Expert Witness Services Compensation Venture Group, SPC

Fred Whittlesey



Fred Whittlesey, Founder and Principal Consultant of Compensation Venture Group, SPC, has been providing expert witness and litigation support services for over 30 years. His globally-recognized expertise in executive compensation, incentive compensation, equity compensation, and employment agreements has provided valuable support in a variety of legal cases. The highly technical and complex nature of executive and equity compensation has created the need for coaching and educating legal counsel on technical points and helping identify key issues in cases.

He has issued opinions on the reasonableness of compensation, loss of earnings, federal and state tax challenges, change-in-control provisions (golden parachutes), interpretation of employment and compensation agreements, and opposing experts' methodologies. He has supported both defendants and plaintiffs, and clients have included corporate entities, classes, individual executives, and law firms.

- Fred's thought leadership in the field of compensation is evidenced by his delivery of more than 300 conference presentations, seminars, certification courses, webinars and podcasts.
- He has authored more than 50 journal and magazine articles, book chapters, white papers, and sponsored papers. He has been a paid blogger for PayScale.com, Salary.com, and Seeking Alpha.
- Fred has been interviewed and quoted more than 75 times by more than 25 different media sources including Associated Press, Business Week, Fortune, New York Times, Los Angeles Times, Orange County Register, Seattle Times, San Jose Mercury News, and San Francisco Chronicle. He has been retained to conduct research for investigative journalism for The Los Angeles Times and The Boston Globe.

About Compensation Venture Group

www.compensationventuregroup.com

Compensation Venture Group is a consulting firm specializing in compensation strategy, executive and director compensation, equity-based compensation, and incentive design with a focus on sectors driven by innovation. We provide expert witness and litigation support for civil litigation and regulatory matters.

We have proprietary models, tools and methodologies for peer group development, total compensation analysis, pay-for-performance analysis, equity plan design, equity grant allocation, wealth accumulation modeling, and compensation governance scoring.

Our global network of alliances and partnerships contributes to our information, analysis, advice, and implementation support to optimize the return on investment in compensation programs. Our past and current venture investments include Global Shares plc, PayScale.com, Salary.com, and Fledge LLC.

Our clients include Boards of Directors and executive teams of public and private companies, S corporations, LLCs, and foreign subsidiaries. The firm's ongoing consulting work with Boards and executives ensures indepth knowledge of current market practices and trends which is critical for litigation support and expert witness credibility.

Fred Whittlesey is the Principal Consultant of Compensation Venture Group, SPC (CVG), a Seattle-area consulting firm specializing in compensation strategy, executive compensation, incentive compensation, equity-based compensation, and employee pay. Mr. Whittlesey is recognized by many corporations, professional organizations, universities, media, and colleagues around the world as a compensation expert and thought leader. His ideas have been presented in numerous book chapters, journal articles, media interviews, conference and seminar presentations, and blog postings.

Mr. Whittlesey has authored dozens of articles published by professional associations and journals and by firms including KPMG, Buck Consultants, Salary.com, Aon Consulting/Radford Surveys, and Hay Group. He has authored blogs for PayScale.com, HR.com, and CompensationStandards.com. He currently writes for Seeking Alpha, Pay and Performance: The Compensation Blog, Effective Equity: The Equity Compensation Blog, and Conscious Compensation: The Impact Compensation Blog.

Mr. Whittlesey previously was the founder and Principal Consultant of Compensation and Performance Management, Inc. (CPM) in Newport Beach, CA. His compensation consulting experience also includes positions with Towers Perrin, Mercer, KPMG, Radford (Senior Vice President), Buck Consultants (Principal), and Hay Group (Senior Principal). His corporate experience includes roles as the Director of Global Compensation for Amazon.com and Broadcom Corporation, Chief Compensation Officer for PayScale.com, and Fellow at Salary.com.

Mr. Whittlesey has held positions with a variety of organizations dedicated to the support of professionals dealing with the design and operation of executive and employee compensation programs. He is co-founder and past Board of Directors member of the not-for-profit Global Equity Organization (GEO), co-founder and past Board of Directors member of not-for-profit Conscious Capitalism Seattle, past Advisory Board member of the National Association of Stock Plan Professionals (NASPP), and past Chair and member of the Advisory Board for the Certified Equity Professional (CEP) Institute at Santa Clara University.

Mr. Whittlesey is an Adjunct Professor at Seattle Pacific University teaching graduate-level courses in total rewards systems as well as serving as a Faculty Adviser for student special projects. He was a highly-rated faculty member and certification course developer for WorldatWork's "Accounting and Finance for HR Professionals" and basic and advanced "Executive Compensation" courses, and delivered instruction in classroom and online for more than ten years. He has presented his ideas at compensation conferences around the world, has presented scores of webcasts for professional associations and corporations, and was the host of "Keeping Up with Fred Whittlesey," a podcast sponsored by Global Equity Organization. He also has been a guest lecturer at The Anderson School at UCLA, Seattle University, Seattle Pacific University, Antioch University, and University of Southern California.

Mr. Whittlesey received his MBA with distinction from The Anderson School at UCLA and graduated Phi Beta Kappa and *Magna Cum Laude* from San Diego State University with a BA in industrial/ organizational psychology.

He earned the Certified Equity Professional (CEP) designation from Santa Clara University, and the Certified Executive Compensation Professional (CECP) and Certified Compensation Professional (CCP) designations from WorldatWork (formerly the American Compensation Association).

Professional Biography of Fred Whittlesey Compensation Venture Group, SPC

Litigation Experience

Mr. Whittlesey has served as an expert witness and consultant in numerous legal cases involving reasonableness, and interpretations and/or calculations relating to executive and equity compensation plans. He has been retained as an expert in the following cases (current cases in **bold**): JS CASI

Confidential Claimant vs. Confidential Respondents **American Arbitration Association** Retained by Gast Johnson & Muffly for Respondents (in progress)

Confidential Plaintiffs vs. Confidential Corporate Defendant (2018) Superior Court of the State of California, County of San Mateo Retained by Sanford Heisler Sharp, LLP for Plaintiffs as Consulting Expert (in progress)

Toedtman v. TurnPoint Medical Devices (2018) Superior Court of the State of Delaware Retained by Halloran Farkas + Kittila LLP for Plaintiff Opinion letter issued

Sobolik v. Northern Thunderbird Inc. (2017) Supreme Court of British Columbia Retained by Camp Fiorante Matthews Mogerman for Plaintiff Opinion Letter Issued Case settled

Confidential Individual Plaintiff v. Confidential Corporate Defendant (20 Private Arbitration (Orange County, California) Retained by Michelman & Robinson, LLP for Defendant Testified in arbitration hearing

Confidential Corporate Taxpayer v. Internal Revenue Service (2017) Response to Audit Retained by Snow Christensen & Martineau for axpayer (Opinion letter issued)

Confidential Individual Plaintiff v. US Citizenship and Immigration Services (2017)

Retained by Law Offices of Shawn Sedaghat for Plaintiff Opinion letter issued re: L1-A Visa status

Confidential Individual Plaintiff v. US Citizenship and Immigration Services (2017) Retained by Law Offices of Shawn Sedaghat for **Plaintiff**Opinion letter issued re. L1-A Visa status

Wall v. Hewlett-Packard Company (2017) Superior Court of the State of California for the County of Orange

Retained by Franklin D. Azar & Associates, P.C. for Plaintiff (class action suit) (in progress)

Chen and Manindra v. Fleetcor Technologies, Inc. (2016) United States District Court, Northern District of California Retained by Sebastian Miller Law, P.C. for Plaintiff Opinion letter issued

Confidential Individual Plaintiff v. Confidential Corporate Defendant (2016) Private Arbitration (Connecticut) Retained by Lax & Neville LLP for Plaintiff Case settled, no report issued

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Professional Biography of Fred Whittlesey Compensation Venture Group, SPC

Litigation Experience (continued)

Mr. Whittlesey has served as an expert witness and consultant in numerous legal cases involving reasonableness, and interpretations and/or calculations relating to executive and equity compensation plans. He has been retained as an expert in the following cases:

Confidential Individual Plaintiff v. Confidential Corporate Defendant (2016) Private Mediation (North Carolina)
Retained by Marcellino & Tyson PLLC for **Plaintiff**Report issued, testified in mediation

Confidential Plaintiff v. United States (2016) United States District Court, District of Idaho Retained by U.S. Department of Justice Tax Division as **Defendant** Case settled, no report issued

Price v. Price (2016)
Superior Court of Washington for King County
Retained by McNaul Ebel Nawrot & Helgren PLLC for **Plaintiff**Report issued, deposition given, testimony given

Confidential Plaintiff v. Confidential Defendant (2014) Alternative Dispute Resolution, Seattle, WA Retained by McNaul Ebel Nawrot & Helgren PLLC for **Plaintiff** Report issued, deposition given, testimony given

Kern v. Income Research & Management, et al (2014)
Suffolk Superior Court, Commonwealth of Massachusetts
Retained by Sheppard Mullin Richter & Hampton LLP for **Defendants**Courtroom testimony given (jury trial)

Confidential Plaintiff v. Confidential Defendant (2013) JAMS Arbitration, Santa Monica, CA Retained by Liner Grode Stein Yankelevitz et al. for **Plaintiff** Case settled, no report issued

North v. Fluke (2013)
King County Superior Court, State of Washington
Retained by Davis Wright Tremaine LLP for Countersuit Plaintiff
Report issued, case settled

Pomilia, et al v. Chapman, et al (2012) Superior Court of California, County of San Mateo Retained by Barg Coffin Lewis & Trapp for **Defendants** Designated, case settled, no report issued

Maese v. Paulk, et a. (2012) Eighth Judicial District Court, Clark County, Nevada Retained by Jolley Urga Wirth Woodbury & Standish for **Plaintiff** Report issued, Rebuttal issued, courtroom testimony given

McGraw v. McGraw, et al (2011) Superior Court of California, County of San Mateo Retained by Morrison & Foerster for **Defendant** Designated, case settled, no report issued

Marriage of Piccinini (2011)
Superior Court of California, County of Monterey
Retained by Goss & Goss for Respondent
Report issued, courtroom testimony given

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Professional Biography of Fred Whittlesey Compensation Venture Group, SPC

Litigation Experience (continued)

Mr. Whittlesey has served as an expert witness and consultant in numerous legal cases involving reasonableness, and interpretations and/or calculations relating to executive and equity compensation plans. He has been retained as an expert in the following cases:

Broadcom Corporation Derivative Litigation (2010) United States District Court, Central District of California Fact witness Video testimony given

Johnson, et al v. Couturier, Jr., et al (2009) Stanton v. Couturier, Jr. United States District Court - Eastern District of California Retained by Morgan, Lewis & Bockius for Defendant No report issued

Gonzalez v. Mayhall, Custom Control Concepts (2009) Superior Court for the State of Washington in and for the County of King Retained by Dorsey & Whitney for **Defendant** Expert report submitted, no deposition or testimony

Westmoreland Coal Company v. Christopher K. Seglem (2008) District Court, El Paso County, State of Colorado Retained by Davis Graham & Stubbs LLP for Plaintiff Expert report and rebuttals submitted, no deposition or testimony

Wallace R. Barr v. Harrah's Entertainment, Inc. (2007) United States District Court - District of New Jersey Retained by Blank Rome LLP for Plaintiff (class action suit) Expert report submitted, no deposition or testimony

PJC Technologies, Inc. v. Peter J. Casson (2006) United States District Court - Central District of California Retained by Waldron & Olson for Defendant No report issued

Miguel Jara Sr. v. Suprema Meats, Inc., et al (2006) Superior Court of the State of California, County of Alameda Retained by Law Offices of Steven J. Hassing for **Defendant** Expert report submitted, no deposition or testimony

Robert Cockrell v. Ambry Genetics, Inc. (2005) Orange County Superior Court Retained by Waldron & Olson for Defendant Deposition given

Hyland v. Hughes Aircraft Company/General Motors (2000-2002) Retained by Kirkland & Ellis for Defendant Exhibits prepared, called for testimony, case settled Consultant to legal team

A formal CV is presented on pages 7-11 of this document.

Professional Biography of Fred Whittlesey Compensation Venture Group, SPC

Professional Fees

CVG's consulting and expert witness services are billed on an hourly basis. We charge for all time spent on an assignment including project planning, telephone conversations, document and data review, research and analysis, meeting preparation, and project meetings. We do <u>not</u> charge for time spent traveling to and from client meetings but we do charge for all time spent in law offices or courthouse buildings including, but not limited to, meetings, depositions, testimony, conferences, and wait time.

Compensation Venture Group's fee structure is:

Work Level	Hourly Rate	Project/Case Activities
Principal Consultant	\$650	Client meetings and presentations, project design and management, technical direction, document and data review, senior-level interviews, report development, preparation for and time (including waiting time) in depositions and testimony
Senior Consultant	\$450	Complex analysis, interviews, data gathering and research
Associate Consultant	\$300	Basic data gathering, research, and analysis

Expenses

In addition to professional fees, we are reimbursed for actual out-of-pocket costs incurred as a direct result of an assignment. These typically include mileage for local travel (at the prevailing per mile rate established by the Internal Revenue Service), parking, telephone charges, postage, overnight mail and messenger costs, online research fees, and document production. Travel outside of the western Washington area will also incur airfare, hotel, ground transportation, meals, and related costs. This project will be managed out of our Seattle, Washington location and expenses will accrue from that location. Detailed expense charges are included in billing statements.

Initial Retainer

Our Firm requires an initial retainer to be applied against project fees and expenses. This retainer is equal to 30% of budgeted professional fees, and for litigation-related projects is subject to a minimum of \$10,000. The retainer must be received, accompanied by a signed Consulting Agreement, prior to commencement of the engagement. This is an "evergreen" retainer and must be replenished through the semi-monthly billing and payment process. The full retainer amount must be on account with CVG prior to any appearance of CVG staff at a deposition, trial, or arbitration hearing.

If total time and expense charges for work requested by for a case are less than \$10,000, a minimum of \$5,000 will be retained by CVG as a "designation fee" for the value received in retaining CVG's services and any disclosures that may have been made to the Court or the opposing parties. The balance of the retainer would be refundable less the amount of any time and expense charges.

Fred E. Whittlesey

Bainbridge Island, WA 98110 206-780-5547 office 206-388-9068 mobile

Professional Employment

July 2011- Present and September 2005 – March 2008 Compensation Venture Group, SPC Seattle, WA

September 2009 – June 2011 Hay Group San Francisco, CA

March 2008 – September 2009 Buck Consultants San Francisco, CA

September 2005 – March 2008 Compensation Venture Group, Inc. PayScale.com

May 2002 – September 2005 Aon Consulting/Radford Surveys WestWard Pay Strategies/Whittlesey Consulting Seattle, WA/San Jose, CA

August 2001 – May 2002 Amazon.com Seattle, WA

June 2000 – August 2001 Broadcom Corporation Irvine, CA

1991 –2000 Compensation & Performance Management Inc. Newport Beach, CA

1987 - 1991 KPMG Los Angeles, CA

1985 – 1987 Mercer, Inc. Los Angeles, CA

1984 – 1985 Towers Perrin Los Angeles, CA Principal Consultant – Lead portfolio of compensation-related advisory solutions including independent consulting practice, expert witness and litigation support, and advisory roles with affiliated firms GlobalShares plc and Fledge LLC.

Senior Principal – Built executive and equity compensation practice on West Coast supporting San Francisco and Orange County offices. Trained executive compensation consulting staff in Asia and US.

Principal, West Region Practice Leader – Led West regional practice; developed and delivered consultant training for national practice; recognized as leading developer thought leadership content for the firm.

Founded compensation advisory firm and served as Chief Compensation Officer of venture-funded compensation data startup.

Senior Vice President, Compensation Consulting – loined through acquisition of WestWard Pay Strategies and affiliated practice Whittlesey Consulting; led Northwest practice and served as lead technical resource nationally; supported eComp Data Services. Served clients nationwide.

Director, Global Compensation - Designed and managed cash, incentive, sales incentive, and stock-based programs for 8,000 employees in 7 countries.

Director, Compensation/HR Technology - Designed and managed cash and stock-based compensation and HR technology programs for 2,800 employees in 10 countries.

Founding Principal of consulting firm - Managed global client base with emphasis on executive compensation, stock-based compensation, and performance-based compensation strategy and design, employee surveys.

Senior Manager and Western Region Practice Leader -Led consulting practice - executive, incentive, and sales compensation, performance management, and surveys.

Consultant - Led consulting practices in executive and incentive compensation, human resources planning and development, employee surveys, organization analysis.

Associate Consultant - executive, incentive, and sales compensation, salary management, job evaluation.

Education

UCLA Anderson

Graduate School of Management

MBA, With Distinction, Beta Gamma Sigma Human Resources Management/Marketing

San Diego State University BA, Phi Beta Kappa, *Magna Cum Laude*

Major: Industrial/Organizational Psychology

Minor: Business Administration

Santa Clara University CEP Institute

Certified Equity Professional (CEP)

WorldatWork

(formerly American Compensation Association)

Certified Executive Compensation Professional (CECP

Certified Compensation Professional (CCP)

Professional Leadership Activities

Global Equity Organization

Co-Founder of global not-for-profit organization Board of Directors Member 1999-2001, 2011-2012

Chair-Elect 2000

Chief Financial Officer 1999-2001

Certified Equity Professional Institute

Santa Clara University

Advisory Board Chair, 2003-2004 Advisory Board Member 1999-2005

National Association of Stock Plan Professionals Founding Member

Advisory Board Member 1994-1996

Task Force Member – CompensationStandards.com

WorldatWork

(formerly American Compensation Association)

Member of Content Advisory Panel, Branding Strategy

Task Force, CCP course content contributor

Academic Instruction

Seattle Pacific University

School of Business, Government, and Economics

Adjunct Professor (current)
Total Reward Systems (MBA course)

WorldatWork

Certified Compensation Professional (CCP)

Program

Classroom instructor, virtual (webcast) instructor, course content developer 1996 - 2008

"Accounting and Finance for HR Professionals"

"Principles of Executive Compensation"

"Advanced Concepts in Executive Compensation"

UCLA Anderson Graduate School of Management Price Center for Entrepreneurial Studies

Management Development for Entrepreneurs

Lecturer, 1997 - 2001

"Compensation Planning for Entrepreneurs"

UCLA Anderson Graduate School of Management

MBA Program, Special Topic Course

 National University of Singapore Joint Degree Program Guest Lecturer, 1999 - 2009

"Remuneration Strategy as Competitive Advantage"

"Compensation as a Leadership Strategy"

UCLA Extension

 Certificate in Human Resources Management Program

Managing for the 21st Century Program

Course Developer and Instructor, 2014 "Financial Aspects of HR Management"

Course Developer and Instructor, 1997 – 1998

"Financial Aspects of HR Management"

"Performance Management"

Authored Publications

Say-on-Pay Driving Equity Plan Design: Horse or GEOnomics 2012 Camel? (book chapter) Global Equity Organization The Governance Up and Downs of Performance Plans **GEOnomics 2011** (book chapter) Global Equity Organization Performance Awards: History, Strategic Issues, Design Performance Awards (2010) (book chapters) Certified Equity Professional Institute Understanding Executive Pay Equity and Fairness: WorldatWork Journal Ratios and Rationality (with James Bowers) Third Quarter 2010 **GEOnomics 2010** How Much is "Market" Driving Global Equity Compensation Trends...and What Does "Market" Global Equity Organization Mean? (with Brit Wittman) Behavioral Economics and Equity Compensation **GEOnomics 2009** (book chapter) (with Navkiran Sahota) Global Equity Organization The Compensation Handbook (2008 edition) Measuring the ROI of Compensation Expenditures (book chapter) McGraw-Hill Corporate Governance Advisor The Corporate Governance Implications of Option Backdating The New Equity Compensation Roadmap: How Do We WorldatWork Journal Get There From Here...And Where is "There"? (with Matt Ward) Expensing Stock Options: I Still Don't See Any Elephants WorldatWork WorkSpan: Viewpoint (Editorial) Stock Option Expensing WorldatWork Point/Counterpoint Chat (Online chat transcript and WorkSpan article) Indexed Stock Options: A Solution to the Excessive Pay ACA News (American Compensation Association) Issue Changing Behavior in a Changing Workplace Compensation and Benefits Management Designing Shorter-Term Cash Incentive Programs Incentive Compensation in Employee Ownership (book chapter) Companies (National Center for Employee Ownership) Stock Option Issues in Going Public Employee Ownership Report (National Center for Employee Ownership) Employee Ownership in Initial Public Offerings The Stock Options Book (with Jill Zidaritz) (book chapter) (National Center for Employee Ownership) Stock-Based Compensation in the Biotech Industry San Diego Business Journal CEO Herb Kelleher Discusses Southwest Airlines' ACA Journal People Culture (interview) Lessons in Employee Ownership: The Airline Industry ACA Journal **Expanding the Phantom Stock Concept** Compensation and Benefits Review

Authored Publications (continued)

Human Resources Strategies for Exiting the Recession

(with Carol Maurer)

Journal of Compensation and Benefits

Ten Common Compensation Mistakes

(with Carol Maurer)

Compensation and Benefits Review

Managing Compensation to Improve Cash Flow

(with Carol Maurer)

Journal of Compensation and Benefits

CEOs: Do Shareholders Gain When You Do?

Savings Institutions

Stock Options: The Right Time to Exercise

(with Robert Goldstein)

California Business

Fixing the Executive Pay Problem

(with Vincent Taormina)

Los Angeles Times

Sunday Feature Editorial - Business Section

Authored Publications - Online (2006-2012 only)

The Pressured Mandate of the Comp Committee/Remco

(with David Creelman and Andrew Lambert)

Creelman Lambert Research

White Paper December 201

Measuring Executive Pay in 2010: The Equity

Compensation Challenge

Hay Group

Executive Edition

May 2010

Succession Planning, Executive Compensation, and

Good Corporate Governance (with Michael Jensen)

(With Michael Jensen)

Differentiating Equity: The Dilution Solution (with Navkiran Sahota)

Hay Group White Paper February 2010

Stock & Options Solutions

SOS Xtra (online newsletter)

May 2009

Compensation Innovations in an Economic Downturn

Buck Consultants InsightOut February 2009

Stop Before You Swap!

Revisiting Solutions to Underwater Equity (with Teresa Bayewitz and Chris Young)

Buck Consultants

InsightOut, November 2008

Measuring Executive Pay in the Pharmaceutical and

Biotechnology Sectors

Salary.com Insight, April 2008

The Return of Cash Long-Term Incentives

Salary.com

Insight, February 2008

The New Era of Equity Compensation Design:

Performance Plans

Salary.com

Insight, December 2007

Who are Your Peers? (The SEC Wants to Know)

Salary.com Insight, September 2007

The Great Overpaid CEO Debate

cNet News Perspective, June 2006

WorldatWork

(formerly American Compensation Assn.)

Value and Valuation: Making Sense of Long-Term Incentive

Data

The New ROI of Executive Pay

Quantifying HR: The Real Meaning of ROI

The New Survey Data Paradigm

Revisiting Ownership without Stock-Based Plans

Total Rewards Professionals in a Changing Environment

Changing Behavior in the Wealth Economy Expanding the Phantom Stock Concept What Motivates and Demotivates Employees

Opening Keynote Address, Annual Conference National Association of Stock Plan Professionals

Performance-Based Stock Plans: Concepts and Case

Studies

Designing Stock Plans: Getting it Right the First Time

Stock Plan Terminology and Concepts

What Really Happened to Equity Compensation in the **Global Equity Organization**

Recession

Behavioral Economics and Equity Compensation (keynote)

Corporate Governance in the US and UK

After the Fall: What Really Happened with Option

Expensing New Share Plan Metrics

What the Market Data Really Tells Us Upheaval in Global Stock Plan Design Extreme Employee Ownership: Case Study Equity-Based Compensation in the New Economy

National Center for Employee Ownership

Other Organizations

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Rethinking Stock Option Design Communicating Stock Option Plans

Designing and Implementing Broad-Based Stock Option

Plans

Gainsharing, Profit Sharing, and Short-Term Incentives

Employee Ownership and the Internet

Foundation for Enterprise Development - Workshop and

Annual Conference

ComputerShare - Strategic Advisory Council

E-Trade Business Solutions – Annual Conference

Solium Capital - Annual Conference

ComputerShare/Transcentive - Annual Conference