

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:16CV409**

TALMAGE LEE JONES, JR.,)	
)	
Plaintiff,)	
)	
v.)	
)	
JASON ANTHONY HIGGINS, G & R TRUCKING COMPANY, INC., and CMH MANUFACTURING, INC.,)	
)	
Defendants.)	ORDER
)	
CMH MANUFACTURING, INC.,)	
)	
Third Party Plaintiff,)	
)	
v.)	
)	
HOYLE’S TIRE AND AXLE, LLC,)	
)	
Third Party Defendant.)	
)	

This matter is before the Court sua sponte. On January 25, 2018, the Court scheduled a hearing to address various pending motions (# 54, 62, 70) in this case where the parties have consented to the undersigned serving as the presiding Judge. At 1:28 p.m. on February 5, 2018, Plaintiff’s counsel filed a Suggestion of Death, which states that Plaintiff died on January 12, 2018. This filing creates several issues for the Court to address.

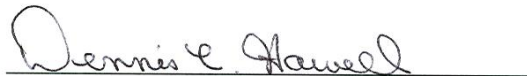
At the outset, the Court notes that the hearing scheduled for today had to be cancelled because Plaintiff’s counsel no longer has the authority to act on behalf of the deceased Plaintiff. Coppinger v. Schantag, No. DKC 2005-2380, 2006 WL 38946, at *1 (D. Md. Jan. 5, 2006) (noting that the attorney-client relationship is like any other agency relationship in that an agent’s authority

terminates upon death of the principal).

Next, the Suggestion of Death has Plaintiff's death certificate filed as an attachment. The death certificate plainly states Plaintiff's social security number. Therefore, the Clerk of Court is DIRECTED to seal this filing. See (# 73-1).

Finally, the Suggestion of Death does not constitute a suggestion of death on the record. An attorney for a deceased party does not have the authority to make the suggestion of death because "he is not himself a party to the action and, since his authority to represent the deceased terminated on the death." Coppinger, 2006 WL 38946, at *1 (quotation omitted). In sum, a proper suggestion of death must be filed by Defendants or the personal representative of Plaintiff's estate. See id. at 2.

Signed: February 6, 2018



Dennis L. Howell
United States Magistrate Judge

