

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

**M. MELINDA BALLARD and  
ELLEN B. BRANTLEY, as  
guardian ad litem for R.C.A., a minor**

**PLAINTIFFS**

v.

**No. 4:12-cv-637-DPM**

**DELTA TRUST & BANK, as Trustee, and  
ROBYN B. ZIPERSKI, as Trustee**

**DEFENDANTS**

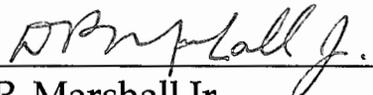
**ORDER**

By the Court's count, the period to substitute another plaintiff for Ms. Ballard has expired. FED. R. CIV. P. 25(a)(1). No one has sought substitution. Service of the suggestion of death seems to have been adequate. The Rule is clear about what must happen in these circumstances: Ms. Ballard's claims are dismissed without prejudice.

The Court has not heard from R.C.A.'s guardian, perhaps because of uncertainty created by Ms. Ballard's death. *Compare No 84*. The Court needs to know as soon as possible whether R.C.A. intends to pursue this case. Report due from R.C.A.'s guardian by 25 September 2013. Any motion to be paid for time spent or expenses incurred since appointment is due by the same date. If R.C.A.'s guardian fails to report by the deadline, the Court will dismiss R.C.A.'s claims without prejudice for failure to prosecute.

In the circumstances, Ms. Ziperski's motion for summary judgment, *No* 85, is denied without prejudice. The Court understands her desire to get this case resolved. But coming as it did, in the wake of Ms. Ballard's death and the resulting murkiness about whether the case would continue without her driving presence, the motion is simply premature. If R.C.A. wants to press the case, then there remains plenty of time for motion practice. *No* 64.

So Ordered.

  
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D.P. Marshall Jr.  
United States District Judge

10 September 2013