

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

PERRY APSLEY, et al.,)
)
Plaintiffs,)
)
v.)
)
THE BOEING COMPANY and SPIRIT)
AEROSYSTEMS,)
)
Defendants.)
 _____)

Case No. 05-1368-EFM

MEMORANDUM AND ORDER

This matter is before the court on the joint motion of plaintiffs, Olivia J. Housley and Debra L. Smith, and defendants to sever the two plaintiffs’ remaining individual claims into two separate actions. (Doc. 441). This case was originally filed in December 2005. The parties assert that the claims which Housley and Smith had in common with other plaintiffs then have now been dismissed and that their remaining individual claims are factually different from the remaining claims of the other 90 or so named plaintiffs in this case. Equally important, Housley and Smith are now represented by new counsel and they prefer to litigate their individual ADEA claims separately from the claims of the other named plaintiffs. The court is satisfied that the parties have shown good cause for severing Housley and Smith’s remaining individual claims and the motion shall be GRANTED.

IT IS THEREFORE ORDERED that the parties’ joint motion to sever Housley and

Smith's remaining individual ADEA claims (**Doc. 441**) is **GRANTED**. The Clerk shall assign new docket numbers to the individual lawsuits of Housley and Smith and copy the operative complaint and answers (Docs. 241 and 244) into those dockets.

IT IS FURTHER ORDERED that Housley and Smith shall file amended complaints using their respective new case numbers by **February 11, 2013**. No additional filing fee is required in connection with the severance of their claims and assignment of new case numbers.¹

IT IS SO ORDERED.

Dated at Wichita, Kansas this 10th day of January 2013.

S/ Karen M. Humphreys

KAREN M. HUMPHREYS
United States Magistrate Judge

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Plaintiffs timely paid the initial filing fee when this case was originally filed in December 2005 and there is no suggestion that there was a misjoinder of claims when the case was originally filed. Given the passage of time and numerous rulings concerning pretrial matters and the merits of various claims, the court is not persuaded that additional "filing" fees should be imposed at this time. Housley and Smith are not instituting a "new" civil action, suit, or proceeding in this district. Cf. 28 U.S.C. 1914. Instead, the court is severing the parties "on just terms" as set forth in Fed. R. Civ. P. 21.