

**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

OFCCP No. R00192699

**DEFENDANT ORACLE  
AMERICA, INC.'S MOTION IN  
LIMINE NO. 11 TO EXCLUDE  
EVIDENCE RELATED TO THE  
RESOLVED HIRING CLAIM**

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San Francisco, Ca*

**ORACLE'S MOTION IN LIMINE NO. 11 TO EXCLUDE EVIDENCE REGARDING RESOLVED HIRING  
CLAIM**

CASE NO. 2017-OFC-00006

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## I. INTRODUCTION

Oracle America, Inc. (“Oracle”) hereby moves for an order *in limine* excluding evidence related to the resolved hiring claim. Specifically, Oracle moves for an order excluding evidence that Oracle discriminated against university and college applicants based on race by under-hiring non-Asians for the PT1 job group. Second Amended Complaint (“SAC”) ¶¶ 33-40, 44(b), 44(e), 46, 48; Order Adopting Consent Findings, April 30, 2019, p. 2.

The parties resolved this claim through Consent Findings approved by the Court. The remaining claims allege compensation discrimination against women, African-Americans, and Asians in its Product Development (“PD”), Information Technology (“IT”), and Support job functions. OFCCP’s remaining discrimination claims are therefore distinct and do not share a nexus with the resolved hiring claim. For these reasons, evidence pertaining to the resolved hiring claim is irrelevant and, alternatively, its minimal probative value is substantially outweighed by the danger of causing confusion, wasting time, and misleading the Court.

## II. ARGUMENT

### A. Evidence Relating to OFCCP’s Resolved College Hiring Claim Is Irrelevant

Relevant evidence is that “having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” *Powers v. Union Pac. RR. Co.*, 2015 WL 1959425, at \*16 (ARB Mar. 20, 2015) (quoting 29 C.F.R. § 18.401). This Court is empowered to exclude irrelevant evidence pursuant to 41 C.F.R. § 60-30.15.

Evidence related to the resolved hiring claim is irrelevant to the disputed issues in this case. 29 C.F.R. § 18.402. First, the resolved hiring claim focuses on people that Oracle did not hire, while the existing compensation claim focuses on people Oracle hired. Proof that Oracle did not hire someone is not proof that Oracle discriminated *in compensating* those it did hire. *See, e.g., Simonetti v. Runyon*, 2000 WL 1133066, at \*6 (D.N.J. Aug. 7, 2000) (citing cases) (“[P]ursuant to Federal Rules of Evidence 401 and 403, plaintiff may not use evidence of one type of discrimination to prove discrimination of another type.”); *Robbins v. Camden City Bd. of*

*Educ.*, 105 F.R.D. 49, 62 (D.N.J. 1985) (in individual plaintiff's suit, evidence relating to discriminatory actions other than that alleged by plaintiff not relevant).

Second, OFCCP's compensation discrimination claims and the resolved college hiring claim involve different groups. OFCCP's hiring claim was not isolated to the job groups at issue in OFCCP's discrimination claims. *Compare* SAC ¶ 12 (PT1 job group) *with* SAC ¶ 36 (PD, IT, and Support job functions). Therefore, evidence relating to the resolved hiring claim, if admitted, would pertain to a group of people not at issue in OFCCP's remaining discrimination claims. In short, it would have no bearing on the remaining issues in this case.

For these reasons, evidence relating to the resolved hiring claim is irrelevant to OFCCP's surviving claims for compensation discrimination and is thus inadmissible. 29 C.F.R. § 18.401, 18.402; *see also Slaughter-Payne v. Shinseki*, 2011 WL 13141500, at \*1 (D. Ariz. June 9, 2011), *aff'd*, 522 F. App'x 409 (9th Cir. 2013) (excluding evidence relating to a previously dismissed claim when it had no logical bearing on the claim to be tried).

**B. Even If Such Evidence Has Some Probative Value, the Court Must Exclude It Because It Risks Confusing the Issues, Misleading the Court, and Wasting Time**

Even assuming evidence relating to OFCCP's resolved hiring claim is somehow relevant, it is nonetheless inadmissible because any minor probative value it might have is outweighed by the danger that it will confuse the issues, waste a significant amount of time, and mislead the Court. 29 C.F.R. § 18.403. First, there is no evidence, much less a finding, that Oracle's hiring practices with respect to college students were discriminatory. Consent Findings ¶ 14. Allowing OFCCP to offer evidence relating to OFCCP's resolved hiring claim would thus create a mini-trial on a collateral issue that has no bearing on the claims before the Court. The minimal probative value of this evidence does not justify the Court and the parties spending valuable time on such detours. *See, e.g., Duran v. City of Maywood*, 221 F.3d 1127, 1133 (9th Cir. 2000) (affirming exclusion of evidence that would have required "full-blown trial within this trial");

Reporter's Note to 29 C.F.R. § 18.403. Admitting evidence relating to the now-resolved college hiring claim also poses a substantial threat of confusing the complex issues before this Court and

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that might come before any reviewing court, given that the claims relate to separate job categories, separate categories of people, and separate alleged conduct. *Diederich v. Providence Health & Servs.*, 742 F. App'x 177, 179-80 (9th Cir. 2018) (evidence excluded where it would result in “mini-trials” and confusion about what legal theories are at issue); Reporter’s Note to 29 C.F.R. § 18.403. Finally, the time involved in addressing these issues at the hearing risks misleading the Court and any reviewing court “into believing the issue to be of major importance and accordingly into attaching too much significance to it in its determination of the factual issues involved.” Reporter’s Note to 29 C.F.R. § 18.403. These risks substantially outweigh any slight probative value this evidence might have. 29 C.F.R. § 18.403.

### **III. CONCLUSION**

For the foregoing reasons, Oracle respectfully requests that the Court exclude evidence related to the resolved hiring claim because it is irrelevant or, alternatively, because its negligible probative value is substantially outweighed by the risk of wasting time, confusing the issues, and misleading the Court.

November 15, 2019

Respectfully submitted,

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