**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

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REBECCA LYNN MAHORNEY,         )
                               )
          Plaintiff,           )
                               )
v.                             )     Case No. CIV-15-088-KEW
                               )
DUSTIN ANDREW MAHORNEY,        )
Successor Personal             )
Representative of the Estate   )
of Kelvin D. Mahorney,         )
deceased;                      )
DDB UNLIMITED, INC.,           )
a Corporation; and             )
DDB UNLIMITED, INC.,           )
as Plan Administrator,         )
                               )
          Defendants.          )
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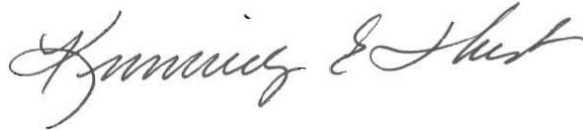
OPINION AND ORDER

This matter comes before the Court on the Motion to Dismiss
filed by Defendant DDB Unlimited, Inc., a corporation on March 17,
2015 (Docket Entry #7) and the Motion to Dismiss filed by Defendant
Dustin Andrew Mahorney, Successor Personal Representative of the
Estate of Kelvin D. Mahorney, deceased filed March 17, 2015 (Docket
Entry #8). Plaintiff initiated this action on January 23, 2015 in
the District Court in and for Murray County, Oklahoma. Defendants
removed the case to this Court on March 5, 2015. The action seeks
recovery of certain funds in a 401K profit sharing plan governed by
ERISA.

The moving Defendants contend that they are not proper parties
to this action as only the plan administrator acts as the
appropriate party defendant in an action to recover benefits. 29
U.S.C. § 1132. Plaintiff concurs in this correct statement of the
law and does not oppose the dismissal of the entities which are not

the administrator of the plan at issue in the case. Accordingly, the moving Defendants shall be dismissed from this case.

IT IS THEREFORE ORDERED that the Motion to Dismiss filed by Defendant DDB Unlimited, Inc., a corporation on March 17, 2015 (Docket Entry #7) and the Motion to Dismiss filed by Defendant Dustin Andrew Mahorney, Successor Personal Representative of the Estate of Kelvin D. Mahorney, deceased filed March 17, 2015 (Docket Entry #8) are hereby **GRANTED**. As a result, Defendants DDB Unlimited, Inc., a corporation and Dustin Andrew Mahorney, Successor Personal Representative of the Estate of Kelvin D. Mahorney, deceased are hereby **DISMISSED** from this action.

IT IS SO ORDERED this 30th day of April, 2015.

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KIMBERLY E. WEST
UNITED STATES MAGISTRATE JUDGE