

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
NORTHERN DIVISION

PATRICK WILSON,)
)
 Plaintiff,)
)
 v.) Case No. 2: 15 CV 45 CDP
)
 PAUL JONES, M.D., et al.,)
)
 Defendants.)

MEMORANDUM AND ORDER

I appointed counsel to represent plaintiff Patrick Wilson in this prisoner civil rights action brought under 42 U.S.C. § 1983, in which he alleged that medical and correctional personnel at Moberly Correctional Center were deliberately indifferent to his serious medical needs by ignoring his requests for care and denying recommended treatment for complications related to a broken ankle. On December 5, 2016, counsel filed a notice that Mr. Wilson had died. Because counsels' representation does not extend to Wilson's estate or to his heirs, they shall be relieved of their appointment in this case. If Wilson's heirs believe that the claim raised in this action survives Wilson's death and wish to pursue the claim, a personal representative of Wilson's estate may be substituted as the proper party upon motion under Rule 25(a)(1), Federal Rules of Civil Procedure. *See Rapa v. Novartis Pharm. Corp.*, 53 F. Supp. 3d 1150, 1153 (E.D. Mo. 2014), *aff'd*, 607 F. App'x 617 (8th Cir. 2015) (in Missouri, "[a] decedent's cause of action can only survive if brought by a personal

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representative of his estate appointed by a probate court.”).


Accordingly, upon consideration of the matter, and for the reasons stated during a status conference with all counsel on December 14, 2016,

IT IS HEREBY ORDERED that the Case Management Order (ECF #60) and Order Referring Case to Alternative Dispute Resolution (ECF #61), and all the deadlines and schedules contained therein, are **VACATED**.

IT IS FURTHER ORDERED that, not later than **March 6, 2017**, the personal representative of Patrick Wilson’s estate, if any, shall move for substitution of the proper party under Fed. R. Civ. P. 25(a)(1). Failure to timely file a motion for substitution shall result in the dismissal of this action without prejudice.

IT IS FURTHER ORDERED that attorneys John M. Simon and Anthony G. Simon shall serve this Memorandum and Order upon any known survivors or heirs of Patrick Wilson, after which they are granted leave to withdraw as appointed counsel and shall no longer be considered as counsel of record.

IT IS FURTHER ORDERED that this action is **STAYED** for ninety (90) days pending resolution of the status of the claim.


CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 15th day of December, 2016.