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9
10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE DISTRICT OF KANSAS**

12 PERRY APSLEY,) Case No.: 05-1368-MLB
13 BOB BAILEY,)
14 JACOB A. BAKK,) COMPLAINT-CLASS ACTION
15 GARY BALL,)
16 PEGGY S. BELL,)
17 THOMAS BELTON,)
18 MELONDA BIRCHER,)
19 JAMES BOWMAKER,)
20 JERRY L. BRANSTETER,)
21 MICHAEL E. BURGARDT,)
22 ROCKY R. BURRIS,)
23 DANIEL D. BURROWS,)
24 HENRY F. BUTLER,)
25 BETTY CHILDERS,)
26 DAVID L. CLAY,)
LARRY E. COMBS,)
HARVEY J. CONYAC,)
LOREN W. COX,)
PHYLLIS A. COX,)
LINDA L. DEZARN,)
WILLIAM D. DOSHIER,)
THROMA A. DYAS,)
ALAN S. EPPERSON,)
LLOYD C. FANSLER,)
JERALD J. GILBERT,)
RICHARD GOTTHARD,)
BRIAN GROOM,)
DENISE A. HARRIS,)
RON W. HENDERSHOT,)
OLIVIA J. HOUSLEY,)
VERNA J. HOUSTON,)

1 LARRY W. JAMES,)
 SHARRON N. JAMES,)
 2 GARY L. JOHNSON,)
 MELVYN J. JOHNSON,)
 3 DONALD R. JONES,)
 4 RALPH O. KEENER,)
 DANNY R. KENNEDY,)
 5 MELVIN E. KERNS,)
 GORDON B. KINKEAD,)
 6 JIMMY LE,)
 CARLTON E. LEE,)
 7 STEPHEN L. LINCK,)
 8 FREDDY J. MCCOLPIN,)
 GLENNYS M. MONTGOMERY,)
 9 CATHY J. MUNSELL,)
 JAN W. MURRAY,)
 10 HUYEN T. NGUYEN,)
 LUYEN D. NGUYEN,)
 11 KENT W. OWEN,)
 12 LOWANDA J. PATTON,)
 PAUL D. PETE,)
 13 BRENT L. POPP,)
 JAMES E. PORTER,)
 14 JAY E. POWELL,)
 WARREN PYLES,)
 15 WILLARD J. RATCHFORD,)
 16 VERONICA RIOS,)
 RICHARD D. ROEDER,)
 17 DARLENE E. ROZAR,)
 ALBERT SCHLOETZER,)
 18 WILLIAM H. SETCHELL,)
 JAMES C. SHEPPARD,)
 19 DEBRA L. SMITH,)
 SAMMY J. SMITH,)
 20 SHARON A. SOUTHERN,)
 21 LINDA C. SPARRER,)
 ABEL L. VASQUEZ,)
 22 HENRY F. VICTOR,)
 JAMES WALKER,)
 23 JAMES R. WALLACE,)
 CAROLYN Y. WHEATON,)
 24 SYLVESTER WILLIAMS II,)
 25 JANET M. WILSON,)
 WALTER WOODS,)
 26 BETTY R. YOUNG, individually and on)
 behalf of those similarly situated,)

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Plaintiffs,)
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vs.)
)
THE BOEING COMPANY, THE ONEX)
CORPORATION, SPIRIT AEROSYSTEMS,)
and MIDWESTERN AIRCRAFT,)
)
Defendants.)

CLASS ACTION COMPLAINT

COMES NOW plaintiffs individually and on behalf of those similarly situated, by and through their counsel, Lawrence W. Williamson, Jr. and Uzo L. Ohaebosim of Shores, Williamson, & Ohaebosim, LLC, and for his cause of action against defendants, allege and state as follows:

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I. GENERAL ALLEGATIONS

1
2 1. This case is about the betrayal by The Boeing Company and its partner in crime,
3 Onex (Spirit Aerospace, Midwestern Aircraft) against more than 1,000 employees who have
4 dedicated decades in assisting Boeing collecting more than Ten Billion dollars in revenue.

5 2. Boeing and Onex kept decisions a secret . The defendants kept the names of the
6 subsidiaries secret until after the decisions were made against the plaintiffs and Class. In
7 furtherance of these secrets, Boeing provided a code name "Project Lloyd." Only certain
8 personnel were provided access to the folders under this database. This database was at least
9 7.59 MB in size and should be produced in its entirety in defendants' initial disclosures. The
10 defendants have also kept the true relationship between Boeing, Onex, Midwestern, and Spirit
11 Aerospace a secret.

12 3. One act that was no secret was the termination of the plaintiffs and Class.
13 Instead of informing the employees when decisions were made, it tortured employees and put
14 families and individuals through unexplainable feelings while they waited to see if they would
15 receive a "pink slip." In announcing these terminations, the employees of Boeing were entitled
16 to more respect than the insult of throwing "insult slips" into the driveways of the individuals
17 who helped Boeing prosper throughout the years. The humiliation for workers did not end here.
18 Nigel Wright, of Onex, publicly stated that the workers who were not offered positions were
19 individuals with bad attitudes, troublemakers, and/or dead beats. Some employees were even
20 escorted off of the premises as if they were common criminals.

21 4. How much less dignity can someone have, than for a delivery truck to throw an
22 envelope out onto the driveway? Each plaintiff and Class member deserved much more than
23 that and at the very least deserved to know "why" they were terminated. In failing to adequately
24 protect the rights of the older workers, the defendants have injured not only these employees,
25 but their families and loved ones as well. As Plaintiff Pete has noted, "Life isn't always fair but,
26 why is Boeing playing with the people and their family's lives!?"

1 5. Instead of accepting responsibility for the treatment the defendants have
2 perpetrated, defendants have begun playing “pin the tail on the other.” At the EEOC stage,
3 Defendant Boeing stated that it did not have anything to do with the decisions made against the
4 employees. However, there were notes sent from Onex that stated that Boeing’s managers were
5 to help pick and choose who was staying for the new company. Additionally, plaintiffs have
6 undisputable proof that Boeing’s managers indeed had significant input into the wrongful
7 terminations of the plaintiffs and Class.

8 6. While Boeing has instituted its “play dumb” defense, Onex has instituted its “see
9 no evil” defense. Despite federal mandates to maintain proper records regarding why the
10 decisions were made against plaintiffs and Class, Onex failed to do so. As a result, Onex was
11 penalized by the EEOC for these actions.

12 7. Employees who had believed the myth of job security that Boeing professed over
13 the years were, after 20 years, forced to enter the job market, tainted as workers not good
14 enough to make the grade. Plaintiffs, such as Plaintiff James’ dreams of retiring at a certain age
15 were taken away from them.

16 8. Additionally, the laid off workers were denied the right to vote when time came
17 to protest the actions of Boeing and Onex. The IAM did not represent the interests of these
18 workers. One example of the Union’s failures can be seen with the failure to file a grievance.
19 IAM Union drafted a grievance and called for all to sign. However, mysteriously, the grievance
20 disappeared.
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1 9. As another sign of defendants' bad faith, Nigel Wright stated that as a gesture of
2 good will to the machinists union, when the company needs to hire again that they would first
3 hire back the laid off workers. However, Onex (Spirit) has not honored that promise. Indeed,
4 many of the plaintiffs and Class members have applied for positions that they are qualified for
5 and have held for years, and have not been offered a position. In some cases plaintiffs have
6 been rejected as "unqualified." Additionally, Spirit Aerospace has set arbitrary standards
7 regarding being hired into the company so that former workers could almost never receive a job
8 offer.

9 10. In connection with the RIF, the defendants engaged in a pattern or practice of age
10 discrimination, in treating younger employees more favorably than older employees, including
11 (but not limited to) some of the following specific actions:

- 12 a. Consciously deciding not to comply with the Older Workers Benefit
13 Protection Act ("OWBPA") for certain job grades, in order to avoid
14 having to disclose demographic data and its "selection criteria" to those
15 affected by the RIF;
- 16 b. Terminating more qualified older workers while employing less qualified
17 younger workers;
- 18 c. Failing to provide the terminated workers with the rationale why they
19 were terminated;
- 20 d. Filling "open" positions within departments with younger employees (i.e.,
21 under the age of 40) just before the RIF, then terminating older workers
22 (i.e., those 40 years of age and older) in the same or similar positions as
23 part of the RIF;
- 24 e. Allowing managers to access improper criteria, such as age, date of birth,
25 and other age related data, for use in making RIF decisions;
- 26

- 1 f. Setting up a “sham” process for displaced workers to “re-apply” for open
- 2 positions with Spirit, resulting in situations where older applicants (i.e.,
- 3 those 40 years of age and older) were not given the same consideration as
- 4 younger employees and were denied even the opportunity to interview for
- 5 such open positions; and
- 6 g. Continuing to hire new and younger employees after the RIF.

7 11. The alleged system was subjective, arbitrary, non-substantive, dishonest, and
8 inaccurate. Additionally, the system was:

- 9 a. Biased against older (over age 40) workers; and
- 10 b. Inequitable and inappropriate because of pool size and composition.

11 12. In addition to the foregoing facts, Plaintiffs are “similarly situated” in that: all are
12 over 40; all were terminated by Boeing and/or not hired by Onex as part of a Reduction in
13 Force.

14 II. JURISDICTION AND VENUE

15 13. This is a civil action over which original jurisdiction is vested in this Court by 28
16 U.S.C. § 1331 and 1343(a) and 29 U.S.C. § 626(f)(3). This Court also is vested with exclusive
17 subject matter jurisdiction over plaintiffs’ claims under ERISA pursuant to 29 U.S.C. §
18 1132(e)(1) and (f)12. This Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367
19 over all other claims that are so related to claims within its original or exclusive jurisdiction that
20 they form part of the same case or controversy under Article III of the United States
21 Constitution. Venue is appropriate in this Court under 28 U.S.C. § 1391 and 29 U.S.C. §
22 1132(e) (2) as it is brought in a judicial district in which the defendants reside or may be found
23 at the time the action is commenced. Further, many of the plaintiffs and class members reside in
24 the State of Kansas.

25 14. Plaintiffs have exhausted and satisfied all conditions precedent to filing this
26 action. Additionally, plaintiffs invoke the single file rule as defendants were placed on

1 sufficient notice of the class wide nature of the action. Multiple plaintiffs filed a class-wide
2 charge of age discrimination with the US. Equal Employment Commission (“EEOC”), which
3 was cross filed with the Kansas Human Rights Commission (“KHRC”). Each plaintiff has
4 consented to join this action. The Consent to Sue forms for the named plaintiffs will be filed
5 separately due to the size of the files but are incorporated herein by reference.

6 III. PARTIES

7 A. General Allegations as to all Plaintiffs

8 15. At all pertinent times, each of the plaintiffs and Class member in this action was
9 an employee of the defendants within the meaning of the ADEA, 29 U.S.C. § 630, and ERISA,
10 29 U.S.C. § 1002(6), and a participant in and/or beneficiary of the Plans within the meaning of
11 ERISA, 29 U.S.C. 1002(7) and (8).

12 16. The plaintiffs, and each of them, were affected by the defendants’ general pattern
13 and practice of discriminating against older workers.

14 B. Specific Allegations as to Individual Plaintiffs

15 17. Plaintiff Perry Apsley (“Plaintiff Apsley”) is a resident of the State of Kansas
16 who was born May 5, 1955, and who, as of May 20, 2005, was employed by Boeing at its
17 Wichita, Kansas facility. Plaintiff Apsley was employed by Boeing for twenty (20) years.
18 Plaintiff Apsley was qualified to hold his position as a Stretchpress operator. Thus, Plaintiff
19 Apsley filed a timely EEOC complaint, received a notice of the right to sue and has exhausted
20 all administrative remedies.

21 18. Plaintiff Bob Bailey (“Plaintiff Bailey”) is a resident of the State of Kansas who
22 was born on January 1, 1953, and who, as of June 10, 2005, was employed by Boeing at its
23 Wichita, Kansas facility. Plaintiff Bailey was employed by Boeing for eighteen (18) years.
24 Plaintiff Bailey was qualified to hold his position as an equipment maintenance electrician.
25 Thus, Plaintiff Bailey filed a timely EEOC complaint, received a notice of the right to sue and
26 has exhausted all administrative remedies.

1 19. Plaintiff Jacob A. Bakk (“Plaintiff Bakk”) is a resident of the State of Kansas who
2 was born on March 6, 1954, and who, as of May 16, 2005, was employed by Boeing at its
3 Wichita, Kansas facility. Plaintiff Bakk was employed by Boeing fo r twenty-five (25) years.
4 Plaintiff Bakk was qualified to hold his position as a chief metal machine operator. Thus,
5 Plaintiff Bakk filed a timely EEOC compliant, received a notice of th e right to s ue and has
6 exhausted all administrative remedies.

7 20. Plaintiff Gary Ball (“Plaintiff Ball”) is a resident of the State of Kansas who was
8 born on September 26, 1946, and who, as of May 20, 2005, was e mployed by Boeing at its
9 Wichita, Kansas f acility. Plai ntif f Ball was employed by Boeing for eighteen (18) years.
10 Plaintiff Ball was qu alified to hold his position as a plum ber/boiler employee. Thus, Plaintiff
11 Ball filed a timely EEOC compliant, received a notice of the right to sue and has exhausted all
12 administrative remedies.

13 21. Plaintiff Peggy S. Bell (“Pl aintiff Bell”) is a resident of the State of Kansas who
14 was born on April 2, 1951, and who, as of May 20, 2005, was e mployed by Boeing at its
15 Wichita, Kansas facility. Plaintiff Bell was employed by Boeing for more than twenty (20)
16 years. Plaintiff Bell was qualified to hold her position as a m aterial processor. Thus, Plaintiff
17 Bell filed a timely EEOC compliant, received a notice of the right to sue and has exhausted all
18 administrative remedies.

19 22. Plaintiff Thomas Belton (“Plaintiff Belton”) is a resident of the State of Kansas
20 who was born on March 23, 1950, and who, as of May 20, 2005, was employed by Boeing at its
21 Wichita, Kansas facility. Plaintiff Belton was employed by Boeing for more than eighteen (18)
22 years. Plaintiff Belton was qualified to hold his position as a plumber/boiler employee. Plaintiff
23 Belton filed a timely EEOC compliant, received a notice of the right to sue and has exhausted all
24 administrative remedies.

25 23. Plaintiff MeLonda Bircher (“Plaintiff Bircher”) is a resident of the State of
26 Kansas who was born on Dece mber 20, 1960, a nd who, as of June 3, 2005, was e mployed by

1 Boeing at its Wichita, Kansas facility. Plaintiff Bircher was employed by Boeing for twenty-
2 two (22) years. Plaintiff Bircher was qualified to hold her position as an asset manager.
3 Plaintiff Bircher filed a timely EEOC compliant, received a notice of the right to sue and has
4 exhausted all administrative remedies.

5 24. Plaintiff James A. Bowmaker (“Plaintiff Bowmaker”) is a resident of the State of
6 Kansas who was born December 24, 1954, and who, as of June 2005, was employed by Boeing
7 at its Wichita, Kansas facility. Plaintiff Bowmaker was employed by Boeing for several years.
8 Plaintiff Bowmaker was qualified to hold his position at Boeing. Thus, Plaintiff Bowmaker
9 filed a timely EEOC compliant, received a notice of the right to sue and has exhausted all
10 administrative remedies.

11 25. Plaintiff Jerry L. Branstetter (“Plaintiff Branstetter”) is a resident of the State of
12 Kansas who was born on July 11, 1945, and who, as of June 3, 2005, was employed by Boeing
13 at its Wichita, Kansas facility. Plaintiff Branstetter was employed by Boeing for more than
14 twenty-seven (27) years. Plaintiff Branstetter was qualified to hold the power district electrician
15 position. Thus, Plaintiff Branstetter filed a timely EEOC compliant, received a notice of the
16 right to sue and has exhausted all administrative remedies.

17 26. Plaintiff Michael E. Burgardt (“Plaintiff Burgardt”) is a resident of the State of
18 Kansas who was born on January 26, 1952, and who, as of May 24, 2005, was employed by
19 Boeing at its Wichita, Kansas facility. Plaintiff Burgardt was employed by Boeing for thirty
20 (31) years. Plaintiff Burgardt was qualified to hold his position as a power feed drill technician.
21 Thus, Plaintiff Burgardt filed a timely EEOC compliant, received a notice of the right to sue and
22 has exhausted all administrative remedies.

23 27. Plaintiff Rocky R. Burris (“Plaintiff Burris”) is a resident of the State of Kansas
24 who was born on January 8, 1950, and who, as of May 20, 2005, was employed by Boeing at its
25 Wichita, Kansas facility. Plaintiff Burris was employed by Boeing for twenty (20) years.
26 Plaintiff Burris was qualified to hold his position as a plumber. Thus, Plaintiff Burris filed a

1 timely EEOC compliant, received a notice of the right to sue and has exhausted all
2 administrative remedies.

3 28. Plaintiff Daniel D. Burrows (“Plaintiff Burrows”) is a resident of the State of
4 Kansas who was born on September 20, 1932, and who, as of August 22, 2003, was employed
5 by Boeing at its Wichita, Kansas facility. Plaintiff Burrows was employed by Boeing for thirty-
6 three (33) years. Plaintiff Burrows was qualified to hold his tooling position. Thus, Plaintiff
7 Burrows filed a timely EEOC compliant, received a notice of the right to sue and has exhausted
8 all administrative remedies.

9 29. Plaintiff Henry F. Butler (“Plaintiff Butler”) is a resident of the State of Kansas
10 who was born on August 13, 1953, and who, as of May 20, 2005, was employed by Boeing at its
11 Wichita, Kansas facility. Plaintiff Butler was employed by Boeing for twenty-six (26) years.
12 Plaintiff Butler was qualified to hold his position as a material processor. Thus, Plaintiff Butler
13 filed a timely EEOC compliant, received a notice of the right to sue and has exhausted all
14 administrative remedies.

15 30. Plaintiff Betty Childers (“Plaintiff Childers”) is a resident of the State of Kansas
16 who was born on July 19, 1953, and who, as of May 20, 2005, was employed by Boeing at its
17 Wichita, Kansas facility. Plaintiff Childers was employed by Boeing for twenty-six (26) years.
18 Plaintiff Childers was qualified to hold her position as a material processor. Thus, Plaintiff
19 Childers filed a timely EEOC compliant, received a notice of the right to sue and has exhausted
20 all administrative remedies.

21 31. Plaintiff David L. Clay (“Plaintiff Clay”) is a resident of the State of Kansas who
22 was born on May 18, 1946, and who, as of June 3, 2005, was employed by Boeing at its
23 Wichita, Kansas facility. Plaintiff Clay was employed by Boeing for more than thirty-five (35)
24 years. Plaintiff Clay was qualified to hold his position at Boeing. Thus, Plaintiff Clay filed a
25 timely EEOC compliant, received a notice of the right to sue and has exhausted all
26 administrative remedies.

1 32. Plaintiff Larry E. Combs (“Plaintiff Combs”) was a resident of the State of
2 Kansas during the stated allegations. Plaintiff Combs was born on September 9, 1948, and as of
3 June 3, 2005, was employed by Boeing at its Wichita, Kansas facility. Plaintiff Combs was
4 employed by Boeing for twenty (20) years. Plaintiff Combs was qualified to hold his position as
5 a business process analyst. Thus, Plaintiff Combs filed a timely EEOC complaint, received a
6 notice of the right to sue and has exhausted all administrative remedies.

7 33. Plaintiff Harvey J. Conyac (“Plaintiff Conyac”) is a resident of the State of
8 Kansas who was born on January 15, 1945, and who, as of May 27, 2005, was employed by
9 Boeing at its Wichita, Kansas facility. Plaintiff Conyac was employed by Boeing for twenty-
10 seven (27) years. Plaintiff Conyac was qualified to hold his position. Thus, Plaintiff Conyac
11 filed a timely EEOC complaint, received a notice of the right to sue and has exhausted all
12 administrative remedies.

13 34. Plaintiff Loren W. Cox (“Plaintiff Cox”) is a resident of the State of Kansas who
14 was born on July 21, 1955, and who, as of May 20, 2005, was employed by Boeing at its
15 Wichita, Kansas facility. Plaintiff Cox was employed by Boeing for more than twenty-four (24)
16 years. Plaintiff Cox was qualified to hold her position as a bench mechanic.

17 35. Plaintiff Phyllis A. Cox (“Plaintiff P. Cox”) is a resident of the State of Kansas
18 who was born on January 1, 1949, and who, as of June 20, 2005, was employed by Boeing at its
19 Wichita, Kansas facility. Plaintiff P. Cox was employed by Boeing for eighteen (18) years.
20 Plaintiff P. Cox was qualified to hold her position as a sheet metal machinist. Thus, Plaintiff P.
21 Cox filed a timely EEOC complaint, received a notice of the right to sue and has exhausted all
22 administrative remedies.

23 36. Plaintiff Linda L. DeZarn (“Plaintiff DeZarn”) is a resident of the State of Kansas
24 who was born on June 16, 1956, and who, as of June 16, 2005, was employed by Boeing at its
25 Wichita, Kansas facility. Plaintiff DeZarn was employed by Boeing for ten (10) years. Plaintiff
26 DeZarn was qualified to hold her position as a certified solder. Thus Plaintiff DeZarn filed a

1 timely EEOC compliant, received a notice of the right to sue and has exhausted all
2 administrative remedies.

3 37. Plaintiff William D. Doshier (“Plaintiff Doshier”) is a resident of the State of
4 Kansas who was born on December 6, 1953, and who, as of June 17, 2005, was employed by
5 Boeing at its Wichita, Kansas facility. Plaintiff Doshier was employed by Boeing for more than
6 twenty-nine (29) years. Plaintiff Doshier was qualified to hold his position as a equipment
7 operator.

8 38. Plaintiff Throma A. Dyas (“Plaintiff Dyas”) is a resident of the State of Kansas
9 who was born on December 2, 1951, and who, as of May 19, 2005, was employed by Boeing at
10 its Wichita, Kansas facility. Plaintiff Dyas was employed by Boeing for nineteen (19) years.
11 Plaintiff Dyas was qualified to hold her position as an inspector.

12 39. Plaintiff Alan S. Epperson (“Plaintiff Epperson”) is a resident of the State of
13 Kansas who was born on August 22, 1964, and who, as of May 20, 2005, was employed by
14 Boeing at its Wichita, Kansas facility. Plaintiff Epperson was employed by Boeing for sixteen
15 (16) years. Plaintiff Epperson was qualified to hold his position as an inspector. Thus, Plaintiff
16 Epperson filed a timely EEOC compliant, received a notice of the right to sue and has exhausted
17 all administrative remedies.

18 40. Plaintiff Lloyd C. Fansler (“Plaintiff Fansler”) is a resident of the State of Kansas
19 who was born August 5, 1946, and who, as of May 20, 2005, was employed by Boeing at its
20 Wichita, Kansas facility. Plaintiff Fansler was employed by Boeing for thirty-one (31) years.
21 Plaintiff Fansler was qualified to hold his position as a skin and spar area person.

22 41. Plaintiff Jerald J. Gilbert (“Plaintiff Gilbert”) is a resident of the State of Kansas
23 who was born on April 20, 1950, and who, as of May 19, 2005, was employed by Boeing at its
24 Wichita, Kansas facility. Plaintiff Gilbert was employed by Boeing for seventeen (17) years.
25 Plaintiff Gilbert was qualified to hold his position as sheet metal mechanic. Thus, Plaintiff
26

1 Gilbert filed a timely EEOC compliant, received a notice of the right to sue and has exhausted
2 all administrative remedies.

3 42. Plaintiff Richard Gotthard (“Plaintiff Gotthard”) is a resident of the State of
4 Kansas who was born on December 23, 1956, and who, as of May 20, 2005, was employed by
5 Boeing at its Wichita, Kansas facility. Plaintiff Gotthard was employed by Boeing for twenty-
6 five (25) years. Plaintiff Gotthard was qualified to hold his position as a machinist. Thus,
7 Plaintiff Gotthard filed a timely EEOC compliant, received a notice of the right to sue and has
8 exhausted all administrative remedies.

9 43. Plaintiff Brian Groom (“Plaintiff Groom”) is a resident of the State of Kansas
10 who was born October 2, 1958, and who, as of May 20, 2005, was employed by Boeing at its
11 Wichita, Kansas facility. Plaintiff Groom was employed by Boeing for more than twenty-four
12 (24) years. Plaintiff Groom was qualified to hold his position as a plastics bench mechanic.
13 Thus, Plaintiff Groom filed a timely EEOC compliant, received a notice of the right to sue and
14 has exhausted all administrative remedies.

15 44. Plaintiff Denise A. Harris (“Plaintiff Harris”) is a resident of the State of Kansas
16 who was born on August 10, 1954, and who, as of May 20, 2005, was employed by Boeing at its
17 Wichita, Kansas facility. Plaintiff Harris was employed by Boeing for more than twenty-nine
18 (29) years. Plaintiff Harris was qualified to hold her position as a factory clerk.

19 45. Plaintiff Ron W. Hendershot (“Plaintiff Hendershot”) is a resident of the State of
20 Kansas who was born on March 10, 1957, and who, as of May 20, 2005, was employed by
21 Boeing at its Wichita, Kansas facility. Plaintiff Hendershot was employed by Boeing for
22 twenty-seven (27) years. Plaintiff Hendershot was qualified to hold his position as a carpenter
23 millwright specialist.

24 46. Plaintiff Olivia J. Housley (“Plaintiff Housley”) is a resident of the State of
25 Kansas who was born on December 1, 1948, and who, as of June 3, 2005, was employed by
26 Boeing at its Wichita, Kansas facility. Plaintiff Housley was employed by Boeing for twenty-

1 six (26) years. Plaintiff Housley was qualified to hold her position as a master scheduler. Thus,
2 Plaintiff Housley filed a timely EEOC complaint, received a notice of the right to sue and has
3 exhausted all administrative remedies.

4 47. Plaintiff Verna J. Houston (“Plaintiff Houston”) is a resident of the State of
5 Kansas who was born March 26, 1949, and who, as of May 18, 2005, was employed by Boeing
6 at its Wichita, Kansas facility. Plaintiff Houston was employed by Boeing for ten years.
7 Plaintiff Houston was qualified to hold her position as a sealer. Thus, Plaintiff Houston filed a
8 timely EEOC complaint, received a notice of the right to sue and has exhausted all
9 administrative remedies.

10 48. Plaintiff Larry W. James (“Plaintiff L. James”) is a resident of the State of Kansas
11 who was born June 26, 1958, and who, as of May 20, 2005, was employed by Boeing at its
12 Wichita, Kansas facility. Plaintiff James was employed by Boeing for more than twenty-four
13 (24) years. Plaintiff James was qualified to hold his position as a material processor. Thus,
14 Plaintiff James filed a timely EEOC complaint, received a notice of the right to sue and has
15 exhausted all administrative remedies.

16 49. Plaintiff Sharron N. James (“Plaintiff James”) is a resident of the State of Kansas
17 who was born March 21, 1951, and who, as of May 20, 2005, was employed by Boeing at its
18 Wichita, Kansas facility. Plaintiff James was employed by Boeing for twenty-five (25) years.
19 Plaintiff James was qualified to hold her position as a material processor. Thus, Plaintiff James
20 filed a timely EEOC complaint, received a notice of the right to sue and has exhausted all
21 administrative remedies.

22 50. Plaintiff Gary L. Johnson (“Plaintiff Johnson”) is a resident of the State of Kansas
23 who was born on August 6, 1952, and who, as of May 20, 2005, was employed by Boeing at its
24 Wichita, Kansas facility. Plaintiff Johnson was employed by Boeing for more than twenty-five
25 (25) years. Plaintiff Johnson was qualified to hold his position. Thus, Plaintiff Johnson filed a
26

1 timely EEOC compliant, received a notice of the right to sue and has exhausted all
2 administrative remedies.

3 51. Plaintiff Melvyn J. Johnson (“Plaintiff M. Johnson”) is a resident of the State of
4 Kansas who was born on April 28, 1953, and who, as of June 20, 2005, was employed by
5 Boeing at its Wichita, Kansas facility. Plaintiff M. Johnson was employed by Boeing for more
6 than twenty-seven (27) years. Plaintiff M. Johnson was qualified to hold his position as a
7 laminator. Thus, Plaintiff M. Johnson filed a timely EEOC compliant, received a notice of the
8 right to sue and has exhausted all administrative remedies.

9 52. Plaintiff Donald R. Jones (“Plaintiff Jones”) is a resident of the State of Kansas
10 who was born on August 9, 1953, and who, as of May 19, 2005, was employed by Boeing at its
11 Wichita, Kansas facility. Plaintiff Jones was employed by Boeing for nineteen (19) years.
12 Plaintiff Jones was qualified to hold his position as an environmental operator. Thus, Plaintiff
13 Jones filed a timely EEOC compliant, received a notice of the right to sue and has exhausted all
14 administrative remedies.

15 53. Plaintiff Ralph O. Keener (“Plaintiff Keener”) is a resident of the State of Kansas
16 who was born on August 22, 1948, and who, as of May 20, 2005, was employed by Boeing at its
17 Wichita, Kansas facility. Plaintiff Keener was employed by Boeing for eighteen (18) years.
18 Plaintiff Keener was qualified to hold his position as an assembly installer. Thus, Plaintiff
19 Keener filed a timely EEOC compliant, received a notice of the right to sue and has exhausted
20 all administrative remedies.

21 54. Plaintiff Danny R. Kennedy (“Plaintiff Kennedy”) is a resident of the State of
22 Kansas who was born on September 12, 1952, and who, as of June 16, 2005, was employed by
23 Boeing at its Wichita, Kansas facility. Plaintiff Kennedy was employed by Boeing for more
24 than twenty-six (26) years. Plaintiff Kennedy was qualified to hold his position as a
25 carpenter/millwright specialist.
26

1 55. Plaintiff Melvin E. Kerns (“Plaintiff Kerns”) is a resident of the State of Kansas
2 who was born on January 15, 1954, and who, as of May 20, 2005, was employed by Boeing at
3 its Wichita, Kansas facility. Plaintiff Kerns was employed by Boeing for more than fifteen (15)
4 years. Plaintiff Kerns was qualified to hold his position as a plumber/power plant specialist.
5 Thus, Plaintiff Kerns filed a timely EEOC complaint, received a notice of the right to sue and
6 has exhausted all administrative remedies.

7 56. Plaintiff Gordon B. Kinkead (“Plaintiff Kinkead”) is a resident of the State of
8 Kansas who was born on October 7, 1953, and who, as of May 20, 2005, was employed by
9 Boeing at its Wichita, Kansas facility. Plaintiff Kinkead was employed by Boeing for more than
10 twenty-five (25) years. Plaintiff Kinkead was qualified to hold his position as a corrective
11 action coordinator. Thus, Plaintiff Kinkead filed a timely EEOC complaint, received a notice of
12 the right to sue and has exhausted all administrative remedies.

13 57. Plaintiff Jimmy Le (“Plaintiff Le”) is a resident of the State of Kansas who was
14 born on April 4, 1954, and who, as of May 20, 2005, was employed by Boeing at its Wichita,
15 Kansas facility. Plaintiff Le was employed by Boeing for nineteen (19) years. Plaintiff Le was
16 qualified to hold his position as a mill operator. Plaintiff Le filed a timely EEOC complaint,
17 received a notice of the right to sue and has exhausted all administrative remedies. Plaintiff Le
18 filed a timely EEOC complaint, received a notice of the right to sue and has exhausted all
19 administrative remedies.

20 58. Plaintiff Carlton D. Lee (“Plaintiff Lee”) is a resident of the State of Kansas who
21 was born on January 15, 1951, and who, as of May 20, 2005, was employed by Boeing at its
22 Wichita, Kansas facility. Plaintiff Lee was employed by Boeing for more than twenty (20)
23 years. Plaintiff Lee was qualified to hold his position as a sheet metal assembler. Thus,
24 Plaintiff Lee filed a timely EEOC complaint, received a notice of the right to sue and has
25 exhausted all administrative remedies.
26

1 59. Plaintiff Stephen L. Linck (“Plaintiff Linck”) is a resident of the State of Kansas
2 who was born on June 11, 1951, and who, as of June 3, 2005, was employed by Boeing at its
3 Wichita, Kansas facility. Plaintiff Linck was employed by Boeing for more than thirty (30)
4 years. Plaintiff Linck was qualified to hold his position as an engineer.

5 60. Plaintiff Freddy J. McColpin (“Plaintiff McColpin”) is a resident of the State of
6 Kansas who was born on December 9, 1947, and who, as of May 20, 2005, was employed by
7 Boeing at its Wichita, Kansas facility. Plaintiff McColpin was employed by Boeing for more
8 than twenty-three (23) years. Plaintiff McColpin was qualified to hold his position as a
9 plumber/boiler house power plant employee. Thus, Plaintiff McColpin filed a timely EEOC
10 compliant, received a notice of the right to sue and has exhausted all administrative remedies.

11 61. Plaintiff Glennys M. Montgomery (“Plaintiff Montgomery”) is a resident of the
12 State of Kansas who was born on October 14, 1940, and who, as of March 22, 2002, was
13 employed by Boeing at its Wichita, Kansas facility. Plaintiff Montgomery was employed by
14 Boeing for nine years. Plaintiff Montgomery was qualified to be employed at Boeing.

15 62. Plaintiff Cathy J. Munsell (“Plaintiff Munsell”) is a resident of the State of
16 Kansas who was born on December 30, 1956, and who, as of May 20, 2005, was employed by
17 Boeing at its Wichita, Kansas facility. Plaintiff Munsell was employed by Boeing for twenty
18 (20) years. Plaintiff Munsell was qualified to hold her position as an assembler installer. Thus,
19 Plaintiff Munsell filed a timely EEOC compliant, received a notice of the right to sue and has
20 exhausted all administrative remedies.

21 63. Plaintiff Jan W. Murray (“Plaintiff Murray”) is a resident of the State of Kansas
22 who was born on February 28, 1948, and who, as of May 20, 2005, was employed by Boeing at
23 its Wichita, Kansas facility. Plaintiff Murray was employed by Boeing for more than seventeen
24 (17) years. Plaintiff Murray was qualified to hold his position as plastic bench composite
25 mechanic. Thus, Plaintiff Murray filed a timely EEOC compliant, received a notice of the right
26 to sue and has exhausted all administrative remedies.

1 64. Plaintiff Huyen T. Nguyen (“Plaintiff Nguyen”) is a resident of the State of
2 Kansas who was born on November 10, 1952, and who, as of May 18, 2005, was employed by
3 Boeing at its Wichita, Kansas facility. Plaintiff Nguyen was employed by Boeing for more than
4 eighteen (18) years. Plaintiff Nguyen was qualified to hold the sealer position. Thus, Plaintiff
5 Nguyen filed a timely EEOC complaint, received a notice of the right to sue and has exhausted
6 all administrative remedies.

7 65. Plaintiff Luyen D. Nguyen (“Plaintiff L. Nguyen”) is a resident of the State of
8 Kansas who was born on November 20, 1950, and who, as of May 20, 2005, was employed by
9 Boeing at its Wichita, Kansas facility. Plaintiff L. Nguyen was employed by Boeing for sixteen
10 (16) years. Plaintiff Nguyen was qualified to hold the tape machine operator position. Thus,
11 Plaintiff Nguyen filed a timely EEOC complaint, received a notice of the right to sue and has
12 exhausted all administrative remedies.

13 66. Plaintiff Kent W. Owen (“Plaintiff Owen”) is a resident of the State of Kansas
14 who was born on December 17, 1958, and who, as of June 3, 2005, was employed by Boeing at
15 its Wichita, Kansas facility. Plaintiff Owen was employed by Boeing for more than twenty-one
16 (21) years. Plaintiff Owen was qualified to hold his position as a MR&D technical analyst.
17 Thus, Plaintiff Owen filed a timely EEOC complaint, received a notice of the right to sue and
18 has exhausted all administrative remedies.

19 67. Plaintiff Lowanda J. Patton (“Plaintiff Patton”) is a resident of the State of Kansas
20 who was born on November 26, 1948, and who, as of June 16, 2005, was employed by Boeing
21 at its Wichita, Kansas facility. Plaintiff Patton was employed by Boeing for twenty-six (26)
22 years. Plaintiff Patton was qualified to hold her position as a steel metal employee. Thus,
23 Plaintiff Patton filed a timely EEOC complaint, received a notice of the right to sue and has
24 exhausted all administrative remedies.

25 68. Plaintiff Paul D. Pete (“Plaintiff Pete”) is a resident of the State of Kansas who
26 was born on December 13, 1954, and who, as of May 20, 2005, was employed by Boeing at its

1 Wichita, Kansas facility. Plaintiff Pete was employed at Boeing for more than twenty-five (25)
2 years. Plaintiff Pete was qualified to hold his position as a sheet metal employee.

3 69. Plaintiff Brent L. Popp (“Plaintiff Popp”) is a resident of the State of Kansas who
4 was born on August 6, 1959, and who, as of May 20, 2005, was employed by Boeing at its
5 Wichita, Kansas facility. Plaintiff Popp was employed by Boeing for more than twenty-five
6 (25) years. Plaintiff Popp was qualified to hold his position. Thus, Plaintiff Popp filed a timely
7 EEOC compliant, received a notice of the right to sue and has exhausted all administrative
8 remedies.

9 70. Plaintiff James E. Porter (“Plaintiff Porter”) is a resident of the State of Kansas
10 who was born on January 2, 1947, and who, as of June 3, 2005, was employed by Boeing at its
11 Wichita, Kansas facility. Plaintiff Porter was employed by Boeing for more than eighteen (18)
12 years. Plaintiff Porter was qualified to hold his position as a project planner.

13 71. Plaintiff Jay E. Powell (“Plaintiff Powell”) is a resident of the State of Kansas
14 who was born on October 6, 1954, and who, as of June 16, 2005, was employed by Boeing at its
15 Wichita, Kansas facility. Plaintiff Powell was employed by Boeing for more than thirty-one
16 (31) years. Plaintiff Powell was qualified to hold the production machinist position. Thus,
17 Plaintiff Powell filed a timely EEOC compliant, received a notice of the right to sue and has
18 exhausted all administrative remedies.

19 72. Plaintiff Warren Pyles (“Plaintiff Pyles”) is a resident of the State of Kansas who
20 was born on September 8, 1956, and who, as of May 20, 2005, was employed by Boeing at its
21 Wichita, Kansas facility. Plaintiff Pyles was employed by Boeing for eighteen (18) years.
22 Plaintiff Pyles was qualified to hold his position as a millwright employee. Thus, Plaintiff Pyles
23 filed a timely EEOC compliant, received a notice of the right to sue and has exhausted all
24 administrative remedies.

25 73. Plaintiff Willard J. Ratchford (“Plaintiff Ratchford”) is a resident of the State of
26 Kansas who was born on October 16, 1957, and who, as of June 16, 2005, was employed by

1 Boeing at its Wichita, Kansas facility. Plaintiff Ratchford was employed by Boeing for nineteen
2 (19) years. Plaintiff Ratchford was qualified to hold his position as a hand router operator.
3 Thus, Plaintiff Ratchford filed a timely EEOC complaint, received a notice of the right to sue
4 and has exhausted all administrative remedies.

5 74. Plaintiff Veronica Rios (“Plaintiff Rios”) is a resident of the State of Kansas who
6 was born on November 20, 1961, and who, as of May 21, 2005, was employed by Boeing at its
7 Wichita, Kansas facility. Plaintiff Rios was employed by Boeing for more than five years.
8 Plaintiff Rios was qualified to hold her position as a bench mechanic.

9 75. Plaintiff Richard D. Roeder (“Plaintiff Roeder”) is a resident of the State of
10 Kansas who was born on May 8, 1953, and who, as of June 16, 2005, was employed by Boeing
11 at its Wichita, Kansas facility. Plaintiff Roeder was employed by Boeing for more than twenty-
12 five (25) years. Plaintiff Roeder was qualified to hold his position as a machinist. Thus,
13 Plaintiff Roeder filed a timely EEOC complaint, received a notice of the right to sue and has
14 exhausted all administrative remedies.

15 76. Plaintiff Darlene E. Rozar (“Plaintiff Rozar”) is a resident of the State of Kansas
16 who was born on October 19, 1947, and who, as of May 21, 2005, was employed by Boeing at
17 its Wichita, Kansas facility. Plaintiff Rozar was employed by Boeing for nineteen (19) years.
18 Plaintiff Rozar was qualified to hold her position as a machinist. Thus, Plaintiff Rozar filed a
19 timely EEOC complaint, received a notice of the right to sue and has exhausted all
20 administrative remedies.

21 77. Plaintiff Albert Schloetzer (“Plaintiff Schloetzer”) is a resident of the State of
22 Kansas who was born on August 21, 1951, and who, as of May 20, 2005, was employed by
23 Boeing at its Wichita, Kansas facility. Plaintiff Schloetzer was employed by Boeing for fifteen
24 (15) years. Plaintiff Schloetzer was qualified to hold his position as a housekeeper.

25 78. Plaintiff William H. Setchell (“Plaintiff Setchell”) is a resident of the State of
26 Kansas who was born on March 30, 1954, and who, as of June 16, 2005, was employed by

1 Boeing at its Wichita, Kansas facility. Plaintiff Setchell was employed by Boeing for twenty-
2 seven (27) years. Plaintiff Setchell was qualified to hold his position as a storekeeper/clerk.
3 Thus, Plaintiff Setchell filed a timely EEOC complaint, received a notice of the right to sue and
4 has exhausted all administrative remedies.

5 79. Plaintiff James C. Sheppard (“Plaintiff Sheppard”) is a resident of the State of
6 Kansas who was born on January 24, 1953, and who, was employed by Boeing for eighteen (18)
7 years. Plaintiff Sheppard was qualified to hold his position. Thus, Plaintiff Sheppard filed a
8 timely EEOC complaint, received a notice of the right to sue and has exhausted all
9 administrative remedies.

10 80. Plaintiff Debra L. Smith (“Plaintiff Smith”) was a resident of the State of Kansas
11 during all applicable dates. Plaintiff Smith was born on January 27, 1962, and who, as of May
12 20, 2005, was employed by Boeing at its Wichita, Kansas facility. Plaintiff Smith was
13 employed by Boeing for eighteen (18) years. Plaintiff Smith was qualified to hold her position
14 as a manufacturer helper. Thus, Plaintiff Smith filed a timely EEOC complaint, received a
15 notice of the right to sue and has exhausted all administrative remedies.

16 81. Plaintiff Sammy J. Smith (“Plaintiff S. Smith”) is a resident of the State of
17 Kansas who was born on January 31, 1959, and who, as of May 20, 2005, was employed by
18 Boeing at its Wichita, Kansas facility. Plaintiff S. Smith was employed by Boeing for more than
19 nineteen (19) years. Plaintiff S. Smith was qualified to hold his position as a machinist. Thus,
20 Plaintiff S. Smith filed a timely EEOC complaint, received a notice of the right to sue and has
21 exhausted all administrative remedies.

22 82. Plaintiff Sharon A. Southern (“Plaintiff Southern”) is a resident of the State of
23 Kansas who was born on September 23, 1951, and who, as of May 20, 2005, was employed by
24 Boeing at its Wichita, Kansas facility. Plaintiff Southern was employed by Boeing for twenty
25 (20) years. Plaintiff Southern was qualified to hold her position as a sheet metal assembler.
26

1 Thus, Plaintiff Southern filed a timely EEOC compliant, received a notice of the right to sue and
2 has exhausted all administrative remedies.

3 83. Plaintiff Linda C. Sparrer (“Plaintiff Sparrer”) is a resident of the State of Kansas
4 who was born on February 26, 1948, and who, as of May 20, 2005, was employed by Boeing at
5 its Wichita, Kansas facility. Plaintiff Sparrer was employed by Boeing for sixteen years.
6 Plaintiff Sparrer was qualified to hold her position as IWTP operator. Thus, Plaintiff Sparrer
7 filed a timely EEOC compliant, received a notice of the right to sue and has exhausted all
8 administrative remedies.

9 84. Plaintiff Abel L. Vasquez (“Plaintiff Vasquez”) is a resident of the State of
10 Kansas who was born on May 17, 1942, and who, as of June 3, 2005, was employed by Boeing
11 at its Wichita, Kansas facility. Plaintiff Vasquez was employed by Boeing for more than
12 twenty-eight (28) years. Plaintiff Vasquez was qualified to hold the manufacturing engineer
13 position. Thus, Plaintiff Vasquez filed a timely EEOC compliant, received a notice of the right
14 to sue and has exhausted all administrative remedies.

15 85. Plaintiff Henry F. Victor (“Plaintiff Victor”) is a resident of the State of Kansas
16 who was born on March 6, 1937, and who, as of May 21, 2005, was employed by Boeing at its
17 Wichita, Kansas facility. Plaintiff Victor was employed by Boeing for more than twenty-five
18 (25) years. Plaintiff Victor was qualified to hold his position as a material processor. Thus,
19 Plaintiff Victor filed a timely EEOC compliant, received a notice of the right to sue and has
20 exhausted all administrative remedies.

21 86. Plaintiff James Walker (“Plaintiff Walker”) is a resident of the State of Kansas
22 who was born on November 15, 1955, and who, as of June 16, 2005, was employed by Boeing
23 at its Wichita, Kansas facility. Plaintiff Walker was employed by Boeing for eighteen (18)
24 years. Plaintiff Walker was qualified to hold his position as an assembler. Thus, Plaintiff
25 Walker filed a timely EEOC compliant, received a notice of the right to sue and has exhausted
26 all administrative remedies.

1 87. Plaintiff James R. Wallace (“Plaintiff Wallace”) is a resident of the State of
2 Kansas who was born on August 11, 1948, and who, as of June 3, 2005, was employed by
3 Boeing at its Wichita, Kansas facility. Plaintiff Wallace was employed by Boeing for more than
4 twenty-six (26) years. Plaintiff Wallace was qualified to hold his position as a power
5 distribution electrician. Thus, Plaintiff Wallace filed a timely EEOC complaint, received a
6 notice of the right to sue and has exhausted all administrative remedies.

7 88. Plaintiff Carolyn Y. Wheaton (“Plaintiff Wheaton”) is a resident of the State of
8 Kansas who was born June 15, 1962, and who, as of May 20, 2005, was employed by Boeing at
9 its Wichita, Kansas facility. Plaintiff Wheaton was employed by Boeing for eighteen (18) years.
10 Plaintiff Wheaton was qualified to hold her position as a factory attendant. Thus, Plaintiff
11 Wheaton filed a timely EEOC complaint, received a notice of the right to sue and has exhausted
12 all administrative remedies.

13 89. Plaintiff Sylvester Williams II (“Plaintiff Williams II”) is a resident of the State of
14 Kansas who was born on February 7, 1954, and who, as of May 19, 2005, was employed by
15 Boeing at its Wichita, Kansas facility. Plaintiff Williams II was employed by Boeing for more
16 than twenty (20) years. Plaintiff Williams II was qualified to hold his position as a skin quality
17 employee. Thus, Plaintiff Williams II filed a timely EEOC complaint, received a notice of the
18 right to sue and has exhausted all administrative remedies.

19 90. Plaintiff Janet M. Wilson (“Plaintiff Wilson”) is a resident the State of Kansas
20 who was born on January 6, 1960, and who, as May 20, 2005, was employed by Boeing at its
21 Wichita, Kansas facility. Plaintiff Wilson was employed by Boeing for eighteen (18) years.
22 Plaintiff Wilson was qualified to hold his position as an assembler. Thus, Plaintiff Wilson filed
23 a timely EEOC complaint, received a notice of the right to sue and has exhausted all
24 administrative remedies.

25 91. Plaintiff Walter Woods (“Plaintiff Woods”) is a resident of the State of Kansas
26 who was born on March 27, 1947, and who, as of May 20, 2005, was employed by Boeing at its

1 Wichita, Kansas facility. Plaintiff Woods was employed by Boeing for sixteen (16) years.
2 Plaintiff Woods was qualified to hold his positions as a structure mechanic. Thus, Plaintiff
3 Woods filed a timely EEOC complaint, received a notice of the right to sue and has exhausted
4 all administrative remedies.

5 92. Plaintiff Betty R. Young (“Plaintiff Young”) is a resident of the State of Kansas who was
6 born on July 11, 1957, and who, as of May 27, 2005, was employed by Boeing at its Wichita,
7 Kansas facility. Plaintiff Young was employed by Boeing for twenty-five (25) years. Plaintiff
8 Young was qualified to hold her position.

9 **C. Defendants**

10 **1. Boeing**

11 93. Boeing’s Wichita Division supported the commercial, military, and space
12 products and services of the Boeing Corporation. Operations in Wichita date back to the old
13 Stearman Aircraft Company, which became part of Boeing in 1934 when the federal
14 government required United Airlines, Pratt and Whitney, and Boeing to split into three separate
15 companies. It is the largest employer in the State of Kansas. The division produces 75 percent
16 of the parts for Boeing’s 737 commercial airliners as well as nacelles, nose sections and other parts
17 for Boeing’s 747, 757, 767, and 777 as well as a range of maintenance services and parts for the
18 company’s military and commercial products. Boeing can be served as set forth in the summons

19 **2. Onex/Spirit/Midwestern (referred to collectively as Onex)**

20 94. Onex is a Canadian corporation that is the parent company of Spirit Aerospace.
21 Midwestern Aircraft Systems is the former name of Spirit Aerospace. Onex negotiated the
22 terms of the sale of the Boeing plants and, along with Boeing, made the decisions against the
23 plaintiffs. Midwestern Aircraft Systems was formed solely to be the entity to run the Wichita
24 plant and was not publicized until after the sale of the Boeing plant. Midwestern and Spirit were
25 not properly capitalized and shared the same directors, officers and employees. Onex boasts on
26 its website that Nigel Wright (managing director of Onex) and Seth Mersky (managing director

1 of Onex “co-led Onex’ acquisition of Boeing’s commercial airplane manufacturing operations in
2 Wichita, Kansas, and Tulsa and McAlester, Oklahoma, now operating as Spirit AeroSystems,
3 Inc.”¹

4 95. Each company can be served as set forth in the summons.

5 **IV. CLASS ALLEGATIONS**

6 96. Plaintiffs sue on their own behalf and on behalf of a Class of persons pursuant to
7 Fed. R. Civ. P. 23(b)(2) and (b)(3).

8 97. The named plaintiffs bring this Class Action Complaint on behalf of a Class of
9 all individuals who were employed with Boeing Wichita and Tulsa and/or Onex at any time and
10 laid off, terminated by, or not hired by Onex within two years prior to the sale of the Boeing
11 Wichita and Tulsa plants.

12 98. Plaintiffs reserve the right to modify this Class definition and Class period based
13 on the results of his class certification discovery.

14 **A. 23 (a) Requirements**

15 99. There are at least one thousand Class members. The Class is so large that joinder
16 of all members is impracticable.

17 100. Questions of law and facts common to the class include:

- 18 a. whether the selection procedures utilized by the defendant has a disparate
19 impact on older workers;
- 20 b. whether the defendants have violated provisions of the OWBPA;
- 21 c. whether the defendants failed to take reasonably, or the legally, required
22 action to correct the disparate impact upon older workers;
- 23 d. whether the defendants have retaliated against its employees for previously
24 engaging in protected conduct;
- 25

26

¹ http://www.onex.com/index.taf?pid=40&_UserReference=50E019F7A8D553C143A6EB88.

- 1 e. whether the defendants intentionally interfered with the retirement rights of
2 plaintiffs;
- 3 f. whether defendants have violated the Labor Management Relations Act
4 (“LMRA”);
- 5 g. whether defendants violated Title VII by failing to keep records of the
6 decisions made against plaintiffs; and
- 7 h. whether further injunctive relief is appropriate as a remedy for the past,
8 present, and future discrimination.

9 101. Plaintiffs’ claims are typical of the claims of the Class.

10 102. Plaintiffs and Class counsel will fairly and adequately protect the interests of the
11 Class.

12 **B. 23(b) Requirements**

13 103. **Fed. R. Civ. P. 23(b)(2)**: The defendants have acted /refused to act and are
14 acting/refusing to act on grounds generally applicable to the Class, thereby making appropriate
15 final injunctive or corresponding declaratory relief to the Class as a whole.

16 104. **Fed. R. Civ. P. 23(b)(3)**: Common questions of fact and law predominate over
17 questions affecting only individual members.

18 105. A class action is superior to other available methods for the fair and efficient
19 adjudication of this controversy.

20 106. There are no unusual difficulties likely to be encountered in the management of
21 this litigation as a class action.

22 107. Notice to the Class may be accomplished inexpensively, efficiently and in a
23 manner best designed to protect the due process rights of all Class members by means of written
24 notices supplied through defendant’s system of communication. Additionally, notice can be
25 posted on plaintiffs’ counsels’ website, www.swolawfirm.com.
26

1 108. With respect to their claims for age discrimination in violation of the ADEA, all
2 named plaintiffs seek certification of Count I pursuant to 29 U.S.C. 216(b) of the following
3 presently ascertainable subclass: All persons employed by Boeing who was terminated or laid
4 off or whose employment was terminated by Boeing or not hired by Onex who were age forty
5 and over as of the date of their termination and who file a consent to join this action with the
6 Court (collectively, the ADEA subclass).

7 109. Plaintiffs' claims under the ADEA warrant the creation of the ADEA subclass
8 because the named plaintiffs who were age forty and over at the time of the termination of their
9 employment are similarly situated to the class of persons they seek to represent in this collective
10 action. All were terminated as a result of a single discriminatory program designed and
11 implemented at the highest levels of Boeing and Onex's management, and all are seeking the
12 same relief.

13 V. FACTUAL ALLEGATIONS

14 A. Pattern and Practice of Discrimination

15 1. Boeing and Onex Made Decisions against Employees

16 110. Both Boeing and Onex engaged in a pattern and practice of age discrimination in
17 connection with the RIF by treating younger employees more favorably than older employees in
18 implementing the RIF. Employees were told that Boeing's managers would have "great input"
19 on the decisions that were made against them. Employees were also told that there would be an
20 objective system in place to evaluate and retain the most qualified individuals. However, this
21 never happened as the defendants have discarded the most qualified employees because of their
22 age.

23 111. The defendants have already begun in the "I blame you and you blame me"
24 game. For instance, Onex claims that it did not keep documents that support the reasons that
25 decisions were made against the employees despite a clear federal mandate to retain this
26 information. As a result of their actions, Onex received a records keeping violation from the

1 EEOC. On the other hand, Boeing claim s that it did not play any part in m aking the decisions
2 against the employees. If this is true, the defendants will not be able to rebut the statistical
3 analysis presented by the plainti ffs or the p rima facie evidence established by the plaintiffs.
4 Because of this adverse inference, plain tiffs believe that somehow the defendants' stories will
5 change from that originally told to the EEOC.

6 112. The defendants together, and in conspir acy and concert, specifically targeted
7 individuals who were over the age of forty in its adverse business decisions. There is no legal
8 justification for these decisions.

9 113. The decisions made against plaintiffs and Class were part of a common plan and
10 scheme. The scheme was implemented in at least two parts, maybe more. One wave of lay offs
11 occurred in May 2005. The second wave of layoffs occurred in June 2005. All layoffs were
12 part of "Project Lloyd."

13 **B. Disparate Treatment**

14 **1. Similarly Situated Younger Individuals Treated More Favorably**

15 114. In some divisions, all of the senior grade employees were term inated while
16 similarly situated younger workers were not. Fo r instance, in Department 3271, the top senior
17 employees of their grade level were terminated.

18 115. Boeing and Onex were targeting indivi duals over the age of forty. In one
19 department, each of the individual's who were laid off were in the age 51 to 52 bracket and were
20 the top five senior people of that grade level in the shop.

21 116. Onex through Spirit continues its pattern of releasing older seniority employees
22 while retaining and hiring younger workers at a lo wer pay rate. The jobs of these individuals
23 were not eliminated and some plaintiffs have even applied for the exact same position that they
24 were terminated from.

25 **2. Direct Evidence of Intentional Discrimination**

26

1 117. Many managers have specifically told employees that they were simply too old to
2 work at Boeing. At meetings, managers would show a pyramid chart. This pyramid chart would
3 show the ages of workers in the division, with the oldest person at the top. Other managers would
4 simply tell employees that they should retire because the employee was too old. Consider for
5 example the following statements made by managers:

- 6 (1) Plaintiff Houston was told “If I were you and your age I would
7 retire.”
- 8 (2) Plaintiff Schloetzer was asked, “What will you do Albert if you
9 don’t get a job offer, you’re getting old and you’re handicapped?”
10 In fact, a week before Plaintiff Schloetzer was laid off,
11 management stated, “That’s what happens when you get old ...
12 you can’t move as fast!”
- 13 (3) Plaintiff Kerns was asked: “are you getting to old to do your job?”
14 and told “Maybe, we should put you on another shift if you’re too
15 old! Getting to old to get it done on time?”
- 16 (4) Plaintiff Housley was told that “these younger folks are much
17 better on the computer than the older folks”. She was also asked
18 how old she was. When she informed him of her age, the
19 manager stated she should just consider retirement and not worry
20 about anything because “we do not know what the future holds.”
- 21 (5) Plaintiff Bonesteel, heard the managers mention the “Aging
22 Workforce” comment several times. Plaintiff Bonesteel, knew that
23 the age of the workers was a concern of Boeing.
- 24 (6) Plaintiff Montgomery was also consistently questioned as to when
25 she was going to retire.
26

- 1 (7) Plaintiff Williams II was referred to as the “old guy” by his
2 managers. When Plaintiffs Williams II received his twenty year
3 award, his managers told him that it was time for him to retire.
4 Additionally, Plaintiff Williams II was always harassed about his
5 age and was called the old guy in a crew meeting and even told
6 “man your getting gray.”
- 7 (8) Plaintiff Bronnenberg recalls meetings where managers would
8 consistently comment on the age of the work force.
- 9 (9) Plaintiff Callaway’s manager continuously pushed him to retire.
- 10 (10) Plaintiff Apsley heard management say, “if you are fifty-five or
11 older than you should go on and retire.”
- 12 (11) Managers told Plaintiff James that “Boeing is changing. Young
13 people will come and the older people will go!”
- 14 (12) Plaintiff Bakk heard comments made by management regarding
15 the age of individuals which led him to believe he was laid off
16 because of his age.
- 17 (13) Plaintiff Childers was strongly encouraged to retire by
18 management.
- 19 (14) Plaintiff Cox was told by management “If you are too old to keep
20 up the pace ... get out! If you are retirement age ... get out! This
21 is for the younger people to do the work now.”
- 22 (15) A week before Plaintiff P. Cox was laid off, management asked
23 her how old she was.
- 24 (16) Management informed Plaintiff DeZarn, on several occasions, that
25 her age and handicap would hinder her future employment.
26

1 (17) Plaintiff Jones often heard management repeatedly state in
2 meetings that the average age of the workforce was forty-eight
3 (48) to forty-nine (49).

4 (18) However, Plaintiff Powell heard management say, “Boeing needs
5 to be competitive with an aging older workforce. Younger people
6 are stronger and faster.”

7 (19) Plaintiff Smith that if she was close to retirement than it would be
8 best for her to retire.

9 **C. Disparate Impact**

10 **1. Alleged Criteria**

11 118. Boeing and Onex have not informed any of the employees as to why they were
12 not chosen. Boeing or Onex have not informed any employee what criteria were actually
13 utilized. To the best of plaintiffs’ knowledge there was a document generated by either Onex or
14 Boeing titled “RE-Hire Recommendation Criteria.” The criteria contained in this document
15 allowed for excessive subjectivity in the decisions made. More importantly, the criteria violated
16 the collective bargaining agreement. However the criteria were in reality questions that had no
17 real method to measure and instead allowed managers to exercise prejudices and biases in the
18 employment decisions.

19 **2. Alleged Criteria Was Not Utilized**

20 119. Employees never received a notice as to how they did not meet the criteria
21 offered and in most cases, the employees met every criteria except for being older than forty.

22 120. In a cursory review of the history of the employees leaves no doubt that any
23 alleged criteria were never used. Many of the employees, if not the majority, received no
24 discipline and received great performance reviews. Additionally, many, if not all, employees
25 were qualified to complete their jobs and even received numerous awards and accolades for
26 their great work.

3. Even If Criteria Was Used, It Allowed for Too much Subjectivity

121. The alleged criteria placed excessive subjectivity in the hands of managers who hold inherent biases against employees. For instance, one of the alleged criteria was “favorable attitude toward the company.” This “criterion” is inherently biased against individuals who have reported misconduct on behalf of Boeing and have reported that their managers and Boeing had discriminated against employees because of the employee’s age, race, or disability.

122. Along the same lines, the alleged criteria state “does the employee take an active role in developing and solutions to problems that pose a risk for injury?” This subjective question seems to specifically target individuals who have exercised worker’s compensation rights in the past and who held work restrictions in the future. By its very nature this criterion also places target signs on employees who are over the age of forty.

123. There were no objective measures in place that would curtail the use of this excessive subjectivity. The excessive subjectivity allowed managers to exercise their age biases in recommending individuals for employment.

D. Statistics Provide Evidence for Pattern and Practice, Disparate Treatment, and Disparate Impact

124. A review of statistics will raise the irrefutable presumption that the defendant has intentionally discriminated against older workers. Additionally, the statistics will raise the irrefutable presumption that the alleged criteria utilized by the defendants had a disparate impact against older workers.

125. The statistics of the samples available yield a statistical significance greater than 0.05, that necessary to legally establish discrimination.

126. Additionally, of 930 workers over the age of fifty, 130 were not provided offers (13.9%). In contrast to individuals under the age of forty, where only 10 of 215 were not

1 provided offers from the defendants (4%). This glaring disparity is unexplainable: especially in
2 light of the fact that the bargaining agreement called for lay-offs to take place by seniority.

3 **E. Release Violated the ADEA and the Older Workers Benefit Protection Act**

4 127. The defendants required Boeing employees to sign a “Consent to Release
5 Personnel Information” form. This form threatened employees that if they did not sign the
6 release, they would not receive a job offer from Onex. In essence, employees were told that
7 they would be terminated if they did not sign the form.

8 128. In order to evade accountability for conduct that it well understood to be
9 unlawful, Boeing and Onex presented its employees with an ultimatum: sign a “Consent to
10 Release Personnel Information” which purported to waive the employees’ right to challenge the
11 legality of Boeing’s conduct.

12 129. In successfully strong-arming well over 99 percent of its employees into signing
13 the Release, Boeing exploited the vulnerability of its employees and betrayed the confidence
14 they had reposed in the company during relationships that spanned a decade or more.

15 130. Indeed, when employees attempted to state that they were signing the form under
16 duress, Boeing returned the form to the employee. For instance, Sharron James signed the
17 release and placed “signed under duress” on the form. Within a week, the document was
18 returned to Plaintiff James and was told to sign the document without the “under duress” or she
19 would be reprimanded by first line manager.

20 131. This release violates the OWBPA. The OWBPA is designed to protect the rights
21 and benefits of older workers and imposes specific requirements for releases covering ADEA
22 claims. The requirements are as follows:

23 (1) the release must be written in a manner calculated to be understood by the
24 employee signing the release, or by the average individual eligible to participate;

25 (2) the release must specifically refer to claims arising under the ADEA;
26

1
2 (3) the release must not purport to encompass claims that may arise after the date
of execution;

3 (4) the employer must provide consideration for the waiver or release of ADEA
4 claims above and beyond that to which the employee would otherwise already be
entitled;

5 (5) the employee must be advised in writing to consult with an attorney prior to
6 executing the agreement;

7 (6) the employee must be given at least 45 days to consider signing if the
8 incentive is offered to a group;

9 (7) the release must allow the employee to revoke the agreement up to 7 days
10 after signing; and

11 (8) if the release is offered in connection with an exit incentive or group
12 termination program, the employer must provide information relating to the job
13 titles and ages of those eligible for the program, and the corresponding
information relating to employees in the same job titles who were not eligible or
not selected for the program.

14 132. The defendants did not provide plaintiffs with any of these safeguards and in
15 failing to do so have violated the OWBPA.

16 **F. IAM Breached its Duty of Fair Representation**

17 133. Boeing terminated employees prior to their pension vesting, sometimes just
18 months or days away. Additionally, the workers who did not receive an offer from Onex were
19 not allowed to vote. Moreover, the IAM did not file grievances against the defendants and
20 allowed them to make decisions against the Collective Bargaining Agreement

21 134. Boeing/Onex illegally took the above measures and others to classify its
22 employees on the basis of age, and to otherwise adversely affect the employment of older
23 employees and other similarly situated employees. However, the Union failed to protect its
24 members.

25 **COUNT I: Age Discrimination**
26 **(Pattern and Practice, Disparate Treatment and Impact)**

135. Plaintiffs hereby incorporate the previous paragraphs as if fully set forth herein.

1 136. Defendants have engaged in a pattern and practice of discrimination against
2 plaintiffs on the basis of her age in violation of the Age Discrimination in Employment Act, 29
3 U.S.C. § 623.

4 137. Each of the plaintiffs is within the protected age group and their work was
5 beyond satisfactory. Additionally, the plaintiffs and Class were discharged despite the adequacy
6 of their work and not hired despite being the most qualified for the positions. As incorporated in
7 this section, there is evidence the defendants intended to discriminate against the plaintiffs and
8 Class in reaching its decisions.

9 138. Additionally, the defendant has implemented standards that have had a disparate
10 impact against older workers.

11 139. As a result of defendants' conduct, plaintiffs and members of the Class have suffered
12 and continue to suffer loss and damage.

13 **COUNT II: Declaratory Relief**
14 **(Violation of Title VII Regulations)**

15 140. Plaintiffs and Class hereby incorporate the previous paragraphs as if fully set
16 forth herein.

17 141. Title VII requires employers to make and keep records "relevant to the
18 determinations of whether unlawful employment practices have been or are being committed."
19 42 U.S.C. § 2000e 8(c). EEOC regulations specify that employers must preserve personnel
20 records, including application forms, for one year. 29 C.F.R. § 1602.14.

21 142. The defendants have not kept this required information and Onex received a
22 records keeping violation from the EEOC.

23 **COUNT III: Declaratory Judgment**
24 **(Invalidity of the Release under ERISA, OWBPA, the ADEA and Common Law)**

25 143. Plaintiffs and Class hereby incorporate the previous paragraphs as if fully set
26 forth herein.

1 144. In threatening to terminate the relationships of its employees agents Boeing
2 threatened to terminate employees and Onex refused to consider the employees for employment
3 unless they first signed the Release waiving their rights to pursue their claims, including those
4 under ERISA and the ADEA. Boeing and Onex have engaged in retaliatory conduct in violation
5 of the ADEA, 29 U.S.C. § 623(d), and Section 510 of ERISA, 29 U.S.C. § 1140. Inasmuch as
6 they were procured by means of such unlawful retaliatory conduct, the Releases are invalid and
7 unenforceable under ERISA and the ADEA

8 145. The Release also is invalid and unenforceable because it does not satisfy the
9 requirements set forth in the OWBPA (codified at 29 U.S.C. § 626(f)(1)).

10 **Count IV: Interference with ERISA Rights**
11 **(In Violation of Section 510 (29 U.S.C. § 1140))**

12 146. Plaintiffs and Class hereby incorporate the previous paragraphs as if fully set forth
13 herein.

14 147. Defendants are prohibited from discharging or otherwise discriminating against a
15 plan participant "for the purpose of interfering with the attainment of any right to which such
16 participant may become entitled under the plan." 29 U.S.C. § 1140.

17 148. Here the defendants have specifically intended to interfere with the plaintiffs ERISA
18 rights. Boeing and Onex designed and implemented its sale with the intention of interfering
19 with the attainment and receipt of benefits under the Plans.

20 149. As a result of defendants' conduct, plaintiffs and members of the Class have
21 suffered and continue to suffer loss and damage.

22 **Count V: Breach of Contract**
23 **(Violation of LMRA)**

24 150. Plaintiffs and Class hereby incorporate the previous paragraphs as if fully set
25 forth herein.

26 151. Defendants have entered into contracts, and made oral and written
representations to plaintiffs and members of the Class, regarding the terms and conditions of

1 their employment, including but not limited to assurances that older workers would and will
2 have the same employment opportunities as others.

3 152. Defendants' representations constitute binding contractual commitments with
4 plaintiffs and members of the Class, and defendants have contractual obligations with others as
5 to these matters, which were designed to protect plaintiffs and the Class from the alleged
6 conduct at issue.

7 153. Moreover, defendants have breached their employment contracts with plaintiffs
8 and members of the Class and their contractual commitments to others to treat their older
9 employees fairly and not discriminate against them because of their age.

10 154. The Collective Bargaining Agreement that Boeing entered into required that lay
11 offs were to occur based on an individual's seniority. However, Boeing failed to abide by these
12 contractual terms in recommending the lay offs of the plaintiffs, thus violating the collective
13 bargaining agreement. Plaintiffs have standing to bring a breach of contract action.

14 155. Furthermore, the IAM, failed to properly file grievances for the egregious acts of
15 Boeing. Moreover, IAM breached its duty of fair representation. The union's breach of this
16 duty actually affected the integrity of the entire union process. The IAM has simply ignored the
17 meritorious claims of the plaintiffs and Class.

18 156. Defendants' contractual breaches have directly and proximately caused plaintiffs
19 and the Class to suffer damages including, but not limited to, lost past and future earnings, lost
20 benefits and consequential damages, in amounts to be proven at trial.

21
22 **Count VI**
(Injunctive and Equitable Relief)

23 157. Plaintiffs and Class hereby incorporate the previous paragraphs as if fully set
24 forth herein.

25 158. Plaintiffs and the Class are entitled to injunctive and equitable relief restraining
26 defendants from illegally discriminating against plaintiffs and the Class, and providing plaintiffs

1 and the Class the benefits that they would have received but for the discrimination and other
2 illegal conduct of defendants.

3 159. An award of attorney's fees is appropriate in this case pursuant to applicable law.

4
5 **COUNT VII: Retaliation**
6 **(Exercising Rights under Protected Activities)**

7 160. Plaintiffs and Class hereby incorporate the previous paragraphs as if fully set
8 forth herein.

9 161. Many of the class members are females who have complained of discrimination,
10 minorities who have complained of discrimination, individuals who have filed worker's
11 compensation, exercised FMLA, exercised disability rights, or have blown the whistle on
12 managers, all of which are protected activities. Besides being over the age of forty, upon
13 information and belief, defendants' alleged criteria targeted individuals who have exercised their
14 rights. Thus, the defendants have taken an adverse decision against these individuals.

15 162. As a result of defendants' conduct, plaintiffs and members of the Class have
16 suffered and continue to suffer loss and damage.

17 **VI. PRAYER FOR RELIEF**

18 WHEREFORE, plaintiffs pray for relief as follows:

19 A. That this case be certified as a class action pursuant to Fed. R. Civ. P. 23 and/or a
20 collective action pursuant to 29 U.S.C. § 216(b) on behalf of the proposed plaintiff class and
21 subclasses, and that plaintiffs' counsel of record be designated as Class Counsel for the class
22 and subclass;

23 B. That a declaratory judgment be issued declaring that the Release is invalid and
24 unenforceable under the ADEA, ERISA and the common law, pursuant to 29 U.S.C. §
25 626(f)(1), 29 U.S.C. § 1132(a)(3) and 28 U.S.C. § 2201 and 2202;

26 C. That a permanent injunction be issued compelling Onex to offer all plaintiffs and the
class and subclass members the opportunity to be reinstated as employees under the same terms

1 and conditions which existed prior to the termination of their employment status and restoration
2 to participant status under the Plans, pursuant to 29 U.S.C. § 1132(a)(3) and 29 U.S.C. § 626(b);

3 D. That judgment be entered in favor of plaintiffs and the class and subclass members
4 and against the defendants restoring to them all benefits and other forms of compensation lost
5 between the dates of the termination of their employment and the date of judgment, together
6 with interest or an appropriate inflation factor, pursuant to 29 U.S.C. § 1132(a)(3);

7 E. That judgment be entered in favor of plaintiffs and the class and subclass members
8 and against the defendants for lost benefits, future benefits, back pay (including interest or an
9 appropriate inflation factor), front pay, lost investment capital, and liquidated damages, pursuant
10 to 29 U.S.C. § 626(b);

11 F. That judgment be entered in favor of plaintiffs and class and subclass members and
12 against the defendants for all direct, incidental, and consequential damages arising out of the
13 defendants' breaches of contract;

14 G. That judgment be entered in favor of plaintiffs and against the defendants for all
15 direct, incidental, and consequential damages, including non-financial injuries, arising out of
16 defendants' actions, and for punitive damages in amounts to be determined at trial no less than
17 one billion five hundred million dollars (\$1,500,000,000) to be divided equally among the class
18 members;

19 H. That a constructive trust be imposed over defendants' assets sufficient to cover all
20 losses suffered by the class members as a result of the violations of ERISA;

21 I. That plaintiffs and class and subclass members be awarded such other and further legal
22 and equitable relief as may be found appropriate and as the Court may deem just or equitable;

23 J. That plaintiffs and class and subclass members be granted their attorneys' fees,
24 experts' fees, and the costs and expenses of this litigation;

25 K. That a declaratory judgment be issued declaring that the defendants have violated
26 Title VII by failing to retain proper documentation; and

1 L. That the Court retain jurisdiction over all defendants until such time as it is satisfied
2 that they have remedied the practices complained of and are determined to be in full compliance
3 with the law.
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5 DATED: December 19, 2005
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12 Respectfully submitted,
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14
15 s/Lawrence W. Williamson, Jr.
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25
26

DEMAND FOR A JURY TRIAL

24 COMES NOW plaintiffs, by and through their counsel, and respectfully request that this
25 matter be set for a jury trial. Wichita, Kansas is designated as place of trial.
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By:
Lawrence

s/Lawrence W. Williamson, Jr.
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Attorney for plaintiffs