

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
TEXARKANA DIVISION

KATIE THOMAS

PLAINTIFF

vs.

CASE NO: 11-CV-04027

UNITED STATES OF AMERICA

DEFENDANT

**JUDGMENT**

Before the Court is the Report and Recommendation filed September 19, 2011 by the Honorable Barry A. Bryant, United States Magistrate Judge for the Western District of Arkansas. (ECF No. 10). Judge Bryant recommends that the Defendant's Motion to Dismiss (ECF No. 6) be granted. After reviewing the record *de novo*, the Court adopts Judge Bryant's Report and Recommendation as its own.

The Court agrees with Judge Bryant's finding that Plaintiff Katie Thomas, wife of the deceased, may not proceed with this wrongful death action due to the fact that Marilyn Ratcliff, offspring of the deceased, is not a party to the current lawsuit as is required by Arkansas Code Annotated § 16-62-102. While Plaintiff claims that Marilyn Ratcliff has effectively "waived" her interest in the action, § 16-62-102 does not provide for such a waiver.

The Court overrules Plaintiff's objections and adopts Judge Bryant's Report and Recommendation (ECF No. 10). For the reasons stated herein and above, as well as those contained in the Report and Recommendation (ECF No. 10), Defendant's Motion to Dismiss (ECF No. 6) is **GRANTED**, and Plaintiff's claims are **DISMISSED WITHOUT PREJUDICE**.

IT IS SO ORDERED, this 6th day of October, 2011.

/s/ Harry F. Barnes  
Hon. Harry F. Barnes  
United States District Judge