

the child of Rebecca Ann Quinn and Douglas Morgan. Douglas Morgan was the spouse of Rebecca Ann Quinn at the time of her death, although they were separated.

Plaintiffs request that the court realign the Defendants as Plaintiff and Defendant and that Plaintiffs be dismissed without prejudice with the court retaining jurisdiction over Plaintiffs until a final order issues in the matter directing Plaintiffs as to the proper person entitled to the 401(k) account and addressing Plaintiffs' claim to attorney's fees. Defendants have no opposition to this request. Therefore, the court dismisses Plaintiffs from this case for the purposes of discovery. The court retains jurisdiction over Plaintiffs to the extent it will have to direct them as to the proper person entitled to the 401(k) account and for Plaintiffs' claim to attorney's fees. The court **REALIGNS** the parties as follows: M.L.M., a minor, by her guardian Teresa Quinn-Vesely or Mark Robert Vesely, is now the Plaintiff in this case and Douglas Morgan is the Defendant.

The court notes that at least one party to the litigation has requested mediation. The court is amenable to appointing a United States Magistrate Judge as mediator so long as all parties consent.

Finally, the court notes that Douglas Morgan had filed a cross claim against Defendant Teresa Quinn-Vesely. The court approved Defendant Morgan's consent dismissal without prejudice of that cross claim on August 22, 2008. For that reason, the

court DENIES AS MOOT Defendant Teresa Quinn-Vesely's motion to dismiss cross-claim
[8].

IT IS SO ORDERED this 10th day of December 2008.

s/ J. Owen Forrester
J. OWEN FORRESTER
SENIOR UNITED STATES DISTRICT JUDGE