

**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 defendants’ motion to sever the remaining individual ADEA disparate treatment claims of the pro se plaintiffs into nine separate actions. (Doc. 453). No response in opposition has been filed; therefore, the motion is uncontested pursuant to D. Kan. Rule 7.4. Equally important, Boeing asserts that the circumstances concerning each pro se plaintiff’s remaining claims turn on individualized factual determinations and that their claims should be severed and addressed separately. Under the circumstances, defendants have shown good cause for severing the nine pro se plaintiffs’ remaining individual claims and the motion shall be GRANTED.

IT IS THEREFORE ORDERED that defendants’ motion to sever the pro se plaintiffs’ remaining individual ADEA claims (**Doc. 453**) is **GRANTED**. The Clerk shall assign new docket numbers to the individual lawsuits of James Bowmaker, Henry Butler, David Clay, Throma Dyas, Sharon James, Warren Pyles, Darlene Rozar, James Walker, and

Roy Wells and copy the operative complaint and answers (Docs. 241 and 244) into those dockets.

IT IS FURTHER ORDERED that James Bowmaker, Henry Butler, David Clay, Throma Dyas, Sharon James, Warren Pyles, Darlene Rozar, James Walker, and Roy Wells shall file amended complaints using their respective new case numbers by **February 25, 2013**. No additional filing fee is required in connection with the severance of their claims and assignment of new case numbers.¹ Failure to file an amended complaint by **February 25, 2013** may result in the dismissal of the pro se plaintiff's individual lawsuit without further notice.

IT IS SO ORDERED.

Dated at Wichita, Kansas this 24th 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. The pro se plaintiffs 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.