



[\(M.D. Fla. Feb. 9, 2010\)](#) (concluding that plaintiff's disability insurance benefit claims survived his death). However, the question before the court is whether Paris Lee James is the proper party to pursue plaintiff's disability benefits claims.

The disbursement of any disability benefit payments due at the time of a claimant's death is governed by [42 U.S.C. § 404\(d\)](#). Pursuant to [§ 404\(d\)\(1\)](#), any payment of an amount due would be made first to plaintiff's surviving spouse who was either living in the same household with plaintiff at the time of his death, or entitled to a monthly benefit on the basis of the same earnings record as was plaintiff for the month in which plaintiff died. *See also* [20 C.F.R. § 404.503\(b\)\(1\)](#). Plaintiff's counsel has offered no evidence to show that Paris Lee James was married to plaintiff or that she would be entitled to disbursement of any disability benefit payments pursuant to § 404(d).

Accordingly,

IT IS ORDERED that plaintiff's counsel shall have 10 days to supplement the record with sufficient information for the court to conclude that Paris Lee James is the proper party to proceed with plaintiff's disability benefits claims.

DATED this 10<sup>th</sup> day of May, 2011.

BY THE COURT:

*Richard G. Kopf*

United States District Judge

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