

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

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| NORMA FIORENTINO, et al., | : | Civil No. 3:09-CV-2284 |
| | : | |
| Plaintiffs | : | (Judge Jones) |
| | : | |
| v. | : | (Magistrate Judge Carlson) |
| | : | |
| CABOT OIL AND GAS | : | |
| CORPORATION and GAS SEARCH | : | |
| DRILLING SERVICES CORP., | : | |
| | : | |
| Defendants | : | |

MEMORANDUM ORDER

The court has received notice from several of the parties in this case that two of the plaintiffs in this action, Todd and Jeannette Carter, have died. The docket in this action indicates that counsel has been retained on behalf of each of these plaintiffs, and that counsel continue to represent the Carters in this action.

Federal Rule of Civil Procedure 25(a)(1) provides: “[I]f a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent’s successor or representative. If the motion is not made within 90 days after the service of a statement noting the death, the action by and against the decedent must be dismissed.” The language of Federal Rule of Civil Procedure 25(a)(1) is permissive, and “the decision whether to substitute parties lies within the discretion of the trial judge and

he may refuse to substitute parties in an action even if the party so moves.”

Froning's, Inc. v. Johnston Feed Serv., Inc., 568 F.2d 108, 110 n. 4 (8th Cir. 1978).

In order to fulfill our obligations under Rule 25, and properly exercise our discretion, IT IS ORDERED as follows:

1. If Todd and Jeannette Carter have died, counsel for these parties shall file a suggestion of death, and shall serve the suggestion of death, and a copy of this order, on the representative of the Carters' estate, to the extent counsel has access to this information, on or before **Monday, April 22, 2013**.
2. A motion for substitution then must be filed, proposing to substitute a new representative party for the decedents on or before **Monday, July 1, 2013**. If no such motion is filed, this action may be dismissed pursuant to Rule 25.

So ordered this 8th day of April 2013.

S/Martin C. Carlson
Martin C. Carlson
United States Magistrate Judge