

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
NORTHERN DIVISION**

JAMES HARDY, JR.; HARDY RESOURCES, LLC;
B & H RESOURCES, LLC; MARY HARDY; HARDY
ENERGY SERVICES, INC.; ELITE COIL TUBING
SOLUTIONS, INC.; and NORTHSTAR FARMS, LLC

PLAINTIFFS

v.

NO. 1:09CV00041 DPM/ HDY

HELEN BARTMESS, Executrix of the Estate of
George Bartmess

DEFENDANT

ORDER

Helen Bartmess, the Executrix of the Estate of George Bartmess, has filed the pending motion for substitution of parties pursuant to F. R. C. P. 25(a). See Document 105.¹ In the motion, she represents that defendant George Bartmess died on or about January 25, 2011; that the plaintiffs filed a suggestion of his death on January 27, 2011, see Document 95; and that on February 4, 2011, the Probate Division of the Izard County, Arkansas, Circuit Court appointed her the executrix of his estate.

1

Rule 25 (a) provides that “[i]f a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent’s successor or representative. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.”

Accepting Helen Bartmess' representations as true, and being given no reason why the claims against the late George Bartmess and his counterclaims against the plaintiffs were extinguished upon his death, the motion is granted. Helen Bartmess, the Executrix of the Estate of George Bartmess, is hereby substituted for George Bartmess in the proceeding at bar.

IT IS SO ORDERED this 17 day of February, 2011.



UNITED STATES MAGISTRATE JUDGE