

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

SHELLIE L. ROGERS,)
)
Plaintiff,)
)
vs.) Case No. 4:13CV1448 CDP
)
BOEING AEROSPACE OPERATIONS,)
INC., et al.,)
)
Defendants.)

MEMORANDUM AND ORDER

Plaintiff Shellie Rogers seeks leave to amend her complaint. Defendants do not oppose her proposals to amend paragraphs 11, 13, 16, 20 and 25, which provide minor factual changes that reflect correct facts as revealed in discovery. Defendants do oppose her proposed change to paragraph 32, which defendants argue would prejudice them and would require additional discovery. Plaintiff argues that the proposed change reflects only a specific legal theory of discrimination that was already supported by the pleadings.

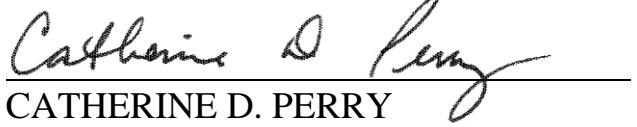
The original paragraph 32 began by saying, “Defendants, by their actions and failure to act, including but not limited to those described above, have discriminated against Plaintiff because of her disability, refused to provide reasonable accommodation to her disability, and retaliated against her in violation of the Missouri Human Rights Act.” The proposed amended paragraph 32 added the phrase

that is italicized here so that it reads: “Defendants, by their actions and failure to act, including but not limited to those described above, have discriminated against Plaintiff because of her disability, *subjected her to different terms and conditions because of her disability*, refused to provide reasonable accommodation to her disability, and retaliated against her in violation of the Missouri Human Rights Act.” Plaintiff argues that this added language is an articulation of a legal conclusion that will not require additional discovery, because the factual underpinnings were already alleged in the original complaint.

I conclude that the interests of justice favor allowing this proposed amendment, even though the deadlines for amending the pleadings has passed. Neither the facts nor the claim that defendants discriminated against plaintiff because of her disability has changed. As plaintiff points out, numerous paragraphs of the original pleading specifically alleged that defendants treated plaintiff differently from other employees. Because defendants have had full discovery over all the facts alleged in the complaint, and plaintiff has not added any additional facts, no additional discovery will be allowed. Plaintiff will not be allowed at trial to introduce any instances of alleged disparate treatment that have not already been either alleged in the complaint or revealed in discovery.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion to amend [#59] is granted and the proposed amended complaint is deemed filed today.


Catherine D. Perry
CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 3rd day of August, 2015.