

NOT RETAINED FOR THIS CASE

Expert Witness Services

Compensation Venture Group, SPC

Fred Whittlesey



Fred Whittlesey, Principal Consultant of Compensation Venture Group, SPC, has been providing expert witness and litigation support services for over 25 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 audiocasts.
- 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 provided research for investigative journalism for *The Los Angeles Times* and *The Boston Globe*.
- Compensation Venture Group tracks executive and director compensation trends, say-on-pay voting outcomes, compensation litigation, and court rulings.

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 in-depth knowledge of current market practices and trends which is critical for litigation support and expert witness credibility.

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About Fred Whittlesey

fred@compensationventuregroup.com

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, major 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).

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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. Over the past fifteen years, he has been retained as an expert in the following cases (current cases in **bold**):

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
(in progress)

Confidential Individual Plaintiff v. Confidential Corporate Defendant (2016)
Private Arbitration (Connecticut)
Retained by Lax & Neville LLP for Plaintiff
(in progress)

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

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 al (2012)
Eighth Judicial District Court, Clark County, Nevada
Retained by Jolley Urga Wirth Woodbury & Standish for Plaintiff
Report issued, Rebuttal issued, courtroom testimony given

Continued...

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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. Over the past fifteen years, he has been retained as an expert in the following cases:

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

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
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. Amby 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 6-10 of this document.

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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 not 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:

<u>Work Level</u>	<u>Hourly Rate</u>	<u>Project/Case Activities</u>
Principal Consultant	\$525	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	\$375	Complex analysis, interviews, data gathering and research
Associate Consultant	\$225	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.

NOT RETAINED FOR THIS CASE Fred E. Whittlesey

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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

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.

September 2009 – June 2011
Hay Group
San Francisco, CA

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.

March 2008 – September 2009
Buck Consultants
San Francisco, CA

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.

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

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

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

Senior Vice President, Compensation Consulting – Joined 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.

August 2001 – May 2002
Amazon.com
Seattle, WA

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

June 2000 – August 2001
Broadcom Corporation
Irvine, CA

Director, Compensation/HR Technology - Designed and managed cash and stock-based compensation and HR technology programs for 2,800 employees in 10 countries; developed global option exchange-tender offer program including intranet modeling tools.

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

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.

1987 – 1991
KPMG
Los Angeles, CA

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

1985 – 1987
Mercer, Inc.
Los Angeles, CA

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

1984 – 1985
Towers Perrin
Los Angeles, CA

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

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, <i>Magna Cum Laude</i> 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	Adjunct Professor (current) Total Reward Systems (MBA course)
WorldatWork <ul style="list-style-type: none">▪ 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 <ul style="list-style-type: none">▪ Management Development for Entrepreneurs	Lecturer, 1997 - 2001 “Compensation Planning for Entrepreneurs”
UCLA Anderson Graduate School of Management <ul style="list-style-type: none">▪ 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 <ul style="list-style-type: none">▪ 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 Camel? (book chapter)	<i>GEconomics 2012</i> Global Equity Organization
The Governance Up and Downs of Performance Plans (book chapter)	<i>GEconomics 2011</i> Global Equity Organization
Performance Awards: History, Strategic Issues, Design (book chapters)	<i>Performance Awards (2010)</i> Certified Equity Professional Institute
Understanding Executive Pay Equity and Fairness: Ratios and Rationality (with James Bowers)	<i>WorldatWork Journal</i> Third Quarter 2010
How Much is "Market" Driving Global Equity Compensation Trends...and What Does "Market" Mean? (with Brit Wittman)	<i>GEconomics 2010</i> Global Equity Organization
Behavioral Economics and Equity Compensation (book chapter) (with Navkiran Sahota)	<i>GEconomics 2009</i> Global Equity Organization
Measuring the ROI of Compensation Expenditures (book chapter)	<i>The Compensation Handbook (2008 edition)</i> McGraw-Hill
The Corporate Governance Implications of Option Backdating	<i>Corporate Governance Advisor</i>
The New Equity Compensation Roadmap: How Do We Get There From Here...And Where is "There"? (with Matt Ward)	<i>WorldatWork Journal</i>
Expensing Stock Options: I Still Don't See Any Elephants (Editorial)	<i>WorldatWork WorkSpan: Viewpoint</i>
Stock Option Expensing (Online chat transcript and WorkSpan article)	<i>WorldatWork Point/Counterpoint Chat</i>
Indexed Stock Options: A Solution to the Excessive Pay Issue	<i>ACA News (American Compensation Association)</i>
Changing Behavior in a Changing Workplace	<i>Compensation and Benefits Management</i>
Designing Shorter-Term Cash Incentive Programs (book chapter)	<i>Incentive Compensation in Employee Ownership Companies</i> (National Center for Employee Ownership)
The Future of Human Resources Management	<i>ACA Journal (American Compensation Association)</i>
Stock Option Issues in Going Public	<i>Employee Ownership Report</i> (National Center for Employee Ownership)
Employee Ownership in Initial Public Offerings (with Jill Zidaritz) (book chapter)	<i>The Stock Options Book</i> (National Center for Employee Ownership)
Stock-Based Compensation in the Biotech Industry	<i>San Diego Business Journal</i>
CEO Herb Kelleher Discusses Southwest Airlines' People Culture (interview)	<i>ACA Journal</i>
Lessons in Employee Ownership: The Airline Industry	<i>ACA Journal</i>
Expanding the Phantom Stock Concept	<i>Compensation and Benefits Review</i>

Authored Publications (continued)

Human Resources Strategies for Exiting the Recession (with Carol Maurer)	<i>Journal of Compensation and Benefits</i>
Ten Common Compensation Mistakes (with Carol Maurer)	<i>Compensation and Benefits Review</i>
Managing Compensation to Improve Cash Flow (with Carol Maurer)	<i>Journal of Compensation and Benefits</i>
CEOs: Do Shareholders Gain When You Do?	<i>Savings Institutions</i>
Stock Options: The Right Time to Exercise (with Robert Goldstein)	<i>California Business</i>
Fixing the Executive Pay Problem (with Vincent Taormina)	<i>Los Angeles Times</i> 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 2011
Measuring Executive Pay in 2010: The Equity Compensation Challenge	Hay Group <i>Executive Edition</i> May 2010
Succession Planning, Executive Compensation, and Good Corporate Governance (with Michael Jensen)	Hay Group White Paper February 2010
Differentiating Equity: The Dilution Solution (with Navkiran Sahota)	Stock & Options Solutions SOS Xtra (online newsletter) May 2009
Compensation Innovations in an Economic Downturn	Buck Consultants <i>InsightOut</i> February 2009
Stop Before You Swap!: Revisiting Solutions to Underwater Equity (with Teresa Bayewitz and Chris Young)	Buck Consultants <i>InsightOut</i> , November 2008
Convergence Towards IFRS Will Require Comprehensive Review of Executive and Equity Compensation Programs (with Andrew Mandel)	Buck Consultants <i>InsightOut</i> , September 2008
Measuring Executive Pay in the Pharmaceutical and Biotechnology Sectors	Salary.com <i>Insight</i> , April 2008
The Return of Cash Long-Term Incentives	Salary.com <i>Insight</i> , February 2008
The New Era of Equity Compensation Design: Performance Plans	Salary.com <i>Insight</i> , December 2007
Who are Your Peers? (The SEC Wants to Know)	Salary.com <i>Insight</i> , September 2007

Presentations at Annual Conferences (partial list)

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

National Association of Stock Plan Professionals

Opening Keynote Address, Annual Conference
Performance-Based Stock Plans: Concepts and Case Studies
Designing Stock Plans: Getting it Right the First Time
Stock Plan Terminology and Concepts

Global Equity Organization

What Really Happened to Equity Compensation in the 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

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

Other Organizations

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