees with those specialized skills" C) The closest statement in Mr. Yakkundi's declaration for the cited paragraph to the alleged fact is "I look for candidates with experience with access management products like OAM and will offer a pay premium if needed to hire a candidate with that specific background." Yakkundi Decl., ¶ 17. Paying a premium for someone's background does not state anything about a person's skills, let alone highly-specialized, rare and valuable technical skills." D) The statements in Mr. Sarwal's declaration for the cited paragraph at least bare some resemblance to the alleged fact. However, his technical analyst claims fall apart and are thus disputed when Oracle's compensation structure is examined. An examination of OFCCP's chart that examines the three job functions at issue by Specialty Area and then by job title identifies that all of the technical analyst positions in the support job function have an N salary grade. Ms. Waggoner noted E salary grades mean exempt under the "FLSA" and Ms. Atkins found that the N salary grades corresponded to the non-exempt classification in Oracle's 2014 snapshot. As such, Sarwal's technical analysts are not rare and highly skilled employees who command six-figure plus salaries, these are employees who get paid by the hour. Citation: • Ex. 17, Atkins MSJ Decl. Exhibit A (Table 1), rows 125-129 for titles in column C having N salary grades in column E, in Vol 1. • OEx. 8, Waggoner PMK Dep. 110:4-25 • Atkins Opp'n Decl. ¶ 24.

	E) Ms. Gill's declaration does not state that "[p]articular teams or projects at Oracle often require highly specialized, rare, and valuable technical skills. Gill Decl., ¶ 5. Instead, she states that Oracle faces competition in every segment of its business which means that Oracle faces competition for people working on old legacy products. Contrary to Ms. Gill's claim, Ms. Waggoner claimed that people working in the old legacy products like those from J.D. Edwards and PeopleSoft were not competitive because there were more people who were able to do that work. Citation: • OEx. 8, Waggoner May Dep. 90:25-91:15. 7) Lastly, the people who should know best about particular teams or projects at Oracle that often require highly specialized, rare, and valuable technical skills are the developers or people in product development. But the sole declaration that Oracle provided from product development from more than 30 declarations did not discuss. If this alleged fact was actually true, then surely Oracle should have been able to obtain a declaration stating such from the 1500 plus managers who worked at Oracle on 1/1/14. Citation: • Ex. 17, Atkins MSJ Decl. Ex. A (Table 1) in Vol. 1. 2) Employees and Managers testified that they transferred teams and worked on various products throughout their careers at Oracle. Citation: • OEx. 7, Kolotouros Decl. ¶¶ 2-5,9; • OEx. 20, Powers Decl. ¶12; • OEx. 30, Decl. of Bhavana Sharma (B. Sharma Decl.) ¶¶5-7; • OEx. 12, Pandey Decl. ¶¶6, 12. 3) Mr. Pandey testified that he obtained new members through internal transfers and these transfers could come from different lines of business. As one example, Mr. Pandey identified [redacted] who came from the [redacted] group to his team [redacted] and performed a new role in [redacted] without any additional training. Citation:

	• OEx. 12, Pandey Decl. ¶ 12. 4) Ms. Ng testified that she worked on different products throughout her career without a change in her pay. Citation: • OEx. 15, Ng Decl. ¶¶6-7. 5) Ms. Kolotourous testified that employees may work on different products throughout their careers at Oracle, but doing so will not determine their compensation. Citation: • OEx. 7, Kolotouros Decl. ¶9.

54. Oracle's compensation philosophy reflects its business need to recognize individual skills and contributions. **Alleged Supporting Evidence:** Waggoner Decl., ¶¶ 27, Ex. B (ORACLE_HQCA_0000364183 at 5), Ex. C (ORACLE_HQCA_0000364272 at 15), Ex. E (ORACLE_HQCA_0000056234 at 17, 37).	**Disputed.** 1) Oracle's "compensation philosophy" is located in its compensation training . Citation: • OFCCP SUF: Fact 110; • OEx. 8, Waggoner PMK Dep. 7:12-15, 79:2-20, 81:19-82:4; • OEx. 2, Waggoner PMK *Jewett* Dep. ORACLE_HQCA_0000400584, 660-62) 7:14-15, 77:3-78:5; • Ex. 8, slide 5 and slide 5 (notes), ORACLE_HQCA_0000056391-9, -10 in Vol. 1; • Ex. 12, slide 4 and slide 4 (notes), ORACLE_HQCA_0000042098-6, -7 in Vol. 1; • Ex. 85, Email from J. Riddel to C. Song in Vol 3. 2) The "compensation philosophy" that Oracle provided to its managers is different from the compensation philosophy that it makes available to its workers via the employee handbook. Citation: • *Compare* Ex. 8, slide 5 and slide 5 (notes), ORACLE_HQCA_0000056391-9, -10 in Vol. 1, • *with* Ex. 12, slide 4 and slide 4 (notes), ORACLE_HQCA_0000042098-6, -7 in Vol. 1 *to* Ex.. 11, DOL000000502 in Vol. 1. 3) Oracle does not identify its "compensation philosophy" on its intranet side nor in its "Compensation Guidelines." Citation: • Ex. 9, "Oracle Compensation Guidelines," no date (Ex. 27 at Holman-Harries May Dep.), ORACLE_HQCA_0000380594-96 in Vol. 1; • Ex. 10, "Global Compensation," www.my.oracle.com, dated 12/18/17 (Ex. 4 to the Waggoner May Dep.), ORACLE_HQCA_0000364301–03 in Vol. 1. 4) Oracle managers are not required to perform formal performance evaluations.

	Citation: • OFCCP SUF: Fact 142; • OEx 1, Westerdahl Dep. 155:14–18, 158:9–15; • OEx. 8, Waggoner PMK Dep. 226:16-21, 228:6–9. 5) Entire organizations at Oracle do not do performance reviews. Citation: • OFCCP SUF: Fact 143, 144; • OEx. 11, Loaiza Dep. 114:19–115:3, 17:17–20; • OEx. 8, Waggoner PMK Dep. 226:16-21. 6) Oracle managers are not required to take an employee's performance into account during focal reviews. Citation: • OFCCP SUF: Fact 149; • OEx. 8, Waggoner May Dep. 118:17–24. 7) With the limited budgets that Oracle provides for focal reviews, it is not able to recognize the individual skills and contributions of its employees. Citation: • OFCCP SUF: Fact 133, 134, 136; • Ex. 33, ORACLE_HQCA_0000437696–701, in Vol. 2; • Ex. 34, ORACLE_HQCA_0000434971–72, in Vol. 2; • Ex. 30, ORACLE_HQCA_0000432004–06, in Vol. 2. 8) Promotions at Oracle may be made without a salary increase. Citation: • OFCCP SUF: Fact 181; • Ex. 12, slide 26 (notes), ORACLE_HQCA_0000042098-48, in Vol. 1; • Ex. 13, slide 26 (notes), ORACLE_HQCA_0000056234-48, in Vol. 1; • Ex. 8, slide 27 (notes), ORACLE_HQCA_0000056391-52, in Vol. 1; • Ex. 18, slide 13, 0000000407-24, in Vol. 1;

	• Ex. 21, "Managing Compensation," dated April 2016, slide 16 (notes), ORACLE_HQCA0000380437-32 in Vol. 1. 9) In or around 2011, Oracle recognized that because a promotion without a salary increase can cause internal equity issues, it strongly recommended that promotions without salary increases do not take place unless the individual's pay is appropriately positioned in the new range and peer group. Citation: • OFCCP SUF: 182 • Ex. 18, slide 13 (notes), ORACLE_HQCA_0000000407-25 in Vol. 1. 10) In the Product Development LOB, it was "very rare" to get a salary increase as part of a promotion prior to 2018. Before 2018, it was a "policy" *not* to give salary increases with promotions. Citation: • OFCCP SUF: 183 • OEx. 11, Loaiza Dep. 217:19–219:9. 11) An Oracle training instructed managers that a promotion does not necessarily require a simultaneous salary increase, and that the salary increase would normally be taken care of during the salary increase process. Citation: • OFCCP SUF: 184 • Ex. 18, slide 5, ORACLE_HQCA_0000000407-8 in Vol. 1. 12) In the Product Development LOB, there are situations where off-cycle promotions did not include raises and managers told employees that they would get them a raise on the next focal cycle. Citation: • OFCCP SUF: 185 • OEx. 8, Waggoner PMK Dep. 256:13–17. 13) Oracle's training materials state that if an employee is positioned very low in their current salary range, or has a salary that is not in line with the peer group in the new role, a promotion without a salary

	increase could cause internal equity issues, and may even cause the employee to fall below the minimum of the new salary range. Citation: • OFCCP SUF: 186 • OEx. 11, Loaiza Dep. 217:19–219:9.

55. Oracle's compensation framework strives for equitable pay within teams while recognizing each employee's unique knowledge, skills, abilities, performance, experience, and contributions. **Alleged Supporting Evidence:** Waggoner Decl., ¶ 26-27, Ex. B (ORACLE_HQCA_0000364183 at 5), Ex. C (ORACLE_HQCA_0000364272 at 15); Connell Decl., Ex. B (8/1/19 Holman-Harries PMK Dep. 265:23-266:13), Ex. C (7/19/19 Waggoner PMK Dep. 84:25-85:25); Robertson Decl., ¶ 12; Abushaban Decl., ¶¶ 16-18; Chan Decl., ¶¶ 9-12.	**Disputed.** This fact is disputed on many grounds that show that Oracle's actions belie its words and that it does not strive for equitable pay through its actions. 1) Oracle's managers are not required to take its compensation training to learn of Oracle's compensation framework. Citation: • OFCCP SUF: Fact 110; • OEx. 8, Waggoner PMK Dep. 7:12-15, 79:2-20, 81:19-82:4; • OEx. 2, Waggoner PMK *Jewett* Dep. (ORACLE_HQCA_0000400584, 660-62) 7:14-15, 77:3-78:5; • Ex. 85, Email from J. Riddel to C. Song in Vol 3. 2) Most of Oracle's compensation training is not made available to its employees. Instead, they are just for human resources personnel and managers. Citation: • OEx. 17, Waggoner May Dep. 140:24-141:24. 3) Some of Oracle's compensation training is not even made available to managers even if they wanted to take it. Citation: • OEx. 17, Waggoner May Dep. 141:25-142:15. 4) Oracle's compensation framework itself recognizes that managers will be unable to follow the instructions therein because of an insufficient budget. • Oracle warns managers that, during focal reviews, they most likely will not be able to address all compensation problem areas in their organization, so they will have to prioritize. Citation: • OFCCP SUF: Fact 106; • Ex. 14, slide 43, ORACLE_HQCA_0000382580-84 in

	Vol. 1; • Ex. 22, "Global Compensation Training: Compensation Processes," dated 2011, slide 4 (notes), ORACLE_HQCA_0000364274-7 in Vol. 1. 5) Oracle warns managers that, during the focal review process in particular, the business climate and focal budgets play the biggest role in how managers are able to position employees within their salary range. Citation: • OFCCP SUF: Fact 105; • Ex. 16, slide 11 (notes), ORACLE_HQCA_0000364272-21 in Vol. 1. 6) Oracle repeatedly advised managers that they might not be afforded the budget "to perfectly place all [of their] employees" where they should be in their salary range. Citation: • OFCCP SUF: Fact 104; • Ex. 8, slide 20 (notes), ORACLE_HQCA_0000056391-39 in Vol. 1; • Ex. 13, slide 17 (notes), ORACLE_HQCA_0000056234-30 in Vol. 1; • Ex. 21, slide 9 (notes), ORACLE_HQCA_0000380437-18 in Vol. 1. • *See also* Ex. 12, slide 19 (notes), ORACLE_HQCA_0000042098-35 in Vol. 1. 7) Oracle did not offer an opportunity for a focal review base salary increase in 2013 and 2018. Citation: • OFCCP SUF: Fact 138; • Ex. 34, ORACLE_HQCA_0000434971; • OFCCP SUF: Fact 137; • OEx. 8, Waggoner PMK Dep. 248:7–17, 192:19–193:1. 8) Oracle did not offer an opportunity for bonuses in 2013, 2015, 2016, and 2017. This disputes Oracle's claim that its "compensation framework strives for equitable pay."

	Citation: • Ex. 91, Madden Report at 13 n. 4, 26 n. 15, 38 n. 18 in Vol. 3. 9) Ms. Waggoner's PMK testimony also identified that Oracle has had lean budget years such that there is "little to no focal budget." She explained the impact of this situation by stating "if we give little to no focal budget, naturally we're not keeping up with the way the market has grown." She also identified that Oracle has had a lean budget for "the last many years." Thus, the ability to give salary increases is severely limited. This disputes Oracle's claim that its "compensation framework strives for equitable pay." Citation: • OEx. 8, Waggoner PMK Dep. 327:24-328:12, 267:21-22. 10) Ms. Waggoner further testified in her PMK testimony that "since 2013, this time period started, we've had incredibly lean corporate bonus budgets" and "[t]he bonus budgets have been very rare and very small when we've had them." Citation: • OFCCP SUF: Fact 110, 111; • OEx. 8, Waggoner PMK Dep. at 263:12-14, 276:11-14. 11) Oracle's EVP Loaiza testified that 40-50% of the employees in his organization are paid below the market rate because not enough money is provided for them in the budget. This disputes Oracle's claim that its "compensation framework strives for equitable pay." Citation: • OFCCP SUF: Fact 40, 129; • OEx. 11, Loaiza Dep. 16:3-12, 283:6–284:22, 305:7–306:3. 12) Oracle had a policy before 2018 not to provide salary increases when it promoted employees even though it recognized at the same time that a promotion without a salary increase "can cause internal equity issues." This disputes Oracle's claim that its "compensation framework strives for equitable pay." Citation:

- OFCCP SUF: Fact 182, 183;
- Ex. 18, slide 13 (notes), ORACLE_HQCA_0000000407-25;
- OEx. 11, Loaiza Dep. 217:19–219:9.

13) Oracle implemented significant off-cycle salary compensation increases when, amongst other things, it feared losing employees because its managers previously were not ensuring pay equity for its employees.

A) In or around May 2014, Oracle justified a [redacted]% off-cycle "dive and save" increase of $[redacted] to prevent someone from going to a competitor when their salary was $[redacted] [redacted] dollar amount of the salary range and her direct reports were earning [redacted]% to [redacted]% more than she was.

Citation:

- OFCCP SUF: Fact 133;
- Ex. 33, ORACLE_HQCA_0000437696–701 in Vol. 2.

B) In or around 2015, Oracle justified a [redacted]% off-cycle base salary increase of $[redacted] for a Vice President who was $[redacted] below the minimum dollar amount of the salary range because this vice president did not receive a salary increase when promoted and his managers were unable to rectify this problem over four years of focal reviews. His manager stated that he had tried to pull the employee's salary up to within the band, but that this is difficult to do with such significant salary compression. He said that he faced a "rob Peter to reward Paul for a promotion" situation and noted that he has additional employees who also face significant salary compression.

Citation:

- OFCCP SUF: Fact 134;
- Ex. 34, Out of Cycle Salary Adjustment Proposal, dated 6/15/15, ORACLE_HQCA_0000434971–72 in Vol. 2.

C) In or around July 2014, Oracle justified a [redacted]% off-cycle "dive and save" increase of $[redacted] to prevent an employee from going to a competitor who was in the [redacted] quartile of the salary range even though he received outstanding performance evaluations at Oracle for the last five years. As justification, the requesting email stated that, in summary, the employee had been on their radar for correction for the past few years; the employee had been very dedicated, professional and real team

	player and has been patiently waiting for a meaningful correction to get him close to the market rate. Citation: • OFCCP SUF: Fact 136; • Ex. 30, ORACLE_HQCA_0000432004–06. 14) Oracle's lean budget years have not extended to Co-CEOs Safra Catz and Mark Hurd who each have earned 1,205 times more in 2018 than the median employee compensation at Oracle, a ratio that ranks them in the 17 highest paid CEOs vis a vis average employee pay. Citation: • OEx. 19, New York Times, The Highest-Paid C.E.O.s of 2018: A Year So Lucrative, We Had to Redraw Our Chart, 5/29/19 at https://www.nytimes.com/interactive/2019/business/highest-paid-ceos-2018.html. 15) OFCCP objects to paragraph 26 of Ms. Waggoner's declaration because she lacks personal knowledge of the facts contained therein.

56. Oracle empowers its managers, who are familiar with an individual employee's work and how it compares to others to drive the decision-making in Oracle's decentralized process. **Alleged Supporting Evidence:** Waggoner Decl., ¶ 28, Ex. B (ORACLE_HQCA_0000364183 at 21); Abushaban Decl., ¶ 16; Chan Decl., ¶¶ 9-12.	**Disputed.** 1) The decisions whether to do corporate wide focal salary increases, bonuses, and stock grants and the budgets or caps allocated for them are more significant in determining employee compensation than employees' direct managers. A) While, at times, Oracle calls its focal, aka focal reviews "annual focal reviews," they are not truly annual because Oracle did not have any in 2013 and 2018 and has them about every 14-18 months apart. Citation: • OFCCP SUF: Fact 137, 138; • OEx. 8, Waggoner PMK Dep. 248:7–17, 192:19-193:1; • Ex. 34, ORACLE_HQCA_0000434971 in Vol. 2. B) From January 1, 2013, to January 19, 2019, Oracle only gave bonuses in two years: 2014 and 2018. Citation: • Ex. 91, Madden Report at 13 n. 4, 26 n. 15, 38 n. 18 in Vol. 3. C) In Ms. Waggoner PMK testimony, she stated that Oracle has had lean budget years such that there is "little to no focal budget." She explained the impact of this situation by stating "if we give little to no focal budget, naturally we're not keeping up with the way the market has grown." She further testified that Oracle has had a lean budget for "the last many years." Citation: • OFCCP SUF: Fact 110, 111; • OEx. 8, Waggoner PMK Dep. 327:24-328:12, 267:21-22. D) Ms. Waggoner also testified as a PMK that "since 2013, this time period started, we've had incredibly lean corporate bonus budgets" and "[t]he bonus budgets have been very rare and very small when we've had them." Citation: • OFCCP SUF: Fact 110, 111;

	• OEx. 8, Waggoner PMK Dep. 263:12-14, 276:11-14. E) For equity grants (aka stocks or RSUs), Oracle caps the amount of people who can receive them at 35% such that Ms. Waggoner identified in her PMK testimony that they primarily go to managers and employees with higher global career levels. Citation: • Ex. 84, Email from Stefanie Wittner, dated 5/30/13, ORACLE_HQCA_0000022961 in Vol. 3; • OEx. 8, Waggoner PMK Dep. 272:20-274:19. F) Managers were instructed to issue shares of stock to [redacted] to [redacted] managers and to [redacted] to [redacted] individual contributors. Citation: • Ex. 84, ORACLE_HQCA_0000022961 in Vol. 3. G) EVP Loaiza testified that 40-50% of his organization is below the market rate because of the limited budgets. Citation: • OFCCP SUF: Fact 129; • OEx. 11, Loaiza Dep. 283:6–284:22, 305:7–306:3. H) Oracle's lean budget years have not extended to Co-CEOs Safra Catz and Mark Hurd who each have earned 1,205 times more in 2018 than the median employee compensation at Oracle, a ratio that ranks them in the 17 highest paid CEOs vis a vis average employee pay. Citation: • OEx. 19, New York Times, The Highest-Paid C.E.O.s of 2018: A Year So Lucrative, We Had to Redraw Our Chart, 5/29/19 at https://www.nytimes.com/interactive/2019/business/highest-paid-ceos-2018.html. 2) Oracle has a centralizd starting pay process for its hires. A) One example of an employee's first-line or direct manager not primarily determining the starting pay for new hires is Oracle's

	hiring of college graduates, because Oracle's College Recruiting Organization determines the person's pay, not the employee's direct hiring manager. Ms. Waggoner admitted that Oracle's College Recruiting Organization sets the compensation package for the new hires hired through its program in her PMK *Jewett* deposition. Citation: • OEx. 2, Waggoner PMK *Jewett* Dep. ORACLE_HQCA_0000400696-98, 113:13- 115:1. B) EVP Loaiza also identified in his March 2015 audit interview with OFCCP that Oracle's college recruiting organization set salaries for the people Oracle hires from college: "We hire a lot from universities. Those salaries are set by the university recruiting department. We set compensation for those not coming from universities." Citation: • Decl. of Hea Jung Atkins in Oppostion to Oracle America, Inc.s' Motion for Summary Judgement (Atkins Opp'n Decl.) ¶14, Ex. K, OFCCP's Interview Notes of the Juan Loaiza on March 25, 2015 (Loaiza Interview Notes), DOL 000000522. C) Oracle's College Recruiting organization sets narrow pay ranges for college hires and makes starting pay determination for them. Citation: • OEx. 22, Email from Zeira Singn to many people re LJE approved new college compensation package, ORACLE_HQCA_0000380453; • OEx. 23, Email from Chantel Dumont to Milton Liu and Les Cundall re Salary Guidelines, dated 9/11/13 (Dumont 9/11/13 Email), ORACLE_HQCA_0000012587; • OEx. 24, Email from Chantel Dumont to various people re college compensation for FY14, dated 9/24/13, ORACLE_HQCA_0000023717; • OEx. 25, Email from Katie Rider to James Handley re College Hire Starting Salaries, dated 4/16/15, ORACLE_HQCA_ 0000380671; • OEx. 26, Email from Chantel Dumont to Duhong Trinh

	Trinh re Intern Salary Rule, dated 0/14/13, ORACLE_HQCA_0000012204; • OEx. 27, Email from Les Cundall to Elizabeth Lee re University Offer Approval Request, dated 3/14/14, ORACLE_HQCA_0000011640; • OEx. 28, Email from Chantel Dumont to Satarupa Bhattacharya, dated 5/17/13 re University Offer Approval Request, ORACLE_HQCA_0000012173. D) Another example of the direct manager not being the primary decision-maker for the starting pay for new hire is the MAP program wherein the "[t]he offer originates from the CEOs [sic] office and it has all the elements of other offers except a specific job position…. Once the offer is accepted the graduate is temporarily assigned to the CEOs [sic] development staff." Citation: • OEx. 29, Emails between Wendy Lee and [redacted] regarding Oracle's MAP Program created by Larry Ellison dated 10/25/13, ORACLE_HQCA_0000036993-94. E) EVP Loaiza, at the M8 global career level, testified in his deposition that when he is reviewing a person during the hiring approval process, he is reviewing "the proposed compensation of the person." He emphasizes this a second time when he states: "What I get is not the current compensation. I get the proposed compensation." If he is only looking at the *proposed pay* at his high level, then the first level manager, many levels below, could not have already determined the starting pay for a new hire. Citation: • OEx. 11, Loaiza Dep. 16:3-16, 17:2-10, 44:16-45:20. F) EVP Loaiza testified in his deposition that the hiring approval process which included the compensation proposal went up the management chain of command to the final approver who was Thomas Kurian for a large majority of them. Citation: • OEx. 11, Loaiza Dep. 48:10-49:1. G) Ms. Waggoner testified that determining the pay of hires is a

	collaboration between the hiring manager and the recruiting organization with, at times, input by human resources or its compensation group. Citation: • OEx. 17, Waggoner May Dep. 91:24-92:6. H) Ms. Waggoner's declaration and deposition testimony lacks foundation because of a lack of personal knowledge since she testified in her July 2018 *Jewett* deposition that she had not been involved with the review process for years. Citation: • OEx. 2, Waggoner PMK *Jewett* Dep. ORACLE_HQCA_0000400688-89, 105:1-106:12. I) Oracle's Human Resources and Recruiters play significant role in determing an employee's compensation at hire, as they are the ones instructing hiring managers how employees should be paid. Citation: • OEx 20, Powers Decl. ¶11; • OEx 21, Snyder Decl. ¶ 13. 3) This fact is also disputed on the grounds that direct managers only make pay *recommendations*, not decisions. These pay *recommendations* are subsequently reviewed up the chain of command until the ultimate approver approves them. At intermediate reviews, the reviewing managers can either give their approvals or reject the recommendation. The final approvers for all hirings have to be approved by "CEO(s) & Executive Chairman and CTO," "Office of the CEO," the Board of Directors, or Thomas Kurian. A) Oracle's Global Approval Matrices state that approvals for base salary increases bonuses, and stock or stock options grants have to be made at the level of "CEO(s) & Executive Chairman and CTO," "Office of the CEO," the Board of Directors, or Thomas Kurian. Citation: • OFCCP SUF: Fact 113; • Ex. 20, Global Approval Matrix, dated 6/11/12,

	ORACLE_HQCA_0000062725-1 to -2; • Ex. 20, Global Approval Matrix, dated 2/1/13, ORACLE_HQCA_0000062732-1 to -2; • Ex. 20, Global Approval Matrix, dated 11/1/14, ORACLE_HQCA_0000062712-1 to -2; • Ex. 20, Global Approval Matrix, dated 6/1/15, ORACLE_HQCA_0000062710-1 to -2; • Ex. 20, Global Approval Matrix, dated 6/1/16, ORACLE_HQCA_0000062711-1 to -2; • Ex. 20, Global Approval Matrix, dated 3/30/17, ORACLE_HQCA_0000062720-1 and -2 all in Vol. 1. • Fact 4 herein by Oracle for Thomas Kurian's title and position. B) Oracle's compensation instructions for hiring likewise require managers to make pay recommendations that require approvals at the Executive Level (e.g., CEO. CTO) or their offices. Citation: • OFCCP SUF: Fact 116; • Ex. 28, "Recruit & Hire at Oracle: Module 6: How to Create an Offer in iRecruitment," copyright 2017, slide 11 (notes), ORACLE_HQCA_0000057179-22 in Vol. 2; • Ex. 13, slide 35 and slide 35 (notes) ORACLE_HQCA_0000056234-65 to -66 in Vol. 1. 4) Oracle's compensation instructions for focals and off-cycle salary increases (e.g., promotions, "dive and saves" used to counter an offer from a competitor) likewise require managers to make pay recommendations that require approvals at the Executive Level (e.g., CEO. CTO) or their offices. Citation: • OFCCP SUF: Fact 116; • Ex. 28, slide 11 (notes), ORACLE_HQCA_0000057179-22 in Vol. 2; • Ex. 13, slide 35 and slide 35 (notes) ORACLE_HQCA_0000056234-65 to -66 in Vol. 1. A) The approvals for base salary increases goes all the way up through the CEO's office. Citation:

	• OFCCP SUF: Fact 117; • OEx. 8, Waggoner PMK Dep. 155:7-25. B) Oracle's focal review trainings refer to the managers role as making "recommendations" and state that "[t]his isn't to say that your recommendations won't be changed by someone further up in your hierarchy, but it is a way to inform your manager of how you would like to allocate increases to your team." Citation: • Ex. 14, at slide 43 (notes), ORACLE_HQCA_0000382580-84 in Vol. 1. C) In a 2014 compensation training, managers were instructed: "**Do not communicate** any changes [in compensation] until the 'Last Approval Action' shows 'Larry Ellison.'" Citation: • OFCCP SUF: Fact 120; • Ex. 25, slide 39, ORACLE_HQCA_0000056242-48 (emphasis in original) in Vol. 1. D) In a 2011 compensation training, managers were instructed: "**You should not communicate any changes until we obtain final approval from LJE**." Citation: • OFCCP SUF: Fact 121; • Ex. 26, slide 49, ORACLE_HQCA_0000056957-55 (emphasis in original) in Vol. 2. E) LJE stands for Larry J. Ellison. Citation: • OFCCP SUF: Fact 122; • OEx. 17, Waggoner May Dep. 106:25–107:4. F) Subsequent to these 2011 and 2014 trainings, Oracle expanded this approval beyond Larry Ellison to include Safra Catz. Citation:

	• OFCCP SUF: Fact 123; • OEx. 16, Carrelli Dep. 212:9–213:1, 214:12–14. H) Oracle's managers cannot communicate any pay changes earlier because changes can happen during the approval process. Citation: • OFCCP SUF: Fact 124; • Ex. 24, slide 39 (notes), ORACLE_HQCA_0000381306-76 in Vol. 1. I) Even in Oracle's declarations provided to this Court to support its summary judgment motion, managers acknowledge that they only make pay recommendations in focal reviews. E.g., Christina Kite, a VP, stated: "I am responsible for recommending salary increases and bonuses for my team." Citation: • Oracle MSJ Decl. of Christina Kite, ¶¶ 3, 11. J) President Thomas Kurian gave his required approval to off-cycle dive and save requests. Citation: • OFCCP SUF: Fact 119; • Ex. 30, Dive-and-Save Emails between Oracle Managers, July 2014, ORACLE_HQCA_0000432004 in Vol. 2. 5) Mr. Pandey testified to receiving guidelines from HR an/or high level managers that contained instruction as to what percentage of his team could get a raise, as well as the percentage range for raises that could be issued. Citation: • OEx. 12. Pandey Decl. ¶13. 6) OFCCP objects to paragraph 28 of Ms. Waggoner's declaration because she lacks personal knowledge, fails to use the best evidence, and proffers an improper summary.

57. On September 24, 2014, OFCCP initiated the audit of Oracle's Redwood Shores headquarters that led to this litigation. **Alleged Supporting Evidence:** Holman-Harries Decl., ¶ 2.	**Undisputed.**
58. OFCCP issued a Notice of Violation ("NOV") on March 11, 2016, without first issuing a Predetermination Notice. **Alleged Supporting Evidence:** Holman-Harries Decl., ¶ 3, Ex. B (NOV).	**Undisputed.**

59. The NOV was based solely on the results of OFCCP's statistical analyses and other evidence that OFCCP never disclosed to Oracle. **Alleged Supporting Evidence:** Holman-Harries Decl., ¶ 3, Ex. B (NOV).	**Disputed.** 1) OFCCP contests Oracle's Material Fact 59 because OFCCP communicated to Oracle the evidence that was the basis for the NOV, and most of the evidence came from Oracle. A) In the NOV, OFCCP communicated to Oracle that the findings of compensation discrimination in the NOV were "[b]ased on the evidence gathered during the compliance review," which included "employment policies, practices, and records"; interviews with "management, human resources, and non-management employees"; "employee complaints"; "individual employee compensation data and other evidence"; and "an onsite inspection of the worksite." Citation: • OFCCP SUF Fact 11; • Ex. 61, NOV at 3, DOL000000945 in Vol. 2; • *See also id.* at 4–6, DOL000000946–48 in Vol. 2. B) The results of OFCCP's regression analysis on compensation were attached to the NOV at attachment A. Citation: • Ex. 61, NOV, Ex. A, DOL000000952–54 in Vol. 2. C) The NOV provided Oracle with a list of the variables that had been included in the regression analysis. Citation: • OFCCP SUF Fact 23; • Ex. 61, NOV at 10-12, DOL000000952–53 (noting that the analysis "accounted for differences in employees' national origin, work experience at Oracle, work experience prior to Oracle, full-time/part-time status, exempt status, global career level, job specialty, visa status, and job title"), in Vol. 2. D) Oracle knew which data fields, from Oracle's data, that OFCCP had used in its standard regression model. Citation:

	• Ex. 70, Oracle America Inc.'s 5/25/16 email and attached Position Statement in response to OFCCP's 3/11/16 Letter, 15 n.17-18 (In discussing the statistical model OFCCP had described in the NOV, Mr. Siniscalco stated, "we presume 'work experience at Oracle' means simply length of time at Oracle since hire or acquisition" and "we presume 'work experience prior to Oracle' calculates some amount of time worked elsewhere before joining Oracle."), in Vol. 2; • OEx. 31, Dep. of Shauna Holman-Harries under Rule 30(b)(6), dated 8/1/19 (Holman-Harries 30b6 Dep.) 76:20-24, 80:17-97:11) (describing data fields in 2014 compensation snapshot, which included the other variables listed in the NOV--annual salary, gender, race, fulltime/part time status, exempt status, global career level, job specialty and job title); • Ex. 68 (excerpt of 2014 compensation snapshot, which included data in the columns entitled "Gender," "Race," "Job Title," "Job Function," "Job Specialty," "Global Career Level," "Exempt Status," "PT/FT," and "Salary"), in Vol. 2; E) The employment policies and practices referenced in the NOV included the specific documents that Oracle had itself provided to OFCCP during the compliance review: Oracle's employee handbook; "Oracle's Global Compensation Training, Managing Pay Module"; Oracle's "Compensation Guidelines"; and a compensation document that Oracle created for OFCCP audits, entitled "Compensation Review and Oversight"; and "Affirmative Action Plan for Oracle America." Citation: • OFCCP SUF Facts 50-52; • Ex. 9, ORACLE_HQCA_0000380594-97 in Vol. 1; • Ex. 11, ORACLE_HQCA_0000000468 in Vol. 1; • Ex. 18, ORACLE_HQCA_0000000407 in Vol. 1; • Ex. 63, "Affirmative Action Plan for Oracle America," dated January 2014, ORACLE_HQCA_0000004999–5015 in Vol. 2; • Ex. 73, "Compensation Review & Oversight," not dated, (Ex. 26 to the Holman-Harries May Dep.), ORACLE_HQCA_0000382618 in Vol. 2; • Ex. 74, Email from Shauna Holman-Harries to OFCCP sending Oracle's Handbook, dated 2/9/15, ORACLE_HQCA_0000000443 in Vol. 2; • Ex. 75, Email from Shauna Holman-Harries to OFCCP, dated 2/26/15, sending Oracle's Global Compensation

	Training in Vol. 2, ORACLE_HQCA_0000000405, in Vol. 2; • OEx. 5, Holman-Harries May Dep. 171:12–172:20, 183:16–184:7, 198:10–24. F) Oracle representatives and/or attorneys were present at all of the manager interviews that OFCCP conducted during the compliance review, and Oracle received copies of each of the interview notes documents that OFCCP created from those interviews. Citation: • Atkins Opp'n Decl. ¶11, Ex. H, OFCCP's Interview Notes of the Thomas Kurian interview on March 24, 2015 (Kurian Interview Notes) (noting presence of Liza Snyder, VP Human Resources as "contractor representative"), DOL000000629–637. • Atkins Opp'n Decl. ¶14, Ex. K, Loaiza Interview Notes (noting presence of Oracle representative Shauna Holman-Harries), Ex. K, DOL000000521-24; • OEx. 33, OFCCP's Interview Notes of the John McGinnis interview on March 24, 2015 (noting presence of Oracle representative Neil Bourque), DOL000000525-29; • OEx. 34, Interview notes from the March 26, 2015 Interview of Marianna Gurovich (noting presence of Oracle representative Ms. Holman-Harries), DOL000000554-558; • Atkins Opp'n. Decl. ¶6, Ex. C, Cheruvu Interview Notes (noting presence of Oracle representatives Neil Borque and Liz Snyder), DOL000000535-37; • Atkins Opp'n Decl. ¶16, Ex. M, OFCCP's Interview Notes of the Peggy (Margaret) Rolly interview on March 26, 2015 (Rolly Interview Notes), DOL000005458-60; • Atkins Opp'n Decl. ¶18, Ex. O, OFCCP's Interview Notes of the Vicki Thrasher interview on March 25, 2015 (Thrasher Interview Notes) (noting presence of Oracle representative Elizabeth Snyder), DOL000038520-24; • Atkins Opp'n Decl. ¶5, Ex. B, Balkenhol Interview Notes, (noting presence of Oracle representative Neil Borque), DOL000000511-14; • Atkins Opp'n Decl. ¶4, Ex. A, Email from Hoan Luong to Oracle dated 1/4/16, asking Oracle to return signed copies of the interview notes and Ms. Holman-Harries' return Email on 1/8/15 returning the interview notes unsigned, ORACLE_HQCA_0000000270.

	G) OFCCP also based its NOV in part on material it compiled, and which Oracle had either provided or received, associated with the compliance evaluation of Oracle's Pleasanton site, including the sworn statement of Oracle's Director of Compensation, Lisa Gordon. Citation: • OFCCP SUF Facts 52, 195-206; • Ex. 41, Holman-Harries *Jewett* Decl., Ex. A, sworn statement of Lisa Gordon, Oracle Director of Compensation dated 2/11/15, (Lisa Gordon Sworn Statement) in Vol. 2; • Ex. 42, Email dated 2/10/15, from Shauna Holman-Harries to OFCCP regarding revisions to Lisa Gordon's statement, DOL000039963–40002 in Vol. 2; • OEx. 5, Holman-Harries May Dep. 226:14–227:10, 227:23–24, 228:2–5, 232:16–233:12, 234:9–12 in Vol. 2; • Ex. 44, OFCCP interview statement containing Lisa Gordon's revisions that Shauna Holman-Harries sent to OFCCP that was marked as Ex. 33 to Holman-Harries May Dep.; • Ex. 45, Email dated 2/10/15, from Shauna Holman-Harries to OFCCP with Lisa Gordon's sworn statement, DOL000040003–22 in Vol. 2; H) OFCCP provided Oracle with additional information about the findings of violation in correspondence between the issuance of the NOV in March 2016 and the issuance of the complaint in January 2017. Citation: • OFCCP SUF Facts 16, 24 and 25; • Ex. 69, OFCCP's 3/29/16 email Response to Oracle America, Inc.'s 3/18/16 email (Ex. 5 (Suhr) at Holman-Harries 30b6 Dep. re: conciliation), ORACLE_HQCA_0000000275–78 in Vol. 2; • Ex. 67, OFCCP's 4/21/16 Response to Oracle America Inc.'s 4/11/16 Letter (OFCCP 4/21/16 Response) (Ex. 7 (Suhr) at Holman-Harries 30b6 Dep. re: conciliation), ORACLE_HQCA_2067–78 in Vol. 2; • OEx. 31, Holman-Harries 30b6 Dep. 182:13-183:22. I) At an approximately 3-hour conciliation meeting on October 6, 2016, Janette Wipper, OFCCP's Regional Director at the time, described the variables used in OFCCP's compensation

	analysis, and additional information about the violations. Citation: • OFCCP SUF Facts 26, 27, 31; • OEx. 31, Holman-Harries 30b6 Dep. 205:22–208:01, 209:18–25, 222:17–223:19, 214:2–11; • Ex. 71, Consolidated Notes of Oracle employees Charles Nyakundi and Shauna Holman-Harries (Consolidated Notes) (Ex. 131 at Holman-Harries 30b6 Dep. re: conciliation), ORACLE_HQCA_0000607319–25 in Vol. 2. J) OFCCP also based its NOV in part on Oracle's failure to produce documents showing its compliance with its Affirmative Action plan and related regulations, and its failure to provide access to documents including prior year compensation data. Citation: • Ex. 61, NOV, at 6–9, DOL000000948–51 in Vol. 2.

60. The statistical analyses on which the NOV relies do not compare employees who perform similar work because they compare employees by job title, and job titles at Oracle do not account for all the skills, duties, or experience associated with a particular position. **Alleged Supporting Evidence:** Holman-Harries Decl., ¶ 3, Ex. B (NOV); Waggoner Decl., ¶¶ 17, 22; Bashyam Decl., ¶¶ 7, 14; Webb Decl., ¶¶ 5-6, 8-11; Sarwal Decl., ¶¶ 4-12; Eckward Decl., ¶¶ 9-10; Kottaluru Decl., ¶ 13; Hsin Decl., ¶ 8; Fox Decl., ¶¶ 12-13; Oden Decl., ¶¶ 7-11; Suri Decl., ¶¶ 10-14; Chan Decl., ¶ 8; Adjei Decl., ¶¶ 8-9; Chechik Decl., ¶ 6; Ousterhout Decl., ¶¶ 11-13.	**Disputed.** 1) OFCCP contests Oracle's Material Fact 60 because it is a legal contention and not a statement of undisputed fact. A) In any case, the NOV provided Oracle with a list of the variables that had been included in the ` analysis, in addition to job title. Citation: • OFCCP SUF Fact 23; • Ex. 61, NOV at 10-12, DOL000000952–53 (noting that the analysis "accounted for differences in employees' national origin, work experience at Oracle, work experience prior to Oracle, full-time/part-time status, exempt status, global career level, job specialty, visa status, and job title") , in Vol. 2. B) In addition, neither prior to the issuance of the NOV, nor later, during the parties' conciliation efforts, did Oracle ever suggest any alternative variable to better account for "all the skills, duties, or experience associated with a particular position" in a regression analysis. Citation: • OFCCP SUF Fact 25, 30, 35; • OEx. 31, Holman-Harries 30b6 Dep. 185:14–24, 195:1–6 in Vol. 1; • Declaration of Jane Suhr in Support of OFCCP's Opposition to Oracle America, Inc's Motion for Summary Judgment or, in the alternative, for partial summary judgment dated 10/31/19 (Suhr Opp'n Decl.) ¶18 & Ex. K, Letter from Gary Siniscalco to OFCCP, dated 5/25/16, at 3 ("OFCCP's statistical model is defective and no counter-statistical model is warranted. . . . In many cases no two employees at HQCA have the same or similar job, and thus they no or possibly just one or two comparators."), ORACLE_HQCA_0000002094–2115; • Ex. 66, Show Cause Notice at 2 (noting that "ORACLE has not provided a substantive rebuttal analysis, based upon statistical evidence, to the violations of the Notice"); • Suhr Opp'n Decl. ¶21 & Ex. N, Letter from Hea Jung Atkins to Oracle, dated 9/9/16 (Atkins 9/9/16 Letter), at 2 (noting that "simply attacking OFCCP's statistical findings, without

	indicating how the purported errors affect the results, is insufficient"), DOL000039039; • Ex. 71, Consolidated Notes of Oracle employees Charles Nyakundi and Shauna Holman-Harries (Consolidated Notes) (Ex. 131 at Holman-Harries 30b6 Dep. re: conciliation), at 4 (noting that at the conciliation meeting, Oracle's counsel continued to advocate for comparisons of "cohorts," stating that Oracle's workforce "defies statistical analysis."), ORACLE_HQCA_0000607319–25, in Vol. 2; • Suhr Opp'n Decl. ¶31, Ex. T, Letter from Erin Connell to OFCCP, dated 10/31/16, at 6-12 (stating that "generalized statistics that might be probative in assessing employers with large numbers of . . . similar positions are not meaningful here" and not providing any possible variable to account for purported differences in skills or duties); • Suhr Opp'n Decl. ¶32, Ex. U, Letter from Janette Wipper to Oracle, dated 12/9/16, at 1 (stating that "Oracle has not asubmitted additional data, competing statistics, or other evidence explaining the significant statistical disparities in . . . compensation"). 2) In addition, OFCCP objects to Oracle's reliance on Ms. Waggoner's declaration at paragraph 22 because she submits improper lay opinion.
61. OFCCP's Regional Director during the 2013-2014 audit period was Janette Wipper. **Alleged Supporting Evidence:** Connell Decl., Ex. F (7/1/19 Leu Dep. 79:18-80:6; 97:12-24; 102:10-18; 108:25-109:12; 139:9-23).	**Disputed.** 1) Janette Wipper was not the Regional Director of OFCCP during the entire 2013-2014 period. Citation: • Suhr Opp'n Decl. ¶ 4.

62. Ms. Wipper provided Dr. Shirong "Andy" Leu, OFCCP's statistician who prepared the statistical analyses in the NOV, the data for Oracle's employees and the factors to use for the analyses. **Alleged Supporting Evidence:** Connell Decl., Ex. F (7/1/19 Leu Dep. 79:18-80:6; 102:10-18; 108:25-109:12; 127:19-128:3; 210:15-24).	**Disputed.** 1) OFCCP contests Oracle's Material Fact 62 to the extent that it implies the data Dr. Shirong Andy Leu (Dr. Leu) used for the analyses was created by Ms. Wipper. The data Dr. Leu used for the statistical analyses was data in the 2014 compensation snapshot that Oracle provided to OFCCP. Citation: • OEx. 32, Dep. of Dr. Shirong Andy Leu, dated 7/1/19 (Leu Dep.) 100:01-101:01, 107:06-16.
63. The factors Dr. Leu used in OFCCP's regression model for the NOV were only (1) time at Oracle; (2) age; (3) full-time/part-time; (4) and job title (which includes employees' exempt status, global career level, and job specialty). **Alleged Supporting Evidence:** Connell Decl., Ex. B (8/1/19 Holman-Harries PMK Dep. 86:14-87:18), Ex. F (7/1/19 Leu Dep. 79:18-80:6; 102:10-18); Waggoner Decl., ¶ 23	**Disputed.** 1) The NOV lists the factors included in the regression analysis. Citation: • OFCCP SUF Fact 23; • Ex. 61, NOV, Ex. A, DOL000000952–53 (noting that the analysis "accounted for differences in employees' [gender/race/national origin], work experience at Oracle, work experience prior to Oracle, full-time/part-time status, exempt status, global career level, job specialty, visa status, and job title") in Vol. 2. 2) The evidence that Oracle cites here does not support its conclusion that job title "includes" employees' exempt status, global career level, and job specialty.

64. Dr. Leu estimated he spent only five to ten hours in total preparing the regression models in the NOV. **Alleged Supporting Evidence:** Connell Decl., Ex. F (7/1/19 Leu Dep. 154:1-20).	**Disputed.** 1) OFCCP contests Oracle's Material Fact 64 because Dr. Leu testified that he did not recall how long he spent preparing the regression models. Dr. Leu estimated that he spent at least five hours on the models, but he did not have a clear enough recollection to estimate the timeframe. Citation: • OEx. 32, Leu Dep. 154:24-156:14 ("[Dr. Leu:] To be honest with you, I don't have very clear -- very clear, you know, the numbers in my brain, you know. [] Q. But you did say you thought it was at least five hours, right? A. Yeah. I think it's five hours, yeah, but ten, 20, I don't know, I really don't. Five – five should be reasonable -- you know, at least to five.").
65. Dr. Leu did not determine whether the employee groupings compared employees who perform similar work, or whether the factors used in OFCCP's regression model are the factors Oracle managers consider when making compensation decisions. **Alleged Supporting Evidence:** Connell Decl., Ex. F (7/1/19 Leu Dep. 141:25-143:11).	**Disputed.** 1) OFCCP contests Oracle's Material Fact 65 to the extent that it implies that Dr. Leu should have personally analyzed the evidence in the case. Dr. Leu repeatedly testified that it was not his function in the Oracle matter to analyze the evidence or determine the factors in the OFCCP's regression analysis, and that instead he was simply tasked with creating a regression analysis using the Oracle's data and the specific variables within that data as provided to him by Regional Director Wipper. Citation: • OEx. 32, Leu Dep. 141:25-143:11, 210:2-211:22.

66. OFCCP issued the Show Cause Notice, which was based on the same statistical analyses as was the NOV, on June 8, 2016. **Alleged Supporting Evidence:** Holman-Harries Decl., Ex. Y (SCN).	**Disputed.** 1) OFCCP issued the Show Cause Notice on June 8, 2016. However, OFCCP disputes this fact to the extent it suggests that the NOV and SCN were based only on the underlying statistical analyses. A) As noted above in Disputed Fact 59, the NOV was also based on the material gathered and interviews conducted by OFCCP during the compliance review. B) In addition, both the NOV and the SCN were based on Oracle's failure to conduct in-depth analyses of its total employment process; failure to implement internal audit and reporting systems; and denial of access to records, including prior year compensation data. Citation: • Ex. 61, NOV, at 6–9, DOL000000948–51, in Vol. 2; • Ex. 66, Show Cause Notice, at 3 (stating that OFCCP's findings remain unrebutted and enclosing the NOV to reference the "violations at issue") in Vol. 2.

67. OFCCP understood that Oracle was requesting additional information in order to respond substantively to the NOV. **Alleged Supporting Evidence:** Connell Decl., Ex. D (6/26/19 Suhr PMK Dep. 41:20-42:6).	**Disputed.** 1) OFCCP did not believe that Oracle was requesting additional info to respond substantively to the NOV. Citation: • Connell Decl., Ex. D (6/26/19 Suhr PMK Dep. 41:17-19); • Suhr Opp'n Decl. ¶¶11, 13, 15. 2) Oracle declined OFCCP's offer to meet in person to discuss the NOV until October 6, 2016. Citation: • Suhr Opp'n Decl. ¶12 & Ex. E, Email from OFCCP to Oracle, dated 3/29/16, ("Please let us know whether an Oracle representative with decision-making authority and an Oracle representative with the requisite knowledge noted above will be available to meet during the week of April 18, 2016 to conciliate this matter"); • Suhr Opp'n Decl., ¶13, Ex. F, Letter dated 4/11/16 from Gary Siniscalco, at 5 ("[W]e believe the invitation for a face-to-face meeting at this stage would likely be premature."), ORACLE_HQCA_0000002057-2066; • Suhr Opp'n Decl., ¶20, Ex. M, Letter dated 6/29/16 from Gary Siniscalco to OFCCP, at 2 ("OFCCP asked to meet in person; in response, we explained why we believed such a meeting would be premature and inappropriate.") & attached email exchange. 3) Starting in the compliance review, Oracle took actions that appeared designed to cause delay, and were uncooperative. Citation: • OEx. 31, Holman-Harries 30b6 Dep. 71:14-73:13 (Oracle was waiting for OFCCP to provide a basis for requesting the 2013 compensation snapshot before providing it); • Oracle's Mot. 25 ("Oracle asked why information was being sought"); • Suhr Opp'n Decl. ¶¶7, 9, 11, 13, 17.

	4) Oracle continued this tactic, when it responded to the NOV by asking 57 detailed questions, many of which were not directed to understanding the violations stated in the NOV, but instead invaded the Agency's deliberative process and other privileges, or sought premature, broad discovery. Citation: • OEx. 31, Holman-Harries 30b6 Dep. 176:24-177:6, 179:11-180:23; • Suhr Opp'n Decl. ¶13, Ex. F, Letter dated 4/11/16 from Gary Siniscalco to OFCCP, at Appendix A & B (Oracle asked, at Q. 15, how many different models, iterations and computations had the statistician run besides the three listed in Attachment A?, at Q 30, whether OFCCP would pursue a disparate treatment or disparate impact theory, and at Q 31, for facts supporting each of the alleged violations.), ORACLE_HQCA_0000002057-2066; • Ex. 67, Letter from Hea Jung Atkins to Gary Siniscalco, dated 4/21/16 (Atkins 4/21/16 Letter), at 3-4 in Vol. 2 & Appendices A & B (responding to Oracle's 57 questions). 5) Oracle's correspondence focused on procedural objections. Citation: • Suhr Decl. ¶13, Ex. F, Letter dated 4/11/16 from Gary Siniscalco to OFCCP, ORACLE_HQCA_0000002057-2066 at 1-2; • Suhr Decl. ¶18, Ex.K, Letter dated 5/25/16 from Gary Siniscalco to OFCCP, attached Position Statement at 1-7ORACLE_HQCA_0000002057-2066; • Suhr Decl. ¶20, Ex. M, Letter dated 6/29/16 from Gary Siniscalco to OFCCP, at 1-3; 6) OFCCP understood Oracle's requests for additional information (particularly the 57 questions in its April 11, 2016 letter) to be designed to delay conciliation. Citation: • Suhr Decl. ¶15 & Ex. H, Letter from OFCCP to Oracle, dated 4/21/16, at 3 n.8 in Vol. 2 ("Instead of responding to the substantive violations at issue, most of the letter focuses upon mischaracterizing communications and the compliance evaluation record, while condemning government officials

	for conducting an audit of Oracle.”); • Suhr Decl. ¶21 & Ex. N at 1 (“While Oracle declares its desire to engage in conciliation, its stated desire rings hollow, given that it has refused to meet in person, it continues to emphasize and complain about the audit process and other procedural matters, its demand that OFCCP provide answers to approximately 60 questions, and its failure to make a meaningful, substantive response to OFCCP’s findings”); • Suhr Decl. ¶23 & Ex. P, Letter from Hea Jung Atkins to Oracle, dated 9/21/16 (Atkins 9/21/16 Letter) at 1 n.1 (expressing concern about “attempts to manufacture procedural deficiencies where none exist”); • Suhr Decl. ¶¶7, 9, 11, 13, 17.

68. As of October 29, 2016, the only information Oracle had received about the alleged violations OFCCP found were from the NOV itself and one subsequent email from an OFCCP employee, which provided no more information than what was already in the NOV. **Alleged Supporting Evidence:** Connell Decl., Ex. D (6/26/19 Suhr PMK Dep. 41:20-42:6); Siniscalco Decl., Ex. C (4/21/16 Atkins Letter).	**Disputed.** In addition to providing substantial detail in the NOV itself, OFCCP provided significant information about the violations in the NOV in three subsequent communications on March 29, April 21, and September 9, 2019, and then held a three-hour in-person conciliation meeting on October 6 where the parties discussed the violations in depth. 1) The NOV contained sufficient detail regarding the regression analyses that OFCCP had conducted including: the job functions at issue, the specific data fields from Oracle's 2014 compensation data that OFCCP included in its standard regression analysis, the classes of employees who were victims, and the results of the regression model. The NOV explained that the regression analyses "analyzed Oracle employees' compensation data by Oracle job function by using a model that included the natural log of annual salary as a dependent variable, and accounted for differences in employees' [gender/race], work experience at Oracle, work experience prior to Oracle, full-time/part-time status, exempt status, global career level, job specialty, visa status, and job title." Citation: • OFCCP SUF Fact 23 (excerpt of 2014 compensation snapshot, which included data in the columns entitled "Gender," "Race," "Job Title," "Job Function," "Job Specialty," "Global Career Level," "Exempt Status," "PT/FT," and "Salary") • Holman-Harries 30(b)(6) Dep. 76:20-24, 80:17-97:11 • Ex. 61, NOV at 10-12, DOL000000952–53, in Vol. 2 • Suhr Opp'n Decl. ¶18, Ex. K, p. 15 n. 17-18 2) In an email dated March 9, 2016, OFFCP provided Oracle with a specific accounting of the past due requests for information underlying the Affirmative Act, Recordkeeping, and Access violations in the NOV. Citation: • Ex. 69, Email dated 3/9/16, from Robert Doles to Shauna Holman-Harries and attachment titled "Pending Information Requests," ORACLE_HQCA_000000275-278, in Vol. 2. 3) In a letter dated April 21, 2016, OFFCP provided Oracle with significant information regarding the agency's legal framework for

	finding the violation, including that "[a] disparity in treatment that is two standard deviations is acceptable as evidence of discrimination" and specific case citations of the precedential cases on which the agency was relying for its finding of a prima facie case of discrimination. Citation: • Ex. 67, Atkins 4/21/16 Letter at 2-3 n.5-7, 9 in Vol. 2; ORACLE_HQCA_000000275-278 • OEx. 31, Holman-Harries 30b6 Dep. 182:13-183:22. 4) In a letter dated September 9, 2016, OFFCP provided Oracle with a list of information that Oracle had still not provided (and which provided bases for the recordkeeping and access violations), including "resumes, applications, requisitions, job postings, and hiring manager information for any positions other than Software Developers 1-5 and student interns, 2013 compensation data and LCAs, as well as starting salary, prior salary, and salary history for 2013 or 2014." Citation: • Suhr Opp'n Decl. ¶21, Ex. N, Atkins 9/9/16 Letter at 2, DOL000039039; 5) In a letter dated September 23, 2016, OFFCP provided significant additional information regarding the agency's legal framework for finding the violation and what the agency would consider to be sufficient to rebut the finding of violation. The agency explained that Oracle could not simply point to "a range of factors" that Oracle managers describe as relevant, without providing any "evidence demonstrating whether any factor in the 'range of factors' would actually change the statistical results in favor of Oracle." Citation: • Suhr Opp'n Decl. ¶24, Ex. Q, Letter from Hea Jung Atkins to Oracle, dated 9/23/16 (Atkins 9/23/16 Letter) at 2 (providing additional case citations to support the Agency's belief that such evidence was necessary), DOL000039028; 6) When Oracle finally agreed to meet in person with OFCCP to discuss conciliation, OFCCP provided additional information to Oracle about the violations during an approximately 3-hour conciliation meeting on October 6, 2016.

	The parties discussed Oracle's assertion that the products employees worked on impacted their compensation, and the lack of any data maintained by Oracle showing such product assignments. Citations: • OFCCP SUF 26-32; • Ex. 71, Consolidated Notes of Oracle employees Charles Nyakundi and Shauna Holman-Harries (Consolidated Notes) (Ex. 131 at Holman-Harries 30b6 Dep. re: conciliation), ORACLE_HQCA_0000607319–25, in Vol. 2. 7) Following the October 6, 2019 meeting, Mr. Siniscalco wrote to Ms. Wipper that "We all feel the conciliation meeting was very productive, and moved both sides in a positive direction." Citation: • Suhr Opp'n Decl. ¶30, Ex. S Email exchange between Gary Siniscalco and Janette Wipper, dated 10/7/16.
69. OFCCP never provided Oracle with a proposed conciliation agreement. **Alleged Supporting Evidence:** Connell Decl., Ex. D (6/26/19 Suhr PMK Dep. 35:14-21; 50:5-22; 65:7-66:8).	**Undisputed.** 1) However, 41 C.F.R. § 60–1.33 requires a conciliation agreement "if the contractor, subcontractor or bidder is willing to correct the violations and/or deficiencies." Oracle never indicated that it was willing to correct the violations; instead it maintained the position that no violations or deficiencies existed.

70. OFCCP never explained what non-monetary actions Oracle could take to resolve the alleged violations. **Alleged Supporting Evidence:** Connell Decl., Ex. D (6/26/19 Suhr PMK Dep. 65:21-66:8).	**Disputed.** 1) In addition to make-whole relief, OFCCP's NOV stated that Oracle had to agree to take steps to ensure its compensation is nondiscrimintatory, including, specifically addressing "salary at the time of placement into roles," and "annual salary adjustments and incentive compensation." It also required Oracle to agree to provide training to employees involved in setting and increasing compensation to ensure that the violation does not recur. Citation: • Ex. 61, NOV at 4-5, DOL000000952–53, in Vol. 2 2) At the October 6, 2016 meeting Wipper described policy changes that OFCCP wanted as part of the settlement, including salary adjustments (to assure relief would be prospective as well a retrospective), training for Oracle management in how to do pay equity analysis, pay transparency rules for Oracle's workers (i.e. no prohibitions on sharing salary information), and clear documentation going forward of justifications for for pay discrepancies. Citation: • OFCCP SUF Fact: 32; • Ex. 71, Oracle's Consolidated Notes of the 10/6/16 Conciliation Meeting, ORACLE_HQCA_0000607324, in Vol. 2; • Atkins Opp'n Decl., Hea Jung Atkins Notes of the 10/6/16 Conciliation Meeting (Atkins 10/6/16 Notes), ¶26, Ex. T, DOL000044163; • Ex. 31, Holman-Harries 30b6 Dep. 205:22–208:01, 209:18–25, 222:17–223:19, 231:6–233:16, 235:9–236:19.

71. OFCCP gave Oracle rough estimates of alleged monetary damages, but not any backup or supporting facts explaining how the estimates were derived. **Alleged Supporting Evidence:** Connell Decl., Ex. D (6/26/19 Suhr PMK Dep. 68:23-69:13).	**Undisputed.** 1) However, at the October 6, 2016 conciliation meeting, OFCCP provided a breakdown of the $22 million / year damages estimate, including $7.7 million for women in Product Development; $670,000 for woman in IT; $487,000 for women in Support; $250,000 for African-American employees, and $13-14 million for Asian employees. OFCCP provided the exact number of employees who would be eligible for relief. Citation: • OFCCP SUF Fact: 32; • Ex. 71, ORACLE_HQCA_0000607324, in Vol. 2. 2) At the October 6, 2016 conciliation meeting OFCCP explained that the methodology for coming up with the estimates was formula relief, and OFCCP noted that this methodology is explained in the agency directive on remedies. • Suhr Opp'n Decl. ¶ 26, Ex. T, Atkins 10/6/16 Notes, DOL000044162-63; • Ex. 71, (Consolidated Notes), ORACLE_HQCA_0000607324-25, in Vol. 2. 3) OFCCP offered to provide even more detail on the methodology by which the estimates were reached if the parties could get through disagreements on liability. Citation: • Ex. 71, ORACLE_HQCA_0000607324-25, in Vol. 2. 4) Oracle never provided OFCCP with any settlement offer in response. Citation: • 5/23/19 Order Den. Summ. J. at 3.

72. OFCCP is not accusing any managers in Oracle's Product Development, IT or Support job functions of intentional discrimination or bias. **Alleged Supporting Evidence:** OFCCP's August 22, 2019 Position Statement at 8.	**Disputed.** 1) OFCCP disputes Oracle's Fact 72, unless it is interpreted to mean that OFCCP is not bringing an action against any lower-level Oracle managers. 2) As the cited portion of OFCCP's Position Statement makes clear, the focus of OFCCP's allegations of wrongdoing by Oracle is "at the top of its management structure, not the bottom." The statement further states that "[a]llegations of individual discriminatory acts are relevant here only as they shed light on how Oracle's top leadership responded on a systemic basis[.]"
73. The primary statistical models in the Second Amended Complaint ("SAC") use the same employee groupings and factors as the NOV, and were developed by OFCCP's counsel, not the statistician who prepared the model. **Alleged Supporting Evidence:** Holman-Harries Decl., ¶ 3, Ex. B (NOV); SAC, ¶¶ 13-32; Connell Decl., Ex. S (7/17/19 Brunetti PMK Dep. 25:20-24; 72:7-73:6; 75:22-77:4; 116:5-117:1; 165:19-166:7; 172:17-173:19; 189:2-22; 192:23-193:10), Ex. T (June 11, 2019 Declaration of Jeremiah Miller in Opposition to Oracle's Motion to Compel OFCCP to Designate and Produce a 30(b)(6) Witness, ¶ 5).	**Disputed.** 1) The alleged supporting evidence does not support the asserted fact, particularly that OFCCP's counsel "developed" "the primary statistical models in the Second Amended Complaint." The asserted fact notes that the the employee groupings and factors used in the regression model in the SAC were the same as in the NOV. The alleged supporting evidence does not establish who "developed" those groupings or factors used in the NOV. Furthermore, as Dr. Madden stated in her deposition, the "the standard regression analysis, multiple regression analysis, as it is applied in this case, and every other case that I've ever been involved in by both experts and in the research literature," is "not my model." Nor is it a model "developed" by OFCCP's counsel. Citation: • Ex. 80, Madden Dep. 79:3-12 in Vol. 3.

74. When the statistical models OFCCP used for the NOV are applied to other job functions at Oracle's headquarters, they do not yield any statistically significant pay differences adverse to women, Asians, or African-Americans, yet OFCCP did not report those statistically insignificant results. **Alleged Supporting Evidence:** Connell Decl., Ex. M (Saad Report, ¶¶ 23, 94-97).	**Disputed.** 1) OFCCP contests Material Fact 74 because the application of statistical models used for the NOV, if it occurred to other job functions at Oracle's headquarters is protected by the deliberative process privilege, and OFCCP makes no "reports" regarding matters considered in its privileged deliberations. Moreover, Oracle failed to provide data requested by OFCCP regarding all job functions covered in OFCCP's audits, rendering any deliberative analyses prepared by OFCCP incomplete and not supportive of findings or conclusions that statistically significant gender and pay differences did *not* exist. A) Oracle's violations nine and ten in the NOV are recordkeeping and access violations of federal regulations 41 C.F.R. 60-l.12(a) and Part 60-3; 41 C.F.R. 60-1.12; 60-1.20; 60-1.43; 60-2.32 and 60-3.4. Citation: • Ex. 61, Notice of Violation, DOL000000950; • Atkins Opp'n Decl. ¶ 23; • Suhr Opp'n Decl. ¶¶ 7-10. • OEx. 36, Letter from Erin Connell to Marc Poltin and Laura Bremer re Oracle's discovery production, dated 10/11/17. • OEx. 40, Letter from Laura Bremer to Erin Connell dated 2/15/19, re data requests. B) The data Oracle provided to OFCCP for its NOV analysis did not have W-2 pay data, only included snapshot data of January 1, 2014, failed to include the January 1, 2013, snapshot data requested by OFCCP, and did not include transaction data with employee histories for PRODEV, INFTECH and SUPP. Additionally, the data provided to OFCCP for the NOV analysis included differences in reported race for some of the employees. Had Oracle complied with the regulations it was required to as a federal contractor and provided OFCCP with the same transaction data for the other job functions, OFCCP may have identified additional disparities during the NOV analysis but it never had the opportunity because Oracle failed to provide the transaction data for the other job functions that it was legally required to provide to OFCCP. Citation: • Ex. 61, Notice of Violation, DOL000000950; • Atkins Opp'n Decl. ¶ 23;

	• Suhr Opp'n Decl. ¶¶ 7-10. • OEx. 36, Letter from Erin Connell to Marc Poltin and Laura Bremer re Oracle's discovery production, dated 10/11/17. • OEx. 40, Letter from Laura Bremer to Erin Connell dated 2/15/19, re data requests.

75. The analyses and reports of Dr. Janice Madden, OFCCP's expert for litigation purposes, do not aim to compare the pay of employees who perform similar work. **Alleged Supporting Evidence:** Connell Decl., Ex. P (Madden Rebuttal Report, 10-11), Ex. U (10/10/19 Madden Dep. 14:18-15:6; 43:4-18).	**Disputed**. 1) OFCCP disputes Material Fact 75 because Dr. Madden not only "aims" to compare the pay of employees who perform similar work, she extensively compares the pay of similarly qualified employees to whom Oracle assigned similar work, as she studied extensively the pay of employees assigned to perform similar work assigned by Oracle to emloyees in the same job title and she studied the pay of employees to whom Oracle assigned the same global career level (if that assignment is considered as reflective of "similar work" assignments, a point which is disputed by employee witness testimony) as a mechanism for the pay discrimination she found against women, Asians, and African Americans. A) Curiously, Oracle fails to cite Dr. Madden's Report because it extensively compares the pay of employees who perform similar work. For example, at column 6 of Tables 1-3, she controls for job as measured by job descriptor (taken from Oracle's job titles), and her findings in Column 6 compare pay for employees who perform similar work, work classified by Oracle into the same job title. Citation: • Ex. 91, Madden Report pp. 16-17, Tables 1(a)-3(a). • Ex. 92, Madden Rebuttal Report pp. 6-7. B) Dr. Madden also finds that employees who enter Oracle with equivalent qualifications, including the studies Dr. Madden performed regarding the requisition data utilized by Dr. Saad in his report, are channeled into different global career levels, meaning that these employees are doing similar work but are simply assigned by Oracle into different job codes due to being assigned by Oracle different global career levels. In addition to finding that women and Asians are more likely to be assigned into lower global career levels than that specified in the requisition (for the limited database utilized by Dr. Saad) than men or Whites and less likely to be placed in higher global career levels than men or Whites for higher paid job titles, Dr. Madden finds that gender and race differentials in compensation by year in column 8 (which reports her findings for her regression analysis which controlled for global career levels) are significantly lower than those in column 6. These results show that Oracle's gender and racial differences in the assignment of global career levels are associated with a significant part, but far from all, of the gender and racial pay differentials.

	Citation: • Ex. 91, Madden Report pp. 50-51, Tables 1(a)-3(a) and 5-7. • Ex. 92, Madden Rebuttal Report pp. 30-35. C) Oracle employees, including managers, report being assigned work similar to that of colleagues in higher global career levels than to those which they have been assigned by Oracle. Citation: • OEx. 30, Declaration of Bhavana Sharma, ¶¶ 6-8; • OEx. 15, Declaration of Donna Kit Yee Ng, ¶¶ 7, 12; • OEx. 38, Declaration of Donna Rosburg, ¶ 6; • OEx. 13, Declaration of Donna Boross, ¶ 6; • OEx. 7, Declaration of Christina Kolotouros, ¶ 5; • OEx.12 , Declaration of Avinash Pandey, ¶ 8. D) Dr. Madden demonstrates variables that are under the control of Oracle (ie Job Title, Global Career level, specialty, job code) are endogenous and therefore should not be included in a regression model which seeks to identify gender or racial pay differentials. Nevertheless, she developed models that control for job descriptor, management control and global career level and found that there are still statistically significant differences in pay. Dr. Madden states in her Rebuttal: "Although some of my analyses control for Oracle's endogenous job assignments, I perform them only to parse out the specific sources or practices that yield differential compensation by gender or race, such as compensation differences within-job versus compensation differences arising from promotion versus compensation differences arising from the initial job assignment." Citation: • Ex. 92, Dr. Janice Madden's Expert Report, dated 8/16/19 (Madden Rebuttal) at 11, Table 1(a)-3(a).

76. The report and opinions of OFCCP's expert Dr. Madden do not consider employees' actual skills, duties or responsibilities. **Alleged Supporting Evidence:** Connell Decl., Ex. P (Madden Rebuttal Report, 9-11); Ex. U (10/10/19 Madden Dep. 43:4-18; 91:15-24).	**Disputed**. 1) OFCCP disputes Material Fact 76 because Dr. Madden considers employees' actual skills, duties or responsibilities. A) Dr. Madden designed her models to take account of education, experience, time at Oracle, and Job Function, which controls for the skills, duties and responsibilities associated with Oracle's job titles. Data which reflects Oracle's assignments of duties to similarly qualified employees are not appropriately included in an analysis of gender and racial pay differentials and discrimination. Citation: • Ex. 91, Madden Report pp. 8, 16-17, Tables 1(a)-3(a).
77. Dr. Madden's analyses treat all prior work experience equivalently. **Alleged Supporting Evidence:** Connell Decl., Ex. N (Madden Report, 14).	**Disputed.** 1) Dr. Madden's analyses do not treat all prior work experience equivalently as she has two different prior work experience controls and her analyses are dependent on the data Oracle maintained and provided. A) Dr. Madden controls for two types of "prior" work experience, a control for work experience prior to hire by Oracle and a control for prior work experience at Oracle. Dr. Madden's "treatment" of work experience was dictated by the data Oracle maintained regarding experience. Oracle did not maintain, or at least produce to OFCCP, data for each employee which identified variety in work experience of employees either prior to hire at Oracle or even prior work experience at Oracle, as Oracle admits it maintains no data as to specific work assignments, including product assignments, for employees. Citation: • Ex. 91, Madden Report pp. 14-16, Tables 1(a)-3(a); • Declaration of Janice F. Madden dated 10/31/19 (Madden Decl.) at ¶8 (filed in OFCCP *Daubert* Opp., Exh. A).

78. Dr. Madden's analyses measure prior work experience by treating age as a proxy for experience. **Alleged Supporting Evidence:** Connell Decl., Ex. N (Madden Report, 14).	**Disputed.** 1) Dr. Madden's analyses do not treat all prior work experience equivalently as she has two different prior work experience controls and her analyses are dependent on the data Oracle maintained and provided. A) Dr. Madden's controls for two types of "prior" work experience, a control for work experience prior to hire by Oracle and a control for prior work experience at Oracle. For work experience prior to hire at Oracle, Dr. Madden applied a formula which relied upon age as a proxy for experience. Dr. Madden's "treatment" of work experience was dictated by the data Oracle maintained regarding experience. Oracle did not maintain, or at least produce to OFCCP, data for each employee which identified variety in work experience of employees either prior to hire at Oracle or even prior work experience at Oracle, as Oracle admits it maintains no data as to specific work assignments, including product assignments, for employees. Citation: • Ex. 91, Madden Report pp. 14-16, Tables 1(a)-3(a); • Madden Decl. at ¶8 (filed in OFCCP *Daubert* Opp., Exh. A).

79. Dr. Madden analyzes education by using the level of educational degree attained – college, Masters, or Ph.D. **Alleged Supporting Evidence:** Connell Decl., Ex. N (Madden Report, 15).	**Disputed.** 1) OFCCP contests Material Facts 79 because Dr. Madden analyzed education utilizing the highest degree earned, major, and job descriptor. A) In her Report, Dr. Madden included educational degree and job descriptors which she used to identify people likely to have similar majors and similar types of experiences in her regression analysis. Citation: • Ex. 92, Madden Rebuttal p. 11 n. 3 in Vol. 3; • Ex. 91, Madden Report pp. 15-16 in Vol. 3; • Ex. 80, Madden Dep. 175:2-176:18 in Vol. 3; • Ex. 89, Saad Dep. Ex. 9, Madden Decl. (October 11, 2019) ¶¶ 4-5, tables A-1 to A-5 in Vol. 3. B) Dr. Madden also provided testimony analyzing education data which included majors in response to a critique raised by Dr. Saad for the first time in his Rebuttal Report. Citation: • *Id*. ¶¶ 3-5; • Saad Rebuttal Report ¶¶ 48-57.

80. Dr. Madden coded as "unknown" the education level of over 50% of the employees she analyzed. **Alleged Supporting Evidence:** Connell Decl., Ex. O (Saad Rebuttal, ¶ 19; n.21).	**Disputed.** 1) OFCCP disputes Material Fact 80 because it specifically requested educational data from Oracle, yet Oracle only provided educational data (highest degree earned) for approximately 40% of the employees in the three job functions at issue, in violation of federal requirements, and Oracle fails to acknowledge that Dr. Madden collected additional information by scraping resumes from resumes and she specifically tested whether the percentage of educational data she utilized affected her findings and found it did not. A) Oracle provided educational data in an electronic format for approximately 40% of the employees being considered. Dr. Madden's staff obtained educational data for approximately an additional 10% of the employees being considered by manually obtaining degree information from resumes. Citation: • Madden Decl., ¶10 (filed in OFCCP *Daubert* Opp., Exh. A); • Ex. 91, Madden Report at 59-60. B) For the employees for whom Dr. Madden did not have educational data, she entered "unknown" as the value for the highest degree earned as a proxy and ran a regression which yielded the results in Tables 1(a) and 2(a) of her report. Knowing that she did not have complete educational data for Oracle's employees, Dr. Madden ran the same regression for employees she had degree data. Those analyses are Tables 1(b)-2(b) of her report. What Tables 1(b) and 2(b) show is that limiting the data to those employees Dr. Madden had educational data for made virtually no difference in her results. Citation: • Madden Decl. (October 31, 2019) ¶ 10; • Madden Initial Report at 15, 17-20, 30-31, Tables 1(a)-(c); 2(a)-(c).

81. Dr. Madden created a "job descriptor" variable, not found in Oracle's records, that aggregates job titles within a particular type or category of job, regardless of career level. **Alleged Supporting Evidence:** Connell Decl., Ex. N (Madden Report, 15-16 & Appx. A), Ex. U (10/10/19 Madden Dep. 47:3-11, 174:1-15).	**Disputed.** 1) OFCCP contests this fact because Dr. Madden's "job descriptor" was based upon, and harvested from, Oracle's "job title." A) Dr. Madden's job descriptor is based and harvested from Oracle's job title. Citation: • OFCCP SUF: Facts 236-237, 243; • Ex. 91, Madden Report at 16-17; • Ex. 92, Madden Rebuttal at 11-13; • Ex. 90, Madden Depo. 47:22-48:9. 2) OFCCP further contests this fact because Dr. Madden ran a regression analysis which controls for global career level even though she believes career level is an endogenous variable that should only be utilized to identify the mechanism, not the existence of, discrimination. A) Dr. Madden ran regression analyses which controls for global career level, to identify whether global career level operates as a mechanism for pay discrimination. She finds that career level is an endogenous variable that is not properly included in an analysis seeking to detect gender or racial pay disparities. Citation: • *See, e.g.*, Ex. 91, Madden Report pp. 8, 51-52, Tables 1(a)-3(a) and 1(d)-2(d), and Appendix B; • Ex. 92, Madden Rebuttal at 13, 31; • Ex. 90, Madden Dep. 180. B) Dr. Madden also ran regression analyses studying the impact of Oracle's assignment of global career level at hire and over time. Citation: • Ex. 91, Madden Report at 51, Table 5; • Ex. 92, Madden Rebuttal at 31, 36-37, 38, 41, Table R9..

82. The basis for Dr. Madden's opinion during deposition that the last columns of the tables in her initial report compare employees doing similar work is her assumption that Oracle's job codes classify employees doing similar work. **Alleged Supporting Evidence:** Connell Decl., Ex. U (10/10/19 Madden Dep. 43:19-45:17).	**Disputed.** 1) OFCCP contests this fact because Dr. Madden has extensively explained the comparisons reflected in the last columns of the tables in her initial report and she has neither in her reports or her deposition given an opinion that the last columns of the tables in her initial report compare employees doing similar work. A) Dr. Madden has repeatedly opined that the variables relating to the work assigned by Oracle to similarly qualified employees at time of hire and over time by Oracle, are endogenous variables which are not properly considered in an study of gender and racial pay disparities. The regression analyses she ran, the findings of which are reported in the final columns of the tables in her initial report, are meant to explore and identify whether these variables (assignment of global career level and managerial designation) operate as mechanisms for pay discrimination. Oracle misconstrues Dr. Madden's deposition testimony. Citation: • Madden Report at 8; 13-18, 26-29, 41-45, Tables 1-3; • Madden Rebuttal Report at 13.

83. Dr. Madden's initial report does not analyze whether Oracle employees were hired into the career level to which they applied. **Alleged Supporting Evidence:** Connell Decl., Ex. O (Saad Rebuttal, ¶¶ 65-66).	**Disputed.** 1) OFCCP contests this fact because Dr. Madden's initial report comprehensively analyzes Oracle's assignment of career level at hire, as a mechanism of pay discrimination. A) Dr. Madden analyzed Oracle's compensation data and specifically Oracle's assignments of career levels and found that, at hire, women and Asians were more likely to be placed in lower global career levels than similarly qualified men or Whites. Citation: • Ex. 91, Madden Report at 50-51, Tables 1(a)-(3)(a), 4-7. 2) OFCCP further disputes this fact because career levels are frequently not fixed or set at the time an employees applies at Oracle because managers create new requisitions. A) Oracle hiring managers create new requisitions with new career levels when they believe an applicant is better suited to a different career level than the original requisition and career level they applied to. Citation: • OFCCP SUF: Fact 156; • OEx. 8, Waggoner PMK Dep. 279:24–280:22; • OEx. 17, Waggoner May Dep. 81:24–82:3; • Ex. 93, Dr. Saad's Expert Report, p. 112, ¶148. 3) OFCCP further disputes this fact because it assumes that employees apply to specific jobs but Oracle uses recruiters to identify and recruit potential employees, who match employees with requisitions rather than employees choosing requisitions. A) Oracle instructs recruiters to search internet, identify and recruit potential employees, and initiate contact, and match employees with requisitions. Citation: • OFCCP SUF: Facts 151, 152, 153;

	• Ex. 39, "Oracle Recruiting Program Manager (RPM) Training Manual," no date but has 2013 examples, ORACLE_HQCA_0000056908; • Ex. 40, "Oracle College Recruiting," dated 7/14/14, ORACLE_HQCA_0000020131, 33–39, 43–60; • Ex. 64, "Welcome to New Recruiter On-boarding!," copyright 2014, slide 4 (notes) and slide 5, ORACLE_HQCA_0000056566-7 to -8; • Ex. 60, "NA Talent Advisory," copyright 2016, slides 1–4 and slide 4 (notes), ORACLE_HQCA_0000056772-2 to -8; • Ex. 57, "Recruit & Hire at Oracle; Module 1: Introduction to Recruiting & Hiring," slide 3 (notes), ORACLE_HQCA_0000057181-6. 4) OFCCP further disputes this fact because some employees do not enter Oracle through applying to specific requisitons, but through Oracle's Employee Referral Program. A) Oracle instructs recruiters to search for, identify, and recruit potential employees and makes 30% of its placements through its Employee Referral Program. Citation: • OFCCP SUF: Facts 154, 155; • Ex. 64, slide 12 (notes), ORACLE_HQCA_0000056566-21; • Ex. 60, slide 12 and slide 12 (notes), ORACLE_HQCA_0000056772-23 to -24. 5) OFCCP further contests this fact because employees could not know the career level they are "choosing" when applying for a job. A) At hire, employees report not having information regarding the global career level for the job to which they have applied or been hired. Employees report not learning about the global career level assigned, if ever, until long after hire. Further, employees who are hired by Oracle due to acquisition do not apply for or choose their career level. Citation: • Ex. 8, Waggoner PMK Dep., 361:1-5; • Ex. 15, Declaration of Donna Kit Yee Ng, ¶ 5; • Ex. 20, Declaration of Rachel Powers, ¶ 9; • Ex. 38, Declaration of Donna Rosburg, ¶ 8; • Ex. 42, Declaration of Dalia Sen, ¶ 5.

84. The majority of applicants are hired into jobs associated with the career level for which they applied. **Alleged Supporting Evidence:** Connell Decl., Ex. M (Saad Report, ¶¶ 150-156).	**Disputed**. 1) OFCCP contests this fact because Oracle has not provided data regarding the jobs or career levels for all applicants and OFCCP does not know what Oracle or Dr. Saad means when it referring to "jobs associated with" a particular career level. A) The largest data set of requisitions studied by Dr. Saad only included 1,497 job requisitions, a small subset of the requisitions for the relevant time period, meaning that Dr. Saad had no basis for making any findings about the majority of applicants. Citation: • Ex. 94, Saad Rebuttal ¶¶ 78-79; • Ex. 92, Madden Rebuttal pp. 32-41, Tables R1-R2, R8-R9. 2) OFCCP contests this fact because: Oracle permits managers to set global career levels up one level or down one level from the global career level, if any, identified in the requisition, based at least partially on prior pay, causing women and Asians to be more likely to be placed in lower global career levels than men or Whites. A) Oracle's compensation trainings for managers advise managers that they can set global career level at hire one level up or down from the global career level identified on the requisition, and that pay at hire must be approved by Oracle's senior executives and the approval form until late 2017 required managers to collect and consider prior pay in setting pay at hire. Citation: • OEx. 8, Waggoner PMK Dep. 279:24-280:22; • OEx. 17, Waggoner May Dep. 81:24-82:3; • Ex. 93, Saad Report ¶148. B) Dr. Madden analyzed and showed that women and Asians were more likely to be placed in a lower level compared to the level identified in the requisition and less likely than men or Whites to be placed in a global career level higher than that identified in the requisition. Citation: • Ex. 91, Madden Report, pp. 50-51, Tables 5-7;

	• Ex. 92, Madden Rebuttal, pp. 32-41, Tables R8-9; • *Id*., Charts R1-R2; • Ex. 89, Saad Dep. Ex. 9 (Madden Decl, Para 6, Chart 3) OFCCP further disputes this fact because career levels are frequently not fixed or set at the time an employees applies at Oracle because managers create new requisitions. A) Oracle hiring managers create new requisitions with new career levels when they believe an applicant is better suited to a different career level than the original requisition and career level they applied to. Citation: • OFCCP SUF: Fact 156; • OEx. 8, Waggoner PMK Dep. 279:24–280:22; • OEx. 17, Waggoner May Dep. 81:24–82:3; • Ex. 93, Dr. Saad's Expert Report, p. 112, ¶148. 4) OFCCP further disputes this fact because it assumes that employees apply to specific jobs but Oracle uses recruiters to identify and recruit potential employees, who match employees with requisitions rather than employees choosing requisitions. A) Oracle instructs recruiters to search internet, identify and recruit potential employees, and initiate contact, and match employees with requisitions. Citation: • OFCCP SUF: Facts 151, 152, 153; • Ex. 39, "Oracle Recruiting Program Manager (RPM) Training Manual," no date but has 2013 examples, ORACLE_HQCA_0000056908; • Ex. 40, "Oracle College Recruiting," dated 7/14/14, ORACLE_HQCA_0000020131, 33–39, 43–60; • Ex. 64, "Welcome to New Recruiter On-boarding!," copyright 2014, slide 4 (notes) and slide 5, ORACLE_HQCA_0000056566-7 to -8; • Ex. 60, "NA Talent Advisory," copyright 2016, slides 1–4 and slide 4 (notes), ORACLE_HQCA_0000056772-2 to -8; • Ex. 57, "Recruit & Hire at Oracle; Module 1: Introduction to Recruiting & Hiring," slide 3 (notes), ORACLE_HQCA_0000057181-6.

	5) OFCCP further disputes this fact because some employees do not enter Oracle through applying to specific requisitons, but through Oracle's Employee Referral Program. A) Oracle instructs recruiters to search for, identify, and recruit potential employees and makes 30% of its placements through its Employee Referral Program. Citation: • OFCCP SUF: Facts 154, 155; • Ex. 64, slide 12 (notes), ORACLE_HQCA_0000056566-21; • Ex. 60, slide 12 and slide 12 (notes), ORACLE_HQCA_0000056772-23 to -24. 6) OFCCP further contests this fact because employees could not know the career level they are "choosing" when applying for a job. A) At hire, employees report not having information regarding the global career level for the job to which they have applied or been hired. Employees report not learning about the global career level assigned, if ever, until long after hire. Further, employees who are hired by Oracle due to acquisition do not apply for or choose their career level. Citation: • Ex. 8, Waggoner PMK Dep., 361:1-5; • Ex. 15, Declaration of Donna Kit Yee Ng, ¶ 5; • Ex. 20, Declaration of Rachel Powers, ¶ 9; • Ex. 38, Declaration of Donna Rosburg, ¶ 8; • Ex. 42, Declaration of Dalia Sen ¶ 5.

85. Dr. Saad analyzed all new hires from 2013 to 2018 in the IC and M career levels and found there is no difference by gender or race in what job applicants were hired into relative to what they applied to. **Alleged Supporting Evidence:** Connell Decl., Ex. M (Saad Report, ¶¶ 150-156), Ex. O (Saad Rebuttal, ¶¶ 65-66).	**Disputed**. 1) OFCCP disputes this fact because Dr. Saad did not analyze all new hires from 2013 to 2018 in the IC and M career levels, and he did not apply proper controls to identify race or gender differences. A) "Dr. Saad analyzes fewer than two thirds of these assignments." Dr. Saad did not apply proper controls (including a control for the global career level identified in the requisition) necessary to identify race or gender differences. Dr. Madden applied the appropriate controls to Dr. Saad's analyses and found the new hire data supporting her findings of gender and race differentials in setting of career level at hire. Citation: • Ex. 92, Madden Rebuttal pp. 32-41, Charts R1-2, R8-9. 2) OFCCP further disputes this fact because Dr. Saad did not consider that managers create new requisitions for applicants rather than applicants applying for a pre-existing requisition. A) Oracle hiring managers create new requisitions with new career levels when they believe an applicant is better suited to a different career level than the original requisition and career level they applied to. Citation: • OFCCP SUF: Fact 156; • OEx. 8, Waggoner PMK Dep. 279:24–280:22; • OEx. 17, Waggoner May Dep. 81:24–82:3; • Ex. 93, Dr. Saad's Expert Report, p. 112, ¶148. 3) OFCCP further disputes this fact because Dr. Saad did not consider the Oracle's use of recruiters to identify and recruit potential employees, and match applicants with requisitions rather than applicants choosing to apply to specific requisitions. A) Oracle instructs recruiters to search internet, identify and recruit potential employees, and initiate contact and match applicants with requisitions and direct applicants to apply for those requisitions. Citation:

	• OFCCP SUF: Facts 151, 152, and 153; • Ex. 39, "Oracle Recruiting Program Manager (RPM) Training Manual," no date but has 2013 examples, ORACLE_HQCA_0000056908; • Ex. 40, "Oracle College Recruiting," dated 7/14/14, ORACLE_HQCA_0000020131, 33–39, 43–60; • Ex. 64, "Welcome to New Recruiter On-boarding!," copyright 2014, slide 4 (notes) and slide 5, ORACLE_HQCA_0000056566-7 to -8; • Ex. 60, "NA Talent Advisory," copyright 2016, slides 1–4 and slide 4 (notes), ORACLE_HQCA_0000056772-2 to -8; • Ex. 57, "Recruit & Hire at Oracle; Module 1: Introduction to Recruiting & Hiring," slide 3 (notes), ORACLE_HQCA_0000057181-6. 4) OFCCP further disputes this fact because Dr. Saad did not consider Oracle's Employee Referral Program. A) Oracle instructs recruiters to search for, identify, and recruit potential employees and makes 30% of its placements through its Employee Referral Program, which provides a hiring process outside that of applications submitted by applicants or recruiters in regard to requisitions. Citation: • OFCCP SUF: Facts 154, 155; • Ex. 64, slide 12 (notes), ORACLE_HQCA_0000056566-21; • Ex. 60, slide 12 and slide 12 (notes), ORACLE_HQCA_0000056772-23 to -24. 5) OFCCP further contests this fact because employees could not know the career level they are "choosing" when applying for a job. A) At hire, employees report not having information regarding the global career level for the job to which they have applied or been hired. Employees report not learning about the global career level assigned, if ever, until long after hire. Further, employees who are hired by Oracle due to acquisition do not apply for or choose their career level. Citation: • OEx. 8, Waggoner PMK Dep., 361:1-5; • OEx. 15, Declaration of Donna Kit Yee Ng, ¶ 5; • OEx. 20, Declaration of Rachel Powers, ¶ 9;

	• OEx. 38, Declaration of Donna Rosburg, ¶ 8; • OEx. 42, Declaration of Dalia Sen ¶ 5.
86. Dr. Madden's rebuttal report shows statistically significant differences in "up-levelling" or "down-levelling" at hire for only a single IC career level for women and two IC career levels for Asians, and does not report any findings for the other four IC career levels or any of the M career levels. **Alleged Supporting Evidence:** Connell Decl., Ex. P (Madden Rebuttal, ¶ 36, Charts R1, R2); Waggoner Decl., ¶ 24.	**Disputed.** 1) OFCCP disputes this fact because Dr. Madden's Rebuttal Report discusses an array of studies conducted by Dr. Madden, both in her Initial Report and in support of her Rebuttal Report, regarding diffences as to assignment of global career levels at hire (which is how OFCCP understands Oracle's reference to differences in "up-levelling" or "down-levelling" at hire), and her studies and findings span the three job functions at issue, not the narrow categories asserted in this fact. As to the specific part of the Dr. Madden's Rebuttal Report referenced by Oracle in this fact, Dr. Madden was providing in these section a response to Dr. Saad's opinions and thus confined her response to the scope of the study and data he selected. A) Dr. Madden's rebuttal report was responding to Dr. Saad's tests and only used the subset of data he used. Citation: • Ex. 92, Madden Rebuttal at 35-36, Charts R1 and R2. B) Dr. Madden's Rebuttal Report discusses an array of studies conducted by Dr. Madden, both in her Initial Report and in support of her Rebuttal Report, regarding diffences as to assignment of global career levels at hire, spanning all three job functions at issue. Citation: • Ex. 91, Madden Report at 17, 29, 41, 49-52, Tables 1(a)-3(a)(comparing Columns 6 and 8), 4-7; • Ex. 92, Madden Rebutal at 35-37, Charts R1-R2, Table R9.

87. Over 80 percent of applicants are hired into the organizations for which they applied, and there are no statistically significant differences between men, women, Asians, or African-Americans. **Alleged Supporting Evidence:** Connell Decl., Ex. O (Saad Rebuttal Report, ¶¶ 78-79).	**Disputed**. 1) OFCCP disputes this fact because Oracle did not provide data for all applicants hired by Oracle and the applicant data provided did not identify the organization for which all applicants applied, and far less than 80 percent of applicants are hired into the organizations for which they applied, even according to the limited data and the methodology used by Dr. Saad. A) Dr. Saad's calculations are only for experienced hires and he does not include the "more than 25%" that were new college hires in his percentage calculation. Thus, if the number of applicants is increased by "more than 25%," the percentage calculated would necessarily be far lower than over 80%. However, the specific change in percentage cannot be calculated because Dr. Saad fails to provide the exact number of new college hires and experienced hires. Citation: • Ex. 94, Saad Rebuttal ¶ 79. 2) OFCCP further objects to this fact because Dr. Saad does not explain his methodology. A) Dr. Saad unscientifically fails to explain his methodology or the exact numbers of the data he used to calculate his percentages. Citation: • Ex. 94, Saad Rebuttal ¶¶ 78-79. 3) OFCCP further contests this fact because of the small sample sizes he used. A) Dr. Saad's data set only included 1,497 job requisitions in the data produced in the case that listed organization. Citation: • Ex. 94, Saad Rebuttal ¶¶ 78-79. 4) OFCCP further disputes this fact because Dr. Saad misleadingly states there are no statistically significant differences when he did not conduct a regression analysis and did not calculate standard deviations.

	A) Dr. Saad incorrectly describes his findings as lacking statistical significance. Citation: • Ex. 94, Saad Rebuttal ¶¶ 78-79. 5) OFCCP further contests this fact because Dr. Saad misstates that experienced hires were hired through a process that involved responding to requisitions that were publicly posted A) Oracle hiring managers create new requisitions with new career levels when they believe an applicant is better suited to a different career level than the original requisition and career level they applied to. Citation: • OFCCP SUF: Fact 156; • OEx. 8, Waggoner 30b6 Dep. 279:24–280:22; • OEx. 17, Waggoner May Dep. 81:24–82:3; • Ex. 93, Dr. Saad's Expert Report, p. 112, ¶148. B) Oracle instructs recruiters to search internet, identify and recruit potential employees, and initiate contact. Citation: • OFCCP SUF: Facts 151, 152, 153; • Ex. 39, "Oracle Recruiting Program Manager (RPM) Training Manual," no date but has 2013 examples, ORACLE_HQCA_0000056908 • Ex. 40, "Oracle College Recruiting," dated 7/14/14, ORACLE_HQCA_0000020131, 33–39, 43–60; • Ex. 64, "Welcome to New Recruiter On-boarding!," copyright 2014, slide 4 (notes) and slide 5, ORACLE_HQCA_0000056566-7 to -8; • Ex. 60, "NA Talent Advisory," copyright 2016, slides 1–4 and slide 4 (notes), ORACLE_HQCA_0000056772-2 to -8. • Ex. 57, "Recruit & Hire at Oracle; Module 1: Introduction to Recruiting & Hiring," slide 3 (notes), ORACLE_HQCA_0000057181-6.

	C) Oracle instructs recruiters to search for, identify, and recruit potential employees and makes 30% of its placements through its Employee Referral Program. Citation: • OFCCP SUF: Facts 154, 155; • Ex. 64, slide 12 (notes), ORACLE_HQCA_0000056566-21; • Ex. 60, slide 12 and slide 12 (notes), ORACLE_HQCA_0000056772-23 to -24

88. Individual front-line managers are the primary decision-makers with respect to which applicant to select for the jobs they post, and whether to adjust the level of the job based on the individual selected. **Alleged Supporting Evidence:** Gill Decl., ¶ 10; Bashyam Decl., ¶ 15; Webb Decl., ¶ 14; Sarwal Decl., ¶ 15; Hsin Decl., ¶ 10; Talluri Decl., ¶ 15.	**Disputed.** 1) Compensation *recommendations* for hiring are reviewed by a person's management chain until it reaches the final approvers. The final approvers for all salary increases (focal reviews and off-cycle) due to promotions have to be approved by "CEO(s) & Executive Chairman and CTO," "Office of the CEO," the Board of Directors, or Thomas Kurian. Moreover, to get off-cycle decisions approved, *recommending* managers are required to submit written justification. OFCCP is disputing this issue because the lower level managers do not make the compensation *decisions*, they only make *recommendations*. A) Oracle's Global Approval Matrices state that approvals for hiring have to be made at the level of "CEO(s) & Executive Chairman and CTO," "Office of the CEO," the Board of Directors, or Thomas Kurian. Citation: • OFCCP SUF: Fact 113; • Ex. 20, Global Approval Matrix, dated 6/11/12, ORACLE_HQCA_0000062725-1 to -2; • Ex. 20, Global Approval Matrix, dated 2/1/13, ORACLE_HQCA_0000062732-1 to -2; • Ex. 20, Global Approval Matrix, dated 11/1/14, ORACLE_HQCA_0000062712-1 to -2; • Ex. 20, Global Approval Matrix, dated 6/1/15, ORACLE_HQCA_0000062710-1 to -2; • Ex. 20, Global Approval Matrix, dated 6/1/16, ORACLE_HQCA_0000062711-1 to -2; Ex. 20, Global Approval Matrix, dated 3/30/17, ORACLE_HQCA_0000062720-1 and -2, in Vol. 1. B) Oracle's compensation instructions for hiring likewise require managers to make pay recommendations that require the approvals all the way up to the Executive Level or their offices. Citation: • OFCCP SUF: Fact 116; • Ex. 28, slide 11 (notes), ORACLE_HQCA_0000057179-22 in Vol. 2; • Ex. 13, slide 35 and slide 35 (notes) ORACLE_HQCA_0000056234-65 to -66 in Vol. 1.

	C) EVP Loaiza, at the M8 global career level, testified in his deposition that when he is reviewing a person during the hiring approval process, he is reviewing "the proposed compensation of the person." He emphasizes this a second time when he states: "What I get is not the current compensation. I get the proposed compensation." If he is only looking at the proposed pay at his high level, then the first level manager, many levels below, could not have already determined the salary increases. Citation: • OEx. 11, Loaiza Dep. 17:2-10, 44:16-45:1, 45:20-46:18. 2) Oracle's senior management is involved to a significant degree in the hiring of new employees A) EVP Loaiza, at an M8 global career level, gave a detailed explanation of what he reviewed to determine if he should approve or reject a hiring recommendation containing the proposed compensation. He stated that he looked at: the person's proposed compensation; whether Oracle hiring in the area of the person's expertise; a person's education; the person's resume; the interview notes by Oracle personnel; the person's competitive offer by another company, if applicable; and that he would generally review anything in the hiring packet. Thus, contrary to the claim only supported by Ms. Balkenhol's declaration, senior managers like EVP Loaiza do extensive review of offers Citation: • OEx. 11, Loaiza Dep. 44:16-45:19, 46:16-47:2, 47:21-23, 68:19-69:8. B) HR Business Partner and VP Madhawi Cheruvu for seven lines of businesses (LOB) and Thomas Kurian's Product Development LOB testified that as an approving manager, she looks at a person's experience (years and type), skills, resume, the other companies the person worked, the similarity between where the person worked and at Oracle, the salary range, the person's current compensation, the role the person will play, the criticality of the skills, and the deliverables the person will make. Citation:

	• OEx. 4, Cheruvu Dep. 70:12-71:4, 77:3-78:3, 190:25-191:9, 259:12-22 C) EVP Loaiza also gave an interview to OFCCP on March 25, 2015, when he identified that he was a Senior Vice President during OFCCP's audit. In the interview summary for him it noted that EVP Loaiza commented extensively on his involvement in the hiring process to include reviewing the proposed compensation and the person's current compensation such that almost a whole typed page, single space, reflected his comments. Citation: • Atkins Opp'n Decl. ¶14, Ex. K, Loaiza Interview Notes, DOL0000000522. D) HR Business Partner and VP Madhawi Cheruvu for seven lines of businesses (LOB) and Thomas Kurian's Product Development LOB also gave an interview that OFCCP summarized that described her extensive involvement in hiring and off-cycle compensation decisions. The interview summary identified that she looks at: resumes, current compensation, the job they are performing, the skills they are bring and how important these skills are to Oracle, the salary ranges involved, the immediate need of the person, the level of market demand for the person's skills, the difference between what the applicant is currently making and the proposed salary, compares what is being offered to current employees, examines what competitors are offering. Citation: • Atkins Opp'n Decl. ¶14, Ex. C, Cheruvu Interview Notes, DOL000000535-37.

89. Over half of the allegedly discriminatory initial job "assignments" occurred before January 1, 2013. **Alleged Supporting Evidence:** Connell Decl., Ex. M (Saad Report, ¶¶ 159-160; Attachment C1). Oracle's Statement of Uncontested Facts states at footnote 1 that Attachment C1 "shows there are 6,035 women, Asian, or African-American employees implicated by OFCCP's claims. Paragraphs 159-160 demonstrate that far fewer than half of that number were hired between 2013-2018."	**Disputed.** 1) OFCCP disputes Material Fact 89 because the evidence cited by Oracle does not support this statement. Oracle misrepresents paragraphs 159-160 and Attachment C1 of Saad's Report which do not demonstrate that over half of the discriminatory initial job "assignments" occurred before January 1, 2013. A) Paragraph 159 of Saad's Report does not discuss initial job assignments but discusses experienced hires: 159. Among experienced hires, the largest group of new hires, there are no statistically significant pay difference for women in any of the three job functions. Average starting pay for Asian experienced hires and White experienced hires are not statistically significantly different. The difference in starting pay for African-Americans compared to Whites in PRODEV is also not statistically significant. Taken together, I do not see evidence of a pattern of adverse results for any of the protected groups. Citation: • Ex. 93, Saad Report ¶ 159. B) Paragraph 160 also does not discuss initial job assignments but discusses college hires in PRODEV: 160. There are too few college hires in INFTECH and SUPPORT to analyze separately, but it is possible in PRODEV. Entry level hires from colleges are not hired into specific positions. The regression model thus controls for experience and career level to take differences in degrees earned into account (about 5% are over age 30), and their hire year, but does not control for job title or organization. There are no statistically significant results for any of the protected groups, and in fact, the results are positive for women. Citation: • *Id.* ¶ 160. C) Dr. Saad's Attachment C1 is a chart that shows employee counts for 2013-2018 at Oracle HQCA. Citation:

	• *Id*. Attachment C1.
90. Neither the NOV, SCN, Complaint, First Amended Complaint ("FAC"), nor SAC reference or imply a disparate impact claim, or identify a facially-neutral policy or practice that had a disparate impact on women, Asians, or African-Americans. **Alleged Supporting Evidence:** Holman-Harries Decl., ¶ 3, Ex. B (NOV), Ex. Y (SCN); Complaint; FAC; SAC.	**Disputed.** 1) The SAC did reference and imply an assignment claim of putting females and Asians in lower lower-paid positions relative to other employees at the lower end of the pay range relative to other employees in the same positions. Citation: • SAC ¶25. 2) The SAC also referenced that Oracle caused females and Asians to remain in lower-paid positions relative to others. Citation: • SAC ¶29. 3) The SAC further referenced that Oracle caused females and Asians to be paid lower than their male and White counterparts because of Oracle's reliance on prior pay in setting compensation upon hire.. Citation: • SAC ¶32.

91. OFCCP has not identified a specific policy or practice causing the statistical disparities it alleges. **Alleged Supporting Evidence:** Connell Decl., Ex. Q (OFCCP's October 11, 2017 Supplemental Responses to Oracle's Interrogatories, No. 25), Ex. R (OFCCP's July 5, 2019 Supplemental Responses to Oracle's Interrogatories, No. 50).	**Disputed.** 1) OFCCP disputes this contention. OFCCP objects that this statement is not a factual contention but a legal contention. To contest this contention fully, OFCCP would need to restate almost all of the evidence at issue in this case, which is beyond the scope of the purpose of these Statements. A) As set forth in OFCCP Opposition brief, OFCCP disputes that it has a burden at this stage in these proceedings to identify specific policy or practices causing the statistical disparities it alleges. In OFCCP's Motion for Summary Judgment, OFCCP has cited copious facts related to Oracle's policies and practices related to departing from its own compensation policies based on "budget." Citation: • *See* OFCCP's MSJ 9-11 and supporting SUF citations (SUF 104-106, 127-131, 134-136, 142-149, 157-170, 163, 167, 181, 183-185). B) OFCCP also disputes this fact on the grounds that OFCCP has identified specific practice of not studying and redressing pay disparities. Citation: • *See* OFCCP's MSJ at 11-12, and supporting SUF citations (SUF 104-106, 207, 211, 212). *See also* Oracle's Position Statement on 2.17 at 9-11. C) OFCCP further disputes this contention on the basis that OFCCP has proffered material statistical evidence and factual evidence showing that Oracle departs from its own compensation policies by considering prior pay and this has an adverse impact on the class. Citation: • SUF 157-170; • Ex. 91, Madden Rpt. at 49-50, Table 4 D) OFCCP further disputes this contention on the basis that OFCCP has proffered statistical evidence and material factual evidence showing that Oracle departs from its own compensation policies through discriminatory placement and retention in career level.

	Dr. Madden analyzed Oracle's compensation data and specifically Oracle's assignments of career levels and found that, at hire and over time, women and Asians were more likely to be placed in lower global career levels than similarly qualified men or Whites. Citation: • SUF 156; • OFCCP MSJ; • Ex. 91, Madden Report at 50-51, Tables 1(a)-(3)(a), 4-7; • Ex. 92, Madden Rebuttal Report pp. 30-41, Charts R1-R2; Tables R7-8.

92. Oracle never had a policy or practice of basing starting pay on prior pay. **Alleged Supporting Evidence:** Connell Decl., Ex. C (7/19/19 Waggoner PMK Dep. 203:20-204:7); Yakkundi Decl., ¶ 17; Shah Decl., ¶ 13; Gill Decl., ¶ 9; Ousterhout Decl., ¶ 16; Talluri Decl., ¶ 14; Abushaban Decl., ¶ 16.	**Disputed**. 1) Contrary to Oracle's claim, it did have a policy or practice of basing starting pay on prior pay because it sought prior pay from applicants and prior pay was one of the factors it considered when determining a person's starting salary. A) Prior to October 2017, Oracle considered an employee's salary in his or her previous employment in setting initial pay at Oracle. Citation: • OFCCP SUF: Fact 157; • Ex. 41, Holman-Harries *Jewett* Decl., Ex. A, (Lisa Gordon Sworn Statement) at 8, question 11b in Vol. 2; • OEx.4, Cheruvu Dep. 84:22–85:6 in Vol. 1; • Declaration of Cindy Hsin in support of Oracle's Motion for Summary Judgment (Hsin Decl.), ¶11. B) In a document titled "HR Learning Session US Pay Equity Laws and Salary History Bans" under a sub-heading of "What is changing" Oracle stated that the change is not to ask candidates about current or prior salary. Citation: • OFCCP SUF: Fact 158; • Ex. 46, "HR Learning Session US Pay Equity Laws and Salary History Bans," dated 10/18-19/17, ORACLE_HQCA_0000381126 in Vol. 2. C) In a document titled "HR Learning Session US Pay Equity Laws and Salary History Bans" under a sub-heading of "What is changing" Oracle stated that it is removing the "current salary field" from the offer form in iRecruitment. Citation: • OFCCP SUF: Fact 159; • Ex. 46, ORACLE_HQCA_0000381126 in Vol. 2. D) In a document titled "HR Learning Session US Pay Equity Laws and Salary History Bans" under a sub-heading of "what we used to say" Oracle identified that it asked about a person's current

	salary and annual earnings if the person was in sales. Citation: • OFCCP SUF: Fact 160; • Ex. 46, ORACLE_HQCA_0000381127 in Vol. 2. E) In response to a question about whether Oracle's employees can ask a candidate about current or prior salary history, Oracle answered by affirming that its employees can "no longer" ask a candidate about his/her current or prior salary. Citation: • OFCCP SUF: Fact 161; • Ex. 47, "US PAY EQUITY FAQ FOR MANAGERS AND HR" dated 1/1/18, ORACLE_HQCA_0000381077, in Vol. 2. F) Prior to October 2017, a candidate's compensation information at his or her previous employer was a "**Mandatory**" field in Oracle's "Candidate Offer Information" document. Citation: • OFCCP SUF: Fact 162; • Ex. 48, "Candidate Offer Information" for [redacted] dated 12/22/08, ORACLE_HQCA_0000472274 in Vol. 2; • Ex. 49, "Candidate Offer Information" for [redacted] dated 1/6/15, ORACLE_HQCA_0000464341–44 in Vol. 2. G) An Oracle recruiter asked a job candidate for this person's current salary because it was a mandatory field for the offer process. Citation: • OFCCP SUF: Fact 163; • Ex. 50, Emails between a job applicant and an Oracle recruiter regarding the prior salary, dated 2010, DOL000044390–93 in Vol. 2. H) Prior to October 2017, Oracle's iRecruitment "Offer Template" had a field for "Candidate's Current Salary/ATV" and Oracle's instructions for using this field in this template was to enter numerals only.

	Citation: • OFCCP SUF: Fact 164; • Ex. 28, slide 12, ORACLE_HQCA_0000057179-23 in Vol. 2; • Ex. 51, Untitled Oracle Hiring Presentation, copyright 2014, slide 12, ORACLE_HQCA_0000056633-22, has just the template, in Vol. 2. I) In or around February 2014, Oracle put an employee's current compensation information (e.g., $[redacted] plus an annual bonus of [redacted]%) in the "Comments" column for line 1 of the "Approval History" section of its iRecruitment "Candidate Details" form, such that subsequent reviewers like Thomas Kurian and Lawrence Ellison could review the prior compensation information before approving. Citation: • OFCCP SUF: Fact 165; • Ex. 29, ORACLE_HQCA_0000001729-32, in Vol. 2. J) In or around March 2013, Oracle listed a candidate's compensation (e.g., "[redacted] base salary + stock options" and "$[redacted] plus bonus") in the "Current Compensation" field in its "Candidate Profile Summary." Citation: • OFCCP SUF: Fact 166; • Ex. 52, Two Candidate Profile Summaries, from 2013, ORACLE_HQCA_0000029001 & 0000033810, in Vol. 2. K) Prior to 2017, Oracle notified potential candidates through its iRecruitment requisitions that they would be required to complete a pre-employment screening process that included a salary verification prior to an offer being made. Citation: • OFCCP SUF: Fact 167; • Ex. 53, iRecruitment requisition for "Senior Software Developer – Fusion Lifecycle Management," dated 3/28/12, ORACLE_HQCA_0000027412-2 in Vol. 2; • Ex. 54, Email exchange between Oracle's Senior Recruiter

	Todd Gorman and [redacted] May 2014, ORACLE_HQCA_0000034108 in Vol. 2; • Ex. 55, Job Announcement for "Solution Architect," from Oracle Senior Recruiter Stephanie Nguyen, no date, ORACLE_HQCA_0000033894 in Vol. 2. L) Oracle instituted a new policy in October 2017 that Oracle employees may no longer request salary history details from external candidates who are interviewing for work in a US location. Citation: • OFCCP SUF: Fact 168; • OEx. 8, Waggoner PMK Dep. 40:10–41:15. M) In an email dated October 25, 2017, Oracle announced that managers and others acting as agents of Oracle during the hiring process can no longer request salary history details from external candidates who are interviewing for work in a US location. Citation: • OFCCP SUF: Fact 169; • Ex. 56, Emails regarding "Changes to US Hiring Process Effective October 31, 2017," dated October 2017, ORACLE_HQCA_0000381115 in Vol. 2. N) In December 2017, Oracle told an employee who asked about possible pay discrimination that there were several business factors contributing to the level of the employee's salary, including the employee's starting salary at Oracle. Citation: • OFCCP SUF: Fact 170; • Ex. 32, "Memorandum: Investigation Results," dated 12/7/17, ORACLE_HQCA_0000416837, in Vol. 2.

93. Since October 2017, Oracle has prohibited managers or recruiters from inquiring about, or relying on, prior pay in setting starting pay. **Alleged Supporting Evidence:** Connell Decl., Ex. C (7/19/19 Waggoner PMK Dep. 40:21-41:4), Ex. H (6/11/19 Cheruvu Dep. 84:22-85:8); Yakkundi Decl., ¶ 17; Gill Decl., ¶ 9; Ousterhout Decl., ¶ 16; Abushaban Decl., ¶ 16; Hsin Decl., ¶ 11.	**Disputed**. 1) Prohibiting managers or recruiters from inquiring about or relying on, prior pay in setting starting pay would be a compensation policy and Ms. Waggoner testified in her PMK *Jewett* deposition on July 26, 2018, that "we don't have policies" in response to a question of: "So this is as close as Oracle comes to having compensation policies - - these compensation guidelines. Citation: • OEx. 2, Waggoner PMK *Jewett* Dep. ORACLE_HQCA_0000400663) 80:4-9.

94. Oracle's compensation guidelines and practices are job-related and consistent with business necessity. **Alleged Supporting Evidence:** Waggoner Decl., ¶¶ 27-36, Exs. A-E; Gill Decl., ¶¶ 4-6; Yakkundi Decl., ¶¶ 17, 19; Sarwal Decl., ¶ 14; Fox Decl., ¶¶ 14-16; Bashyam Decl., ¶ 15; Webb Decl., ¶¶ 13-14; Abushaban Decl., ¶¶ 17-18; Suri Decl., ¶¶ 16-20; Chan Decl., ¶¶ 9-12.	**Disputed** 1) It is a business necessity for Oracle to comply with OFCCP's regulations and the governing order or otherwise Oracle would put itself at risk of losing "lucrative government contracts." Citation: • Ex. 77, "Affirmative Action Training at Oracle" dated October 2015. Slide 5, ORACLE_HQCA_0000416488-9. 2) Oracle's current compensation policies of not training managers on the compensation requirements of the Executive Order's implementing regulations at 41 C.F.R. Part 60, not conducting in depth compensation analyses, waiting until OFCCP enforcement to start having mandatory training for managers and human resources personel, human resources personnel still not knowing their affirmative action responsibililities as of 2019, only training managers on hiring affirmative action and not compensation affirmative action, taking no corrective action in response to any pay analysis conducted, are contrary to business necessity and are not related. Citation: • Ex. 77, "Affirmative Action Training at Oracle" dated October 2015. Slides 3 and 4, and slide 3 and 4 notes, ORACLE_HQCA_0000416488-9; • OEx. 3, ORACLE-HQCA_417320-58; • Ex. 63, AAP, ORACLE_HQCA_0000005000; • Oracle's 10/13/19 Position Statement, p. 8; • Oracle's 10/3/19 Position Statement, p. 9; • Ex. 41, Ex. A, sworn statement of Lisa Gordon, Oracle Director of Compensation dated 2/11/15, p. 17, question 29.

95. OFCCP has not identified an equally effective alternative policy or practice without an adverse effect that would serve Oracle's business needs. **Alleged Supporting Evidence:** Holman-Harries Decl., ¶ 3, Ex. B (NOV), Ex. Y (SCN); Complaint; FAC; SAC; Connell Decl., Ex. Q (OFCCP's October 11, 2017 Supplemental Responses to Oracle's Interrogatories, No. 25), Ex. R (OFCCP's July 5, 2019 Supplemental Responses to Oracle's Interrogatories, No. 50).	**Disputed.** 1) OFCCP objects to this contention on the grounds that it is a legal contention. As set forth in response to Oracle's contention in #91 above, OFCCP does not have the burden to establish this at this time. Oracle has failed to assert any purported neutral factor as a defense to the gross disparities in compensation at issue in this case. 2) OFCCP claims do not take issue for purposes of this case with Oracle's basic compensation framework, which, if appropriately implemented, would set compensation based on an employee's skills, education, and experience. The problems identified by OFCCP is that Oracle fails to accord with its own policies by prioritizing budget. When budget is prioritized over compensating similarly situated employees at the same rate, Oracle maintains no corrective mechanism to ensure pay equity. The effective alternative here would be for Oracle to comply with its own policies, its affirmative action obligations, and to compensate employees based on their skills, education, and experience.
96. In an August 26, 2015 email, OFCCP asked Oracle to "please provide wage information for snapshot date 1/1/13, containing all fields already submitted for snapshot date 1/1/14?" **Alleged Supporting Evidence:** Holman-Harries Decl., ¶ 20, Ex. Q.	**Undisputed.**
97. On August 28, 2015, OFCCP added a request that the 1/1/2013 compensation snapshot include 16 additional fields. **Alleged Supporting Evidence:** Holman-Harries Decl., ¶ 20, Ex. Q.	**Undisputed.**

98. Shauna Holman-Harries, Oracle's Senior Director Diversity Compliance, responded to the August 28 request the same day, noting the request was enormous and that Oracle would provide the information as soon as it reasonably could, given OFCCP's other outstanding requests. **Alleged Supporting Evidence:** Holman-Harries Decl., ¶ 20, Ex. Q.	**Undisputed.**
99. On October 29, 2015, Ms. Holman-Harries sent 29 emails providing information sought by OFCCP, explaining that certain information had already been provided, and asking OFCCP why it sought certain information. **Alleged Supporting Evidence:** Holman-Harries Decl., ¶ 21, Ex. R.	**Undisputed.** However, in addition, the October 29, 2015 email from Ms. Holman-Harries also stated that certain information was too burdensome to compile and referred to communications about other information that invoked privileges to refuse to produce it.
100. On November 2, 2015, OFCCP's Acting District Director Robert Doles identified data and documents that OFCCP claimed were not provided. **Alleged Supporting Evidence:** Holman-Harries Decl., ¶ 22, Ex. S.	**Undisputed.**

101. OFCCP admits that the November 2, 2015 letter identifies all of the data and documents that form the basis of its claims that Oracle failed or refused to produce documents as alleged in Paragraphs 44 and 45 of the Second Amended Complaint. **Alleged Supporting Evidence:** Connell Decl., Ex. E (6/26/19 Ratliff PMK Dep. 57:10-60:6; 86:1-13; Ex. 14).	**Undisputed.**
102. On November 2, 2015, Ms. Holman-Harries sent an email responding to Mr. Doles' letter noting the October 29 production as responsive to his letter. **Alleged Supporting Evidence:** Holman-Harries Decl., ¶ 23, Ex. T.	**Undisputed.**
103. On November 2, 2015, OFCCP responded stating that Oracle's October 29 production was not complete. **Alleged Supporting Evidence:** Holman-Harries Decl., ¶ 23, Ex. T.	**Undisputed.**

104. On November 6, 2015, Ms. Holman-Harries asked OFCCP to review the materials produced on October 29 and to "let [her] know" if OFCCP "still [had] concerns." **Alleged Supporting Evidence:** Holman-Harries Decl., ¶ 24, Ex. U.	**Undisputed.**

105. OFCCP did not respond to Ms. Holman-Harries' November 6, 2015 email before issuing the NOV. **Alleged Supporting Evidence:** Holman-Harries Decl., ¶ 25, Ex. V.	**Disputed.** 1) OFCCP disputes Oracle's Fact 105 to the extent it suggests that OFCCP did not follow up with Oracle at all between the November 6, 2015 email and the NOV. That is not the case. A) On December 16, 2015, OFCCP wrote to Oracle to thank them for submitting a portion of the hiring data that was still outstanding in Oracle's October 29, 2015 email, and requested similar information for another subset of Oracle employees. Oracle responded stating that it "would need to understand better the rationale and basis for this request before committing to such an effort." On December 23, 2015, after OFCCP followed up with an explanation, Oracle responded that the additional information would take 6 to 12 months to complete. Citation: • Holman-Harries Decl., Ex. V, at DOL000001029-30. B) On January 4, 2016, OFCCP wrote to Oracle and provided copies of the interview statements made by managers during the on-site interviews, requesting their signatures. On January 8, Oracle responded refusing to either provide corrections to or sign the statements. Citation: • Suhr Opp'n Decl. ¶ 8, Ex. B, Email from Hoan Luong to Oracle dated 1/4/16, asking Oracle to return signed copies of the statements, and 1/8/16 response refusing, ORACLE_HQCA_0000000270.

106. At no point did Oracle refuse to produce to OFCCP a compensation "snapshot" for 2013 containing the fields of data requested by OFCCP. **Alleged Supporting Evidence:** Holman-Harries Decl., ¶ 29; Siniscalco Decl., ¶ 7.	**Disputed.** 1) OFCCP disputes Oracle's Material Fact 106 because OFCCP requested the 2013 snapshot in August of 2015, and Oracle did not produce the snapshot until after litigation commenced in 2017—and, even then, did not produce all of the fields OFCCP had requested. To the extent Oracle argues that it did not "refuse" to the produce the snapshot even while it admittedly did not produce it, OFCCP disagrees. OFCCP does not interpret the term "refuse" to require an express statement "I refuse." *See* "Refuse," Merriam Webster, def. 2 ("[T]o *show* or express unwillingness to do or comply with. Ex. Refused to answer the question.") (emphasis added). • Oracle did not provide the 2013 snapshot despite having six and a half months between the time OFCCP requested it on August 26, 2015, and the issuance of the NOV on March 11, 2016. Citation: • Oracle Material Fact 96 • Holman-Harries Decl., Ex. Q, Emails from OFCCP to Oracle dated 8/26/15 and 8/28/15, ORACLE_HQCA_000005408-09 • Holman-Harries Decl., Ex. S, Letter dated 11/2/15 from Robert Doles to OFCCP, DOL000001054. • Holman-Harries Decl., Ex. X, Email from Robert Doles to Oracle dated 3/29/16, listing requested documents still not produced by Oracle, ORACLE_HQCA_0000000278. • Connell Decl. , Ex. E, Ratliff PMK Dep. 77:6-78:14; • At her deposition, Ms. Holman-Harries testified that she did not provide the requested 2013 compensation snapshot during the compliance review. She added, as an explanation, that "we asked . . . for the basis for that because that was out of the review period." Ms. Holman-Harries made a consistent response in her 30(b)(6) deposition on topic of Oracle's failure to supply documents to OFCCP during the compliance review. Even though she met with her attorneys five additional times, over the course of 20-25 hours, to prepare for her 30(b)(6) deposition, Ms. Holman-Harries later

	"corrected" her testimony in her 30(b)(6) deposition to remove her testimony that Oracle was awaiting OFCCP's response. In any event, OFCCP's reasons for seeking 2013 compensation data should have been obvious. Citation: • OEx 5, Holman-Harries May Dep. 288:14-289:14.; • Holman-Harries 30(b)(6) Dep. 15:4-19, 71:11-73:13; errata • Suhr Opp'n Decl. ¶ 7 • *See also, infra,* DF 107. • Oracle did not provide the 2013 snapshot in the following ten months between the issuance of the NOV on March 11, 2016 and the filing of the complaint on January 17, 2017. Citation: • Complaint, filed 1/17/17, ¶12 • Atkins Opp'n Decl. ¶23; • Bremer Decl. ¶3. 2) OFCCP also disputes this Material Fact because Oracle made material misreprentations about its ability to produce educational data and data related to employees' prior pay, which were fields in the requested 2013 snapshot. • During the compliance review, Oracle stated that it could not producing educational data and prior pay data would be extraordinarily burdensome because it Oracle did not maintain the information in any of its databases. Oracle gave not indication in the email that it would attempt to compile this information. Citation: • Holman-Harries Decl., Ex. R, Email from Shauna Holman-Harries to Hoan Long dated 10/29/15, question 2 and response, ORACLE_HQCA_000002235. • AUF 32;

	• Although Oracle had previously stated twice that they did not maintain education data in their database, Ms. Holman-Harries testified in her August 1, 2019 PMK deposition that in fact at least "some of the education" data was in Oracle's databases. Citation: • AUF 36 • OEx. 31, Holman-Harries PMK Dep. 38:25-39:20. • During litigation, Oracle later produced some educational data in database form. Citation • AUF 37 • OEx. 36, Letter from Erin Connell to Marc Poltin and Laura Bremer re Oracle's discovery production, dated 10/11/17. • OEx. 40, Letter from Laura Bremer to Erin Connell dated 2/15/19, re data requests. • Bremer Decl. ¶ 43. • Although Oracle had previously stated twice that they did not maintain employees' prior salary information in their database, Oracle later produced some prior salary data in database form during litigation. Citation: • AUF 38-43; • SUF 162 • Madden Rep. 49-52, Table 4 • Ex. 48, "Candidate Offer Information" for [redacted] dated 12/22/08, in Vol. 2, ORACLE_HQCA_0000472274 • Ex. 49, "Candidate Offer Information" for [redacted] dated 1/6/15, in Vol. 2, ORACLE_HQCA_0000464341–44. 3) Oracle still, to date, has not provided the all of the data that would have been encompassed in the 2013 compensation snapshot that had been requested. Citation:

	• OEx. 37, Email from Laura Bremer to Erin Connell re visa data, dated 10/11/17 • OEx. 39, Letter from John Giansello to Norman Garcia, dated 3/14/19 at 4-5; • Bremer Decl. ¶ 42.

107. At the time when OFCCP issued the NOV, Oracle was still working on collecting data and documents responsive to OFCCP's requests. **Alleged Supporting Evidence:** Holman-Harries Decl., ¶ 3.	**Disputed.** 1) OFCCP contests Oracle's Material Fact 107 on the basis of Ms. Holman-Harries' extensive testimony in a PMK capacity about the status of OFCCP's document requests during the compliance review. She testified, for example, that she couldn't remember whether certain performance review information had been provided, stating that "I know we were working on I, if – if it hadn't been provided." And she stated that she would have to see the last spreadsheet submitted to be able to answer that question. Given that she could have used the spreadsheet to answer that question with specificity in her declaration, the unspecific and unsupported assertion—that Oracle was still working on compiling data and documents when the NOV issued—lacks credibility. Citation: • OEx. 31, Holman-Harries PMK Dep. 66:8-67:5. 2) The only other documents that Ms. Holman-Harries discussed possibly still compiling is the 2013 snapshot. But the weight of her testimony instead suggests that Oracle had essentially completed compiling the snapshot and was simply refusing to provide it. At her PMK deposition, Ms. Holman-Harries was asked whether Oracle "compil[ed] all of the data fields for the 2013 compensation snapshot[?]" She responded: "We compiled it. We pulled the data, but we were waiting for OFCCP to provide the justification that we asked for in our correspondence with them." Citation: • OEx. 31, Holman-Harries PMK Dep. 66:8-67:5; 3) Oracle made changes to Ms. Holman-Harries' August 1, 2019 PMK deposition transcript and removed her testimony that "we were waiting [to provide the snapshots] for OFCCP to provide the justification that we asked for in our correspondence with them." And Oracle inserted new testimony that "[w]e were in the process of compiling the data at the time OFCCP issued its NOV." Oracle claimed this was a correction for accuracy because Ms. Holman-Harries was confusing her answer with another audit. Citation: • OEx. 35, Holman-Harries PMK Dep. Errata Sheet, at 1-

	2 for 5/1/19 deposition dated 6/12/19. 4) Oracle's claim of correction is not credible considering Ms. Holman-Harries had been prepared by counsel for 20 to 25 hours for her PMK deposition, and because Oracle did not make these same corrections to Ms. Holman-Harries' similar testimony during her prior May 8, 2019 deposition Citation: • OEx. 31, Holman-Harries PMK Dep. 15:8-15:19; • OEx. 5, Holman-Harries May Dep. 288:14-289:14; • OEx 35, Holman-Harries Errata Sheet for May Dep. 5) Oracle was not continuing to work on OFCCP's requests for pay equity analysis because Oracle was claiming that all pay equity analyses were privileged. Oracle's response in Ms. Holman-Harries's October 29, 2015 email to Question 1 regarding internal pay equity analyses gives no indication that there is any ongoing work to produce any such analyses. Instead, it refers to the Lisa Gordon interview, in which Ms. Holman-Harries, who was present, stated that self-audits of compensation were conducted "under attorney-client privilege." Oracle's email on October 29, 2015 also refers to a later email Oracle sent to Hea Jung Atkins on June 2, 2015, which refers back to the same interview of Lisa Gordon and also states that pay audits are carried out by outside counsel. Citation: • Holman-Harries Decl., Ex. R, Email from Shauna Holman-Harries to Hoan Long dated 10/29/15, question 1 and response, ORACLE_HQCA_000002235; • Holman-Harries Decl., Ex. M, Email from Shauna Holman-Harries to Hea Jung Atkins, dated 6/2/15; DOL000001212; • Ex. 41, sworn statement of Lisa Gordon, Oracle Director of Compensation dated 2/11/15, at 13; • OFCCP SUF 211. 6) Oracle was not continuing to work on OFCCP's request for educational data, resumes, and prior salary because it had claimed that such information was not already in its databases and therefore was too burdensome to recover. Oracle's response in Ms. Holman-Harries's October 29, 2015 email to Question 2 responds to OFCCP's request for data on "Names of school attended" and "Education degree earned" for the 2014 snapshot. Oracle

	responded "We don't have this data in any database and if it is available in any individual employee's file it would be extremely burdensome and time consuming to compile." Oracle gave not indication in the email that it would attempt to compile this information. Citation: • Holman-Harries Decl., Ex. R, Email from Shauna Holman-Harries to Hoan Long dated 10/29/15, question 2 and response, ORACLE_HQCA_000002235. 7) Oracle was not continuing to work on OFCCP's request for employee personnel actions containing job and salary history information for all employees because it claimed it was extremely burdensome. Citation: • Oracle Material Fact 110; • Holman-Harries Decl., Ex. R, Email from Shauna Holman-Harries to Hoan Long dated 10/29/15, question 4 and response, ORACLE_HQCA_000002235.
108. OFCCP sent Oracle a request for data showing personnel actions providing job and salary information on or around February 11, 2015. **Alleged Supporting Evidence:** Holman-Harries Decl., ¶ 10, Ex. I.	**Undisputed.**

109. Subsequent requests from OFCCP, including on April 27, 2015, also sought data showing personnel actions providing job and salary information. **Alleged Supporting Evidence:** Holman-Harries Decl., ¶¶ 11, 13, Exs. J, K.	**Undisputed.**
110. On June 16, 2015, Oracle produced a compensation spreadsheet containing some of the job and salary information OFCCP had requested, and informed OFCCP of continuing difficulties in complying with certain aspects of OFCCP's requests. **Alleged Supporting Evidence:** Holman-Harries Decl., ¶ 16, Ex. N.	**Undisputed.**

111. On October 29, 2015, Oracle produced additional job and salary information requested by OFCCP, explained to OFCCP that gathering the additional data requested it is "extremely burdensome and time consuming," and asked OFCCP to let Oracle know if there were "specific issues/persons about whom you have concern." **Alleged Supporting Evidence:** Holman-Harries Decl., ¶ 21, Ex. R.	**Undisputed** However, OFCCP disputes that the request was "extremely burdensome." As the request number 4 states, all of the information OFCCP requested here had been initially requested at least six months previously in April 27, 2015. Had Oracle timely begun gathering the information it would not have been burdensome to produce in October 2015. Citation: • Holman-Harries Decl., Ex. R, Email from Shauna Holman-Harries to Hoan Long dated 10/29/15, question 4, ORACLE_HQCA_000002236. • Holman-Harries Decl., Ex. I, Email from Brian Mickel to Shauna Holman-Harries, dated 2/10/15, ORACLE_HQCA_0000000597-599; • Holman-Harries Decl., Ex. K, Letter from Brian Mickel to Shauna Holman-Harries, dated 4/27/15, ORACLE_HQCA_0000000597-599.
112. OFCCP did not respond to the question posed by Oracle on October 29, 2015. **Alleged Supporting Evidence:** Holman-Harries Decl., ¶ 21.	**Undisputed.**

113. At no point did Oracle refuse to produce to OFCCP data showing personnel actions providing job and history information. **Alleged Supporting Evidence:** Holman-Harries Decl., ¶ 29; Siniscalco Decl., ¶ 7.	**Disputed.** 1) OFCCP disputes Oracle's Material Fact 113 because OFCCP requested the data showing personnel actions in February 2015, and Oracle did not produce data providing job history and salary history during the compliance review [cite SHH PMK 109:07-116:14]. To the extent Oracle argues that it did not "refuse" to the produce the job history and salary history data even while it admittedly did not produce it, OFCCP disagrees. OFCCP does not interpret the term "refuse" to require an express statement "I refuse." *See* "Refuse," Merriam Webster, def. 2 ("[T]o *show* or express unwillingness to do or comply with. Ex. Refused to answer the question.") (emphasis added). Citation: • OEx. 31, Holman-Harries PMK Dep. 109:07-116:14.
114. At the time when OFCCP issued the NOV, Oracle was still working on collecting data responsive to OFCCP's requests. **Alleged Supporting Evidence:** Holman-Harries Decl., ¶ 3.	**Disputed.** 1) OFCCP disputes Oracle's Material Fact 114 because Ms. Holman-Harries testified in her deposition on August 1, 2019 that Oracle was waiting to give OFCCP job history and salary history data until OFCCP allegedly responded to certain questions regarding relevancy. Citation: • OEx. 31, Holman-Harries PMK Dep. 109:07-116:14.
115. On November 19, 2014, OFCCP requested from Oracle "[a]ll self-audits/pay equity studies." **Alleged Supporting Evidence:** Holman-Harries Decl., ¶ 5, Ex. D.	**Undisputed.**

116. Oracle did not respond to OFCCP's November 19, 2014 request because it deems its internal pay equity analyses to be privileged. **Alleged Supporting Evidence:** Siniscalco Decl., ¶ 4, Ex. B (August 25, 2017 Siniscalco Declaration, ¶¶ 7(e), 10-11, and Ex. A); Waggoner Decl., ¶ 37.	**Undisputed.**
117. On April 27, 2015, OFCCP asked Oracle to provide the "[d]ates of any internal pay equity analysis conducted during the past three years, as required under 60-2.17," and further asked Oracle to provide the "[d]ataset used for that analysis" and "[a]ctions taken, if any, as a result of the analysis." **Alleged Supporting Evidence:** Holman-Harries Decl., ¶ 13, Ex. K.	**Undisputed.**

118. On June 2, 2015, Ms. Holman-Harries explained to OFCCP what Oracle does to comply with 41 C.F.R. § 60-2.17 to evaluate its compensation systems, and further explained that "pay equity at Oracle, and ensuring fairness and consistency among or between cohorts, is an-going [*sic*] process, and an integral part of Oracle's evaluation of its compensation systems." **Alleged Supporting Evidence:** Holman-Harries Decl., ¶ 15, Ex. M.	**Disputed.** 1) OFCCP disputes Oracle's Material Fact 118 because Oracle did not explain to OFCCP what it does to comply with 41 C.F.R. § 60-2.17 to evaluate its compensation systems in its vaguely worded June 2, 2015 email. Ms. Holman-Harries' email references a separate interview with Lisa Gordon and describes Oracle's position regarding how it allegedly sets employee compensation. Citation: • Holman-Harries Decl. ¶ 15, Ex. M.
119. On June 2, 2015, Ms. Holman-Harries also explained to OFCCP that "[w]ith regard to pay audits to assess legal compliance with Oracle's non-discrimination obligations and to further ensure Oracle's compensation policies and practices are carried out, those are conducted by our outside EEO compliance counsel at Orrick." **Alleged Supporting Evidence:** Holman-Harries Decl., ¶ 15, Ex. M.	**Undisputed.**

120. OFCCP admits that Oracle asserted attorney-client privilege over its pay equity analyses from an early date in the compliance evaluation. **Alleged Supporting Evidence:** Siniscalco Decl., ¶ 3, Ex. B; Connell Decl., Ex. E (6/26/19 Ratliff PMK Dep. 69:11-73:25, Ex. 14).	**Undisputed.**
121. At no point did Oracle refuse to produce to OFCCP non-privileged data or documents regarding its activities to comply with 41 C.F.R. § 60-2.17 to evaluate its compensation systems. **Alleged Supporting Evidence:** Holman-Harries Decl., ¶ 29; Siniscalco Decl., ¶ 7.	**Disputed.** 1) OFCCP disputes Oracle's Material Fact 121 because during the compliance review Oracle did refuse to produce non-privileged data or documents regarding its activities to comply with 41 C.F.R. § 60-2.17. 2) For example, in an April 27, 2015 letter OFCCP sent to Ms. Holman-Harries, it requested "dates of any internal pay equity analysis conducted during the past three years, as required under 60-2.17 [and] [f]or each analysis, include [] data set used for the analysis." Ms. Holman-Harries' did not produce this requested data and in response she referred OFCCP to an interviews with Lisa Gordon. Citation: • OEx. 5 Holman-Harries May Dep. 204:216-205:01, 208:14-208:25, 270:19-272:21 • OEx. 5 Holman-Harries May Dep. 279:17-281:-4; • Holman-Harries Decl., ¶ 21, Ex. R, Email from Shauna Holman Harries to Hoan Long, dated October 29, 2015, ORACLE_HQCA_0000000695.

122. In its Scheduling Letter and attached Itemized Listing dated September 24, 2014, OFCCP asked Oracle to provide its "Executive Order Affirmative Action Program ("AAP")." **Alleged Supporting Evidence:** Holman-Harries Decl., ¶ 2, Ex. A.	**Undisputed.**
123. Ms. Holman-Harries sent OFCCP Oracle's AAP and related documents on October 28, 2014, in response to OFCCP's initial request for documents at the beginning of the compliance review. **Alleged Supporting Evidence:** Holman-Harries Decl., ¶ 4, Ex. C.	**Undisputed.**
124. At no point did Oracle refuse to produce to OFCCP any data or documents that are part of its AAP. **Alleged Supporting Evidence:** Holman-Harries Decl., ¶ 29; Siniscalco Decl., ¶ 7.	**Disputed.** 1) OFCCP disputes Oracle's Material Fact 124 because Oracle has refused to produce to OFCCP data or documents as part of its AAP. Citation: • OEx. 41, Letter from John Giansello to Charles Song re AAP production, dated 05/21/2019, at 5 (noting in response to RFP 80 that Oracle does not intend to produce any further AAP documents to OFCCP). • OEx. 47, Email from OFCCP to Erin Connell re production of AAPs for HQCA, dated 03/11/19 (Oracle refused to produce AAPs for HQCA, responded with boilerplate objections and denying that 41 C.F.R. §§ 60-2.10(b) & (c) require Oracle to maintain AAPs.)

125. OFCCP admits that it has no documents indicating there were any further requests during the compliance evaluation period to Oracle for AAP documentation. **Alleged Supporting Evidence:** Siniscalco Decl., ¶ 3, Ex. B; Connell Decl., Ex. E (6/26/19 Ratliff PMK Dep., 21:14-25:9; 45:9-47:1); Holman-Harries Decl., Exs. A, C.	**Disputed.** 1) First, as discussed above, OFCCP requested Oracle's AAP documentation as part of its initial document request at the start of its compliance review. 2) Second, regarding additional written requests for AAP documentation, the evidence Oracle relies on does not support Oracle's allegations that the OFCCP has admitted to not making further requests in writing. In the deposition testimony cited, OFCCP District Director Sean Ratliff states that he could not recall seeing a written request. District Director Ratliff never stated any admissions that the OFCCP never asked for written documents. His testimony clearly states that one of the OFCCP investigators working on the case could have issued a written request for further AAP documentation, but that he had not discussed this with them or personally seen a written request. Citation: • Ex E to Siniscalco Decl., Ratliff PMK Dep., 21:14-25:9; 45:9-47:1.
126. In a subsection entitled "Denial of Access," OFCCP's Federal Contract Compliance Manual states, "If a contractor denies access to its premises, records or other information necessary to conduct an onsite or offsite review, the CO must issue an SCN or proceed directly to an enforcement recommendation." **Alleged Supporting Evidence:** OFCCP Federal Contract Compliance Manual, § 8B02(a) ("Denial of Access").	**Undisputed.**

127. OFCCP never brought a right of access case against Oracle before filing the present enforcement action. **Alleged Supporting Evidence:** Holman-Harries Decl., ¶ 30.	**Undisputed.**
128. With the exception of allegations related to OFCCP's college recruiting hiring claim, OFCCP does not allege in the SAC that Oracle destroyed or failed to preserve required records. **Alleged Supporting Evidence:** SAC, ¶¶ 43-51.	**Undisputed.**
129. OFCCP and Oracle resolved OFCCP's college recruiting hiring claim, as well as all record-keeping allegations related to that claim, and it already has been dismissed with prejudice and is no longer part of this action. **Alleged Supporting Evidence:** April 30, 2019 Order Adopting Consent Findings Regarding College Recruiting Program Allegations.	**Undisputed.**

130. The requested compensation data for 2013 were, to the extent not produced earlier, produced in the hard-disk drive database produced on October 11, 2017. **Alleged Supporting Evidence:** Siniscalco Decl., ¶ 5.	**Disputed.** Oracle still, to date, has not provided the all of the data that would have been encompassed in the 2013 compensation snapshot that had been requested. 1) Citation: • OEx. 37, Email from Laura Bremer to Erin Connell re visa data, dated 10/11/17 • OEx. 39, Letter from John Giansello to Norman Garcia, dated 3/14/19 at 4-5; • Bremer Decl. ¶ 42.
131. OFCCP admits that the compensation data referenced in SAC ¶ 44(a) were produced in this litigation. **Alleged Supporting Evidence:** Siniscalco Decl., ¶ 3, Ex. B; Connell Decl., Ex. E (6/26/19 Ratliff PMK Dep., 77:6-15, Ex. 14).	**Disputed.** 1) Oracle still, to date, has not provided the all of the data that would have been encompassed in the 2013 compensation snapshot that had been requested. Citation: • OEx. 37, Email from Laura Bremer to Erin Connell re visa data, dated 10/11/17 • OEx. 39, Letter from John Giansello to Norman Garcia, dated 3/14/19 at 4-5; • OEx. 31, Holman-Harries 30b6 Dep. 74:8-76:24 (discussing visa data as part of compensation report, Exhibit 126) • Bremer Decl. ¶ 42.

132. To the extent relevant to OFCCP's remaining claim for compensation discrimination, Oracle has now produced in the litigation, in response to discovery requests from OFCCP, the data regarding job and salary history that OFCCP claims Oracle refused to produce during the audit. **Alleged Supporting Evidence:** Siniscalco Decl., ¶ 6.	**Undisputed.**
133. As it did during the audit, Oracle has continued in this litigation to assert the attorney client privilege and work product protection over certain of its pay equity analyses conducted by or at the direction of legal counsel. **Alleged Supporting Evidence:** Holman-Harries Decl., ¶ 15, Ex. M; Siniscalco Decl., ¶¶ 3, Ex. B (August 25, 2017 Siniscalco Decl., ¶¶ 7(e), 10-11, and Ex. A).	**Undisputed.**

134. Even though the Court already has held that Oracle's compliance with 41 C.F.R. § 60-2.17 is not at issue in this litigation, Oracle already has produced documents to demonstrate what it did to comply with 41 C.F.R. § 60-2.17 with respect to its compensation systems at HQCA from January 1, 2013 to January 18, 2019. **Alleged Supporting Evidence:** Siniscalco Decl., ¶ 6.	**Disputed.** 1) OFCCP disputes Oracle's Material Fact 134 because Oracle did not provide to OFCCP any pay equity analyses conducted pursuant to 41 C.F.R. § 60-2.17 during the compliance review. Citation: • OEx. 5, Holman-Harries May Dep. 279:17-281:4; • Holman-Harries Decl., ¶ 21, Ex. R, Email from Shauna Holman Harries to Hoan Long, dated October 29, 2015, ORACLE_HQCA_0000000695. 2) OFCCP also disputes that Oracle complied with 41 C.F.R. § 60-2.17. Citation: • OEx. 5 Holman Harries May Dep. 243:9-244:3, 249:11-18, 252:5-252:8, 255:2-269:6.
135. Oracle has produced in this litigation the same AAP documents it provided to OFCCP during the underlying HQCA audit. **Alleged Supporting Evidence:** Siniscalco Decl., ¶ 6.	**Disputed.** 1) OFCCP disputes Oracle's Material Fact 135 because Mr. Siniscalco's declaration does not support Fact 135 as stated—it supports only the fact that Oracle produced the same AAP documents from year 2014. Citation: • Siniscalco Decl., ¶ 6.

Date: November 1, 2019

Respectfully submitted,

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