

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
 COUNTY OF KERSHAW) Civil Action No.: 2016-CP-28-01087
)
 Dottie R. Bell)
)
 Plaintiff,)
 vs.) ORDER
 John C. Bentley)
 Defendant.)

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 APR 12 2019
 SC Court of Appeals

THIS MATTER, coming before the undersigned on the Plaintiff's Motion to Substitute Parties pursuant to South Carolina Rule of Civil Procedure 17(a), during the February 13, 2019 Civil Session in the Court of Common Pleas, the Honorable Robert E. Hood presiding, and with the Plaintiff being represented by the Goodwyn Law Firm, LLC, and the Defendant being represented by Carrie Hailman O'Brien of Walker, Allen, Grice, Ammons & Foy, LLP, the Court has reviewed the pleadings, the submissions of the parties, and the arguments of counsel.

IT APPEARING to the Court that the Plaintiff failed to substitute the party within a reasonable amount of time, the Plaintiff's Motion to Substitute Parties is denied. Specifically the Court finds as follows:

1. That Defendant died on July 26, 2016.
2. Upon learning during mediation on January 25, 2016 from the Plaintiff the insured, Dr. Peter McKoy was a veterinarian and has passed away, defense counsel realized she may know Dr. McKoy's children. During mediation, defense counsel reached out to Dr. McKoy's daughter-in-law, Kendall McKoy and she confirmed Dr. McKoy had in fact passed away and the Defendant was an acquaintance/employee of Dr. McKoy

- and Defendant was deceased. Defense counsel thereby notified the parties verbally during mediation of Defendant's passing.
3. Thereafter on January 25, 2018 defense counsel confirmed the news of Defendant's death to Plaintiff's counsel in writing.
 4. The date Plaintiff had knowledge of Defendant's death pursuant to South Carolina Rule of Civil Procedure 25(a)(1) was January 25, 2018.
 5. On January 26, 2018, defense counsel notified Plaintiff's counsel of Defendant's date of death, that he had no next of kin and no estate. And, thus a personal representative would need to be appointed or the equivalent on behalf of the Defendant.
 6. Plaintiff's counsel on or before January 30, 2018 acknowledged that he would proceed with having someone duly appointed on behalf of the Defendant.
 7. Plaintiff had Bryan D. Caskey, as Special Administrator for the Estate of John C. Bentley appointed on August 14, 2018.
 8. Plaintiff filed a Motion to Substitute the Parties on September 10, 2018 which was denied by the Court on October 16, 2018. However, leave was granted to serve the special administrator, which had never been completed.
 9. Bryan D. Caskey, as Special Administrator for the Estate of John C. Bentley accepted service of the Summons and Compliant on October 19, 2018.
 10. Pursuant to Rule 25(a)(1) a motion for substitution must be made within a reasonable amount of time after such knowledge of the death is obtained.
 11. Pursuant to Rule 25(a)(1) the footnotes indicates the rule mirrors the Federal Rules of Civil Procedure which notes the substitution must be made in ninety (90) days.

12. A reasonable amount of time pursuant case law ranges from ninety (90) days and no more than 120 days. See, Panhorst v. Panhorst, 390 S.E.2d 376 (Ct. App. 1990); see also, Pressley v. Blackwell, 2005 S.C. App. Unpub. LEXIS 23.

IT IS ORDERED that the Plaintiff's Motion to Substitute Parties is hereby DENIED for failure to substitute parties within a reasonable amount of time based upon the totality of the circumstances and facts, the Rules of Civil Procedure, and the case law.

THIS THE _____ DAY OF FEBRUARY, 2019.

The Honorable Robert E. Hood



Kershaw Common Pleas

Case Caption: Dottie R Bell VS John C Bentley , defendant, et al
Case Number: 2016CP2801087
Type: Order/Substitution of Parties

So Ordered

s/ R.E. Hood #2164

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