

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

BOARD OF TRUSTEES OF THE
PLUMBERS, PIPEFITTERS &
MECHANICAL EQUIPMENT SERVICE,
LOCAL UNION NO. 392 PENSION FUND, et al.,

Case No. 1:11-cv-502

Plaintiffs,

Weber, J.
Bowman, M.J.

v.

GM MECHANICAL, INC., et al.,

Defendants.

ORDER

Defendants have moved for leave to file a third-party complaint against third-party Defendant Plumbers, Pipefitters and Mechanical Equipment Service Local Union No. 392. The motion has been referred to the undersigned magistrate judge by the assigned district judge, along with any other pretrial motions that may be filed in the future. (Doc. 28). Plaintiffs oppose Defendants' motion.

Plaintiffs assert that joinder is improper under Rule 14, Fed. R. Civ. P., citing the unpublished authority of *City of Dayton v. A.R. Environmental, Inc.*, Case No. 3:11-cv-383, Doc. 104 (S.D. Ohio September 18, 2012), wherein Magistrate Judge Michael Newman held that a third-party claim by a pro se, incarcerated defendant was inappropriate because it encompassed an "independent cause of action."). However, Defendants' motion is based not on Rule 14, but on Rules 13(h) and 20(a) of the Federal

Rules of Civil Procedure, which permit joinder of parties where common questions of law and/or fact exist, and the claims arise out of the same transaction or occurrence. In this case, Defendants have made a preliminary showing, for purposes of ruling on the pending motion, that joinder is proper.

Accordingly, **IT IS ORDERED**:

Defendants' motion for joinder of third-party Defendant Plumbers, Pipefitters and Mechanical Equipment Service Local Union No. 392 (Doc. 33) is **GRANTED**, with Defendants to file their third-party complaint within ten (10) days of the date of this Order.

s/Stephanie K. Bowman
Stephanie K. Bowman
United States Magistrate Judge