







## ABOUT WELCH CONSULTING

At Welch Consulting we combine our analytical expertise and a deep understanding of company data and business practices to provide comprehensive and reliable answers to your questions. We do the hard work to deliver clear results that meet the highest possible standards for accuracy in a timely fashion. This was true in 1976 when we first offered litigation services, and it remains the hallmark of our services today.

We understand that different engagements require different services. At Welch Consulting we adapt our resources to meet your particular needs, without compromising the quality and accuracy of our analysis. Whether you require a company-wide, top-to-bottom assessment of multiple issues or a timely response to a single allegation, we can tailor an approach to fit your needs. We are currently providing our clients with many services, including:

- Expert reporting and testimony
- Consulting analyses related to litigation
- Replication and critique of opposing expert's opinions
- Assessment of class certification issues
- Company audits of employment practices outside of litigation
- Assistance with EEOC and OFCCP investigations
- Trial preparation
- Analyses pursuant to consent decrees

Our unique approach allows for clear answers to complicated questions. We provide fact finders with the informative analyses they can rely upon, and companies with the expert insight they can act on. The following pages highlight our experience with:

- Compensation
- Hiring
- Promotion
- Termination

In addition, we provide expert assistance on the following topics:

- Initial Job Assignment & Career Path
- Training Opportunities & Testing
- Performance Evaluations & Discipline
- Scheduling
- Level of Responsibility
- Sales Account Assignments
- Background Checks

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TAX CODE	
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## COMPENSATION

Allegations of pay discrimination are typically assessed using statistical methodologies that compare pay levels for employees who perform like tasks and are similarly qualified. Our statistical analyses go beyond this by:

- Modeling actual pay and pay change decisions
- Controlling for differences in qualifications and experience
- Incorporating features of the institutional framework that influence pay decisions
- Digging beneath simple comparisons of average pay, by researching individual employee circumstances, and finding statistically influential and outlier employees
- Investigating claims of a common class-wide pattern of pay discrimination by developing statistical evidence within separate decision making units of the employer
- Comparing the pay decisions affecting the named plaintiffs to those of the larger class to assess representativeness

## CASE STUDY

As an example, consider a case where a pay differential, estimated across all members of an alleged class of employees, masked considerable variation between employees in different jobs.

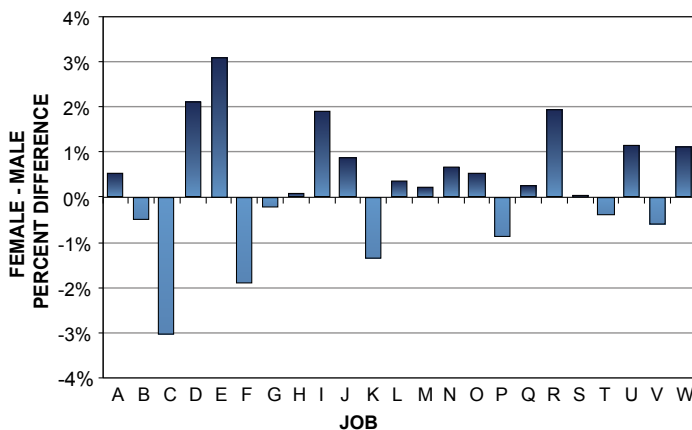


An opposing expert estimated a pay regression for hourly employees working at a service providing company and identified an aggregate pay differential to the detriment of women. Among other problems with the regression, this estimated pay difference is at best an average measure. It cannot inform whether common patterns in outcomes are present throughout the proposed class.

We looked beneath the aggregate result and found considerable variation between jobs in the estimated pay differentials between women and men. The pay differentials among employees in the same job varied in size, from very close to zero to differences of approximately 3% in either direction. Of the twenty-three positions analyzed, just eight showed differentials to the disadvantage of women. In the remaining positions women were actually advantaged relative to men.

The absence of a uniform pattern – illustrated by the size and direction of the estimated differentials varying between jobs – was confirmed through a statistical test that rejected the equality of these differentials across jobs. This demonstration of variability undermined the notion of a common class of employees.

GENDER DIFFERENCES IN PAY BY JOB



# HIRING

Hiring discrimination claims are usually evaluated through examination of applicant records or, if deterrence claims are made, through external measures of labor market availability. We work to:

- Understand the hiring process from beginning to end – from initial expressions of interest through post-offer background checks
- Develop a more accurate model of the selection process that incorporates qualifications and interest in the position(s) offered
- Carefully consider whether matched external demographic benchmarks are sufficiently representative of the company’s personnel
- Determine if there is statistical evidence of a common pattern across departments and jobs, and whether the claims of the named plaintiffs are typical of all applicants



## CASE STUDY

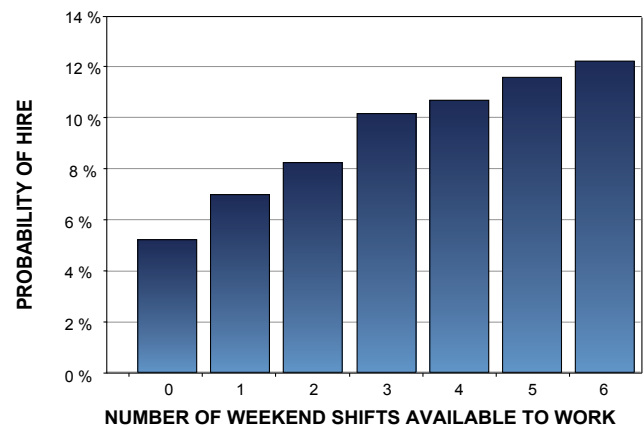
**In this example, an accurate model of the hiring process showed African Americans were favored in hiring, despite the opposing expert’s claims to the contrary.**



The opposing expert failed to account for weekend availability, and other key considerations, in modeling the hiring processes at a national big-box retailer. He claimed the defendant hired fewer African American applicants than expected.

Through communications with the client and careful investigation of the data, we learned that an applicant’s availability to work weekend shifts was a key consideration in deciding whom to hire. Those available to work all of the weekend shifts were more than twice as likely to be hired as applicants who were unwilling to work any weekend shifts. Our analysis correctly incorporated this aspect of the hiring process and our results showed that the number of African American hires was actually higher than would have been predicted by a race-neutral model.

**HIRING INTO ENTRY LEVEL POSITIONS**



# PROMOTION

Analyzing promotion claims requires an understanding of what constitutes a promotion and which employees are candidates for promotion. Our analyses accomplish this by:

- Developing an in-depth understanding of how promotions occur in the company
- Incorporating available information on employees' expressions of interest in promotion
- Identifying which positions are feeders for promotions and which are not when data on applications for promotion are not available
- Using models that incorporate factors that affect the likelihood of promotion among those eligible, such as experience and performance
- Considering whether the available data accurately reflects the processes and people being studied or if an alternative needs to be developed

## CASE STUDY

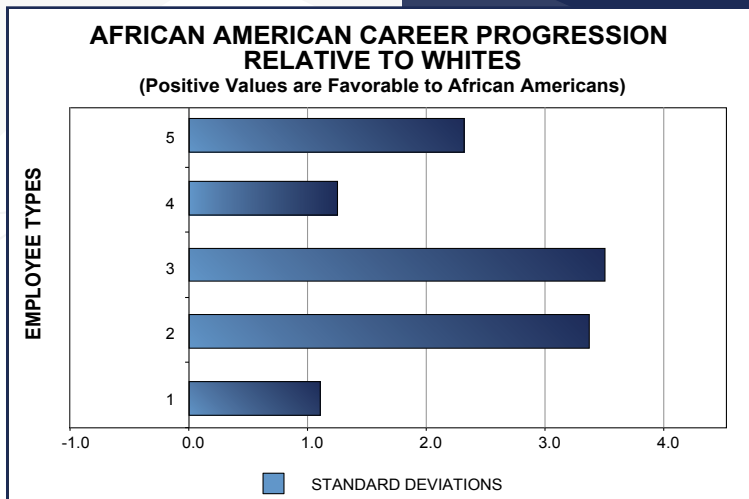
In a recent case, we showed that the opposing expert's analysis relied upon a flawed promotion measure and was unreliable; the promotional process, properly modeled, actually showed African American career growth at rates equal to or greater than that of whites.



In a multi-state class action suit against a manufacturer of capital equipment, the opposing expert found a statistically significant difference in the promotion rates of African American and white employees.

The expert relied on an indicator in the HR database to define promotions. Our initial analyses revealed that this indicator was not reliable since it did not always indicate when employees changed titles, moved up grades and received raises. Through discussions with counsel and company representatives, we learned that the promotion indicator was added later – it was not a contemporaneous designation of a promotion.

Our analysis showed career progression in salary was a better measure of advancement in the company. When analyzed in this way, African Americans progressed as fast, or faster, than whites, in all job groups.



# TERMINATION

Termination claims center on whether there are differential rates of termination to the detriment of employees in protected groups. Our analyses go beyond simply comparing rates of termination by:

- Incorporating the actual layoff process into our statistical model
- Assuring that analyses of employees subject to layoff include only similarly situated employees
- Developing and validating alternative measures of productivity that can be used to explain terminations
- Isolating the sources of differential rates of termination and determining whether a common pattern occurs across all employees, business units or geographic locations

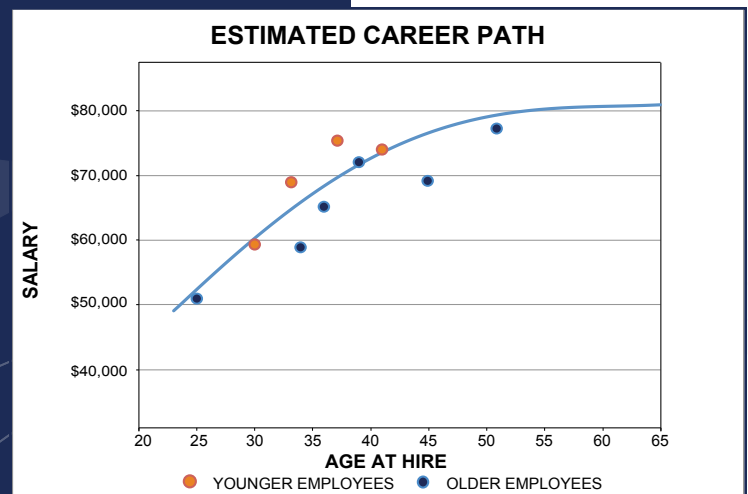
A high-tech firm was forced to lay off large numbers of recently hired workers when the technology bubble burst in the late 1990s. Some laid-off workers sued, alleging their age was the deciding factor for their layoff. Simple analyses, without any explanatory measures, showed older workers were more likely than younger workers to be laid-off. We learned that these apparent differentials were explained through lower ratings and smaller merit pay increases; on average, less effective workers were laid-off, regardless of their age. Concerned that these factors might be viewed as “tainted,” we were asked whether the pattern of layoffs could be explained otherwise.

We used external data showing compensation at different ages to develop a typical career track for each position affected by the layoff. We then compared each employee’s pay at their prior company (not our client) to this typical career track. Employees who were doing well in their previous jobs, given their age, were on or above the career track line. Employees who were doing poorly were off track, below the line, and were more likely to be laid-off. Older workers who had been recently hired were more likely to be among this lower achieving group, explaining the apparent differential.



## CASE STUDY

In this example we explain apparent differentials between older and younger workers in the likelihood of being laid-off through an examination of whether workers lagged behind their estimated career track.





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