

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

RICK DICK, FRANK J. KOWALSKI, : CIVIL ACTION
GALIN R. LOCKARD, JOHN W. :
MALONE, JR. AND WILLIAM L. :
MCKINNEY :
 :
 :
v. :
 :
 :
CONSOLIDATED RAIL CORPORATION : NO. 97-7962

MEMORANDUM ORDER

This is a FELA case. The five plaintiffs claim that they developed occupationally related carpal tunnel syndrome and related repetitive trauma injuries because of defendant's negligence in failing to provide them a safe workplace and equipment.

The plaintiffs had diverse occupations. They were employed variously as "carmen, welders and machinists." As such, it seems doubtful that they all even used the same equipment which allegedly produced repetitive stress or trauma. It appears that plaintiffs were not employed at the same location. Plaintiffs were employed "throughout Pennsylvania and surrounding states."

That each plaintiff complains about similar conduct of the defendant does not alone provide a proper basis for joinder. Simmons v. Wyeth Laboratories, Inc., 1996 WL 617492, *3 (E.D. Pa. Oct. 24, 1996). It does not appear that each plaintiff's claim arises "out of the same set of circumstances." See In Re Orthopedic Bone Screw Product Liability Litigation, 1996 WL 428683, *2 (E.D. Pa. July 15, 1995). It appears that prosecution

of the various claims may involve different witnesses and evidence. See Birch v. Consolidated Rail Corp., No. 96-3489 (E.D. Pa. May 15, 1996) (order requiring severance and refiling of claims of all but one of plaintiffs in FELA action for hearing loss absent allegation each resulted from same incident or transaction).

It thus appears that plaintiffs may have been misjoined in this action and that their claims should be separately prosecuted consistent with Fed. R. Civ. P. 20(a) and 21.

ACCORDINGLY, this day of March, 1998, plaintiffs shall have ten (10) days to show cause why they should not be required to prosecute their claims in separate actions, and defendant may within ten (10) days submit its view on this question.

BY THE COURT:

JAY C. WALDMAN, J.