

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

SOCIETY OF PROFESSIONAL
ENGINEERING EMPLOYEES IN
AEROSPACE, et al.,

Plaintiffs,

v.

Nos. 05-1251-JWB
07-1043-JWB

BOEING CO., et al.,

Defendants.

MEMORANDUM AND ORDER

This case comes before the court on Boeing's¹ motion to dismiss party Darlene Kerns (Doc. 777). Plaintiffs have not filed a response to the motion and the time for doing so has passed. The court construes the motion as uncontested under D. Kan. Rule 7.4. Boeing's motion to dismiss party Darlene Kerns is GRANTED for the reasons stated herein.

Analysis

Boeing moves to dismiss Darlene Kerns as Ms. Kerns passed away in September 2017 and a timely notice of substitution has not been filed. On March 15, 2018, Boeing filed a suggestion of death. (Doc. 753.) The suggestion of death was served on Plaintiffs' counsel through CM/ECF. It was also served on Ms. Kerns's surviving spouse, Ronald Kerns, on March 16, 2018. (Doc. 777, Exh. A, B.)

Pursuant to Fed. R. Civ. P. 25(a)(1), a motion for substitution may be made by any party or by the decedent's successor or representative. If no motion is filed within 90 days of service of the suggestion of death, however, an action must be dismissed. More than 90 days have now

¹ The several Boeing defendants will be collectively referred to as Boeing unless otherwise noted.

