

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

ROBERT PROBERT; LORETTA E.  
PROBERT; GENE GRISSOM; SANDRA  
GRISSOM; JOHN GRIMES, and  
DONNA GRIMES,

Plaintiffs,

vs.

FAMILY CENTERED SERVICES OF  
ALASKA, INC.; JOHN W.  
REGITANO; KATHY CANNONE; SUSAN  
DALE; LONNIE HOVDE; DEBORAH L.  
COXON, and additional DOES I  
TO X, Managerial Employers,  
Jointly Liable,

Defendants.

Case No. 4:07-cv-0030-RRB

**ORDER REGARDING**  
**AMENDED COMPLAINTS**

The Court has reviewed the recent filings in this matter and has identified several areas of concern.

The Complaint was originally filed by Robert and Loretta Probert at Docket 1. Subsequently, the Proberts moved to amend their Complaint to include "others similarly situated" at Docket 3 and filed the Amended Complaint at Docket 4.

Two months later, Gene and Sandra Grissom filed documents entitled "Notice of Election to Participate in Claim" at Dockets 7

and 8. The Grissoms did so under the "opt in" provision of the FLSA, 29 U.S.C. § 216(b), which states:

An action to recover the liability prescribed in [this section] may be maintained against any employer (including a public agency) in any Federal or State court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves and other employees similarly situated. No employee shall be a party plaintiff to any such action unless he gives his consent in writing to become such a party and such consent is filed in the court in which such action is brought.

Subsequently, Donna and John Grimes also filed Notices of Election to Participate in Claim at Dockets 14 and 15. With respect to the Grissoms, the Court issued an Order at Docket 13 instructing the Grissoms to file a complaint-in-intervention. The Grissoms did so at Dockets 22 and 23. A similar order was *not* issued to Donna and John Grimes and no complaint-in-intervention was filed on their behalf. The Court recognizes that its order requiring the filing of a complaint-in-intervention may have complicated matters.

All six of the purported Plaintiffs are represented by the same attorney. During extensive motion practice regarding summary judgment, counsel filed pleadings that appeared to be on behalf of all six Plaintiffs.

On January 28, 2009, counsel for Plaintiffs moved for leave to file a Third Amended Complaint. The Proposed Third

Amended Complaint was lodged at Docket 67. There being no opposition, the Court granted the motion at Docket 85. The Court overlooked the fact at this juncture that there was not a Second Amended Complaint. The Court also overlooked the use of "et al" in the caption of the proposed Third Amended Complaint, which is not permitted under the Local Rules.

However, rather than filing simply a Third Amended Complaint naming the six Plaintiffs and the additional Defendants, counsel filed five separate Complaints at Dockets 87, 88, 89, 90, and 91. Counsel also filed a memorandum explaining that "[i]t is Counsel's intention to generally have a single complaint for each plaintiff in the case . . . . The reason for filing separate Complaints is that the Complainants [sic] may travel separate paths. Having separate Complaints in Intervention will prevent possible future confusion and make the matters more easily handled, administratively." Docket 86.

The Court does not find that multiple Complaints will be easier to manage, administratively. In any event, the documents at Dockets 88, 89, 90, and 91 were not filed in accordance with Local Rule 15.1. Furthermore, based on 29 U.S.C. § 216(b), it is clear that the Grissoms and the Grimes were free to join this matter as party-Plaintiffs. The exercise of "intervention" was unnecessary.

In the interest of simplifying this case, the Court orders as follows:

1. The Complaints filed at **Dockets 87, 88, 89, 90, and 91** are **STRICKEN**.

2. Counsel for Plaintiffs have until **APRIL 3, 2009**, to file a **CORRECTED AMENDED COMPLAINT** on behalf of all six Plaintiffs, using the caption set forth above. Pursuant to **Local Rule 10.1(e)(4)[B]**, all Plaintiffs must be specifically named in the case caption.

3. Pursuant to Fed. R. Civ. P. 4, Counsel shall obtain summons from the Clerk's office for any Defendants named in the **CORRECTED AMENDED COMPLAINT** who were not previously served.

4. The status conference scheduled for **Friday, March 20, 2009**, is **VACATED**.

**IT IS SO ORDERED.**

ENTERED this 17<sup>th</sup> day of March, 2009.

S/RALPH R. BEISTLINE  
UNITED STATES DISTRICT JUDGE