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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

KHALIL NOURI, *et al.*,

Plaintiffs,

v.

THE BOEING COMPANY,

Defendant.

No. C99-1227L

ORDER GRANTING IN PART AND  
DENYING IN PART DEFENDANT'S  
MOTION FOR PARTIAL SUMMARY  
JUDGMENT ON STATUTE OF  
LIMITATIONS

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This matter comes before the Court on "Defendant's Motion for Partial Summary Judgment on Statute of Limitations." Defendant argues that plaintiffs' disparate impact claims should be dismissed for failure to exhaust their administrative remedies, that plaintiffs' claims of intentional racial discrimination occurring prior to March 4, 1999, are barred by the statute of limitations, and that plaintiffs' claims of class-wide discrimination occurring prior to March 4, 1999, are also barred by the statute of limitations.<sup>1</sup>

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All three issues are governed by the same legal principles. A Title VII plaintiff is required to file a charge of discrimination with the Equal Employment Opportunity Commission ("EEOC") before he or she is permitted to seek judicial relief. Ong v. Cleland, 642 F.2d 316, 318 (9<sup>th</sup> Cir. 1981). The scope of the Title VII action is limited to the claims asserted in the EEOC charge. Nevertheless, the remedial nature of Title VII and the fact that lay persons often

<sup>1</sup> Although the Court has denied plaintiffs' motion for class certification, there is room to argue that another class, differently defined, may be appropriate in this litigation. The Court has therefore considered the applicability of the statute of limitations to the class claims.

ORDER REGARDING DEFENDANT'S  
MOTION FOR PARTIAL SUMMARY JUDGMENT

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1 initiate an EEOC complaint requires that the Court construe the EEOC charges liberally when  
2 determining whether the administrative remedies have been exhausted as to a particular  
3 complaint. Fielder v. UAL Corp., 218 F.3d 973, 989 (9<sup>th</sup> Cir. 2000), petition for cert. filed,  
4 March 7, 2001. The Ninth Circuit has approved the exercise of jurisdiction over the specific  
5 claims asserted in the EEOC charge and any charges of discrimination that "are like or  
6 reasonably related to the allegations contained in the EEOC charge." Green v. Los Angeles  
7 County Superintendent of Schools, 883 F.2d 1472, 1475-76 (9<sup>th</sup> Cir. 1989) (citations omitted). A  
8 particular claim is "reasonably related" to the EEOC charge if the EEOC investigation  
9 encompassed or would reasonably be expected to encompass the additional charge. See, e.g.,  
10 Fielder, 218 F.3d at 989; Deppe v. United Airlines, 217 F.3d 1262, 1267 (9<sup>th</sup> Cir. 2000).

11           Having considered the pleadings, declarations, and exhibits submitted by the  
12 parties, the Court finds as follows:

13           (1) None of the EEOC charges filed by the named plaintiffs includes a claim of disparate  
14 impact or a recitation of facts which could reasonably be expected to have led to an investigation  
15 of defendant's policies or practices. Defendant's reliance on its policies or practices as a defense  
16 to the claim of disparate treatment does not suggest that those policies and practices are defective  
17 or raise an expectation that the EEOC would initiate an investigation into their overall effect on  
18 the workforce. To the extent plaintiffs mentioned Boeing's policies and practices, it appears that  
19 they were complaining that the appropriate policies/practices were not followed in their cases,  
20 resulting in harm to plaintiffs. See Plaintiffs' Opposition, Ex. 2 at 7; Ex. 8 at 2. Such references  
21 in no way constitute or suggest a challenge to the policies and practices themselves.

22           (2) The charges filed by plaintiffs Nouri and Golchin with the EEOC could reasonably be  
23 expected to lead to an investigation of plaintiffs' racial discrimination claim. In the context of  
24 this case, and as acknowledged by defendant, race is "a factor sometimes related to national  
25 origin." See Plaintiff's Opposition, Ex. 13 at 3. Both Nouri and Golchin alleged discrimination  
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1 against themselves and a number of other racial minorities. See Plaintiff's Opposition, Ex. 2 at  
2 8; Ex. 9A; Ex. 10 at 3-4. An investigation of Nouri's claims of intentional discrimination on the  
3 basis of national origin, in conjunction with his assertion that the same organizational units and  
4 managers had "other racial discrimination issues with minorities," could reasonably be expected  
5 to give rise to an investigation regarding intentional racial discrimination at Boeing. Thus,  
6 Nouri's claim of intentional racial discrimination may include events occurring after March 18,  
7 1998.<sup>2</sup> In the absence of a certified class, the other named plaintiffs may litigate racial  
8 discrimination claims arising no more than 300 days before they filed their individual EEOC  
9 charges.


10 (3) The Nouri and Golchin charges filed with the EEOC do not include claims of class  
11 discrimination and would not reasonably be expected to give rise to an investigation of such  
12 claims. Prior to the time when Rizvi and Taing filed their charges, the EEOC and defendant  
13 would have had no reason to suspect that the individual claimants were representative of a class.  
14 Nouri, in fact, expressly disavows that anyone else was subjected to the type of treatment he  
15 suffered. See Plaintiffs' Opposition, Ex. 2 at 5. Golchin likewise complains about intentional  
16 discrimination on the part of two particular managers, circumstances from which the EEOC  
17 would have no reason to assume that there were more than a few affected individuals. If a class  
18 is eventually certified in this case, its claims will be limited to events occurring after March 4,  
19 1999.

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21 <sup>2</sup> The date on which Nouri filed his charge with the EEOC is not clear from the record.  
22 Defendant argues that the charge was filed on December 28, 1998 (see Defendant's Memorandum at 2),  
23 while plaintiffs initially asserted that it was filed on December 14, 1998 (see Plaintiffs' Opposition at 1).  
24 The charge itself was not dated by Nouri, but has a partially legible "received by" stamp which appears  
25 to reflect that the EEOC received the charge on December 14, 1998. The Intake Questionnaire  
26 submitted by Nouri was apparently received by the EEOC on December 9, 1998. Because both  
plaintiffs and defendant at some point rely on the December 28, 1998, date (see Defendant's  
Memorandum at 2 and Plaintiffs' Opposition at 19), the Court has calculated the limitations period from  
that point.

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2 For all of the foregoing reasons, defendant's motion for partial summary judgment  
3 is GRANTED in part and DENIED in part. Plaintiffs' disparate impact claims are dismissed for  
4 failure to exhaust administrative remedies. Plaintiffs may, however, seek recovery for  
5 intentional racial discrimination occurring no more than 300 days prior to the filing of their  
6 individual EEOC charges, and may, if certified, proceed with class-related claims arising after  
7 March 4, 1999.

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9 DATED this 24<sup>th</sup> day of May 2001.

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12 Robert S. Lasnik  
13 United States District Judge  
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