

# Plaintiff in Wichita discrimination suit: 'It's personal'

By Karen McLean  
SPEEA publications editor

**W**ICHITA – Randy Williams is not the kind of guy who looks for a fight. He's a hard worker who is often rewarded by his bosses for his near compulsive desire to bring organization to disarray in the workplace.

After finding out his wife's \$40,000 in prescriptions may have been a factor in his layoff last year from Spirit AeroSystems, he got angry.

Williams is one of 30 named plaintiffs in discrimination charges filed against Spirit. The AARP Foundation joined the legal team representing the plaintiffs a few months later because of the strength of the plaintiffs' claims.

The layoffs at issue occurred in July 2013, just weeks after Spirit switched its employee medical coverage to a self-insured program. The result of that change is every dollar not paid out in medical claims is a dollar that remains in Spirit's corporate bank account.

"Once I realized how broad it was, how personal it was, it was easy to make that decision," Williams said, of becoming a named plaintiff.

## Over age 40

The charges are filed with the Equal Employment Opportunity Commission (EEOC) – for age discrimination (more than 80% of the SPEEA-represented employees laid off were over age 40) and the U.S. Department of Health and Human Services, Office of Civil Rights (OCR) – for allegedly disclosing confidential medical information.

In the months following the mass layoffs in July 2013, a significant number of people had contacted SPEEA to seek help with medical expenses – many of which related to costly medical conditions such as cancer or organ transplants, for example. After investigating further, SPEEA contacted King & Greisen, LLP, a nationally recognized employment law firm based in Denver.

"I took this case because I was shocked by the injustice done to the devoted, loyal and hard-working employees at Spirit," said Diane King, partner in the firm. "I see this as a very important case not only for the Spirit employees but also for other employees across the country."

Williams' experience is an example of the caliber of employees who were laid off. He spent nearly half of his 28 years between Boeing and Spirit in management positions. Just before accepting a transfer to a SPEEA-represented position, he was in line to become a second-level manager.

He opted for the non-management position in the SPEEA bargaining unit in November 2012 because of what he refers to as a 'life-changing event' regarding his wife's multiple sclerosis. He was doing the same work as before, but he wasn't managing people. "Given my background and experience, it was perfect," he said.

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Randy Williams (right) was on a management promotion track. Less than a year later, he was laid off and designated (not allowed on the priority recall list). He's shown here with SPEEA Midwest Director Bob Brewer discussing the issues.

## Timeline of charges against Spirit

- **Present** – The Equal Employment Opportunity Commission (EEOC) and Office of Civil Rights (OCR) continue their investigation. Given the number of plaintiffs, a response is not expected until the first of the year or later.
- **October 2014** – The SPEEA-represented employees' attorneys file charges for failure to hire on behalf of nearly a dozen employees.
- **September 2014** – AARP Foundation joins with the legal counsel to represent the employees' charges. Wichita attorney Randy Rathbun, a former U.S. attorney for the District of Kansas, also joined as local counsel on the complaint.
- **March 2014** – Nationally recognized law firm of King & Greisen, LLP, files charges with the EEOC and OCR on behalf of SPEEA-represented employees.
- **September 2013** – SPEEA launched a seven-month effort to assist employees' investigations of Spirit's actions regarding the terminations.
- **July 25, 2013** – Spirit AeroSystems abruptly laid off 360, including 221 SPEEA-represented employees. More than 80% were over the age of 40, and many of those selected had long and excellent performance histories with the company.
- **July 1, 2013** – Spirit AeroSystems goes self-funded for its employee health insurance.

## About EEOC and OCR

- **EEOC** – According to federal law, employers cannot discriminate based on many standards, including age (over 40). The charges are filed with the Equal Employment Opportunity Commission (EEOC). A person may file a 'charge of discrimination' or an organization or agency may file on the behalf of others to protect the affected person's identity.
- **OCR** – The Office of Civil Rights (OCR) protects the privacy of an individual's health information, including the information held by employer group health plans. The OCR enforces the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule, which governs who can look at and receive your health information and for what reasons with the intent of protecting you from impermissible uses of your protected health information, such as, for example, discriminatory employment decisions.

**Don't become a cautionary example!**

## Personal Internet use at Boeing: Be aware and take care

Recently, a new SPEEA member was terminated for excessive personal use of the Internet during work hours. The employee's productivity was not questioned, nor was their performance at issue. The employee received no other disciplinary warning (verbal, written or otherwise) that their Internet use was a concern before they were terminated. SPEEA unsuccessfully challenged this employee's termination through the grievance process, including taking the case to arbitration.

Now emboldened by the arbitration decision, Boeing continues to discipline employees without first taking the opportunity to communicate with an employee one-on-one about a perceived concern.

Any discipline that violates your contractual right to be disciplined for "just cause" only can be challenged through your contractual grievance process. Even though we lost this arbitration, the decision is not binding on future

arbitrators, the reasoning is ripe for challenge, and the facts can be distinguished in many ways from issues we are currently grieving and expect to face in the future.

However, no employee wants to be accused of performing excessive personal business during work time. According to Boeing procedure, you may use a Boeing computer on your personal time to browse appropriate topics on the Internet. But, incidental, personal use of Boeing equipment, according to policy, should be "infrequent and minimal," and should be confined to "off-hours," e.g. lunch or break time or before or after work hours.

Broad policy statements like this are often unclear, are defined by practice in the workplace, and are rarely equally enforced. Generally, be aware that spending substantial time on personal matters during the workday may result in discipline, up to and including termination. If you have specific questions about the appropriate

use of the Internet; for example, "can I stream Pandora while on work time?" seek clarification from your manager on what their expectations are so there are no disputes. Coordinate with your Council Representative (CR) if you need assistance. The overarching rule is to know **your** manager's expectations and what **your** manager considers excessive. If their expectations seem unreasonable, contact your CR to discuss.

Remember to contact your CR to provide representation whenever you are required to answer questions that could result in disciplinary actions, including questions about your personal Internet use. Management does not have to remind you of your right to representation during an investigation. You, the employee, must invoke it.

You can locate your Council Representative by visiting [www.speea.org](http://www.speea.org) and clicking the 'Find Your Council Rep' tab under 'Member Tools.'

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#### Targeted

When he received his retention rating July 1, 2013, it was the lowest he'd ever been rated. "I immediately knew layoffs were coming, and I was targeted," he said.

He was also among hundreds who were designated – which meant they would not be on the priority recall list (if the company started hiring again in that position).

This scale of designations was unprecedented, according to **Bob Brewer**, SPEEA Midwest director. In the previous two rounds of retention ratings, only three people were designated out of a combined total of about 7,000. In this one round in July 2013, hundreds were designated.

After 11 months of job hunting, including 50-plus applications at Spirit, he hit bottom with his savings and was interviewing to mop floors at Wal-Mart. "We were to the point where we were looking at selling our house," he said.

That's when he received a job offer at an aerospace supplier through a temp agency. Within three weeks, the aerospace company, recognizing his talents and skills, offered Williams a full-time direct job in management where he continues to work with a stellar performance record.

Signing up as a named plaintiff was not a decision Williams takes lightly. He feels strongly about the injustice of what happened.

"It's not right what the company did to people," Williams said. "If we don't bring it to light, they're going to continue to do it, and it's just not right."

Spirit, he says, crossed the line. "If it weren't for you guys (SPEEA), guys like me would get run over. I want this to stop."

## Boeing names new Technical Principals

Congratulations to 15 SPEEA members who were recently named Technical Principals for their contributions to The Boeing Company and the aerospace industry.

Technical Principals are technical leaders and advisers and are mentors to the scientific and technical workforce, said **June Ogawa**, Northwest Technical Principal program manager.

The Technical Principal Program, available only in the Northwest region, is part of Boeing's effort to recognize and utilize the expertise of the technical workforce. The program, through a rigorous application process, recognizes technical experts for their contributions and achievements.

Joining a community of 169 Technical Principals, the 15 who were recently selected are encouraged to apply their expertise to Boeing products, processes, and services.

### Newly recognized Technical Principals

#### Boeing Commercial Airplanes

- William J. Hitchcock, Maintenance Program Analysis
- Michael S. Housden, EE Technical Design
- Todd A. Jarvi, MSE Technical Design
- Aaron D. Larson, Manufacturing Planning
- Michael A. Lazar, NC Programming
- Shawn A. McConville, Aerodynamics Analysis
- Donald W. Rockwell Jr., Retrofit Design
- Eugene T. Rogers, EE Technical Design
- Sue M. Stevenson, Product Definition Analysis
- Patrick B. Stone, Tool Design
- Thomas W. Tweed, MSE Technical Design

#### Boeing Defense, Space & Security

- Kirk T. Kidder, MSE Technical Design
- Han S. So, EE Technical Design

#### Engineering, Operations & Technology

- James K. Whitley Jr., Metrology & Calibration
- Kenny S. Williams, MSE Technical Design

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