

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

UNITED STATES OF AMERICA,

Plaintiff,

v.

CIVIL ACTION NO. 1:11-00607

TIMOTHY W. CANADAY, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

Plaintiff filed a motion to substitute T.A. Bailey, as representative of the Estate of Timothy W. Canaday, as a party in this action for the deceased defendant, Timothy W. Canaday. (ECF No. 15). In so doing and as contemplated by Federal Rule of Civil Procedure 25(a)(3), plaintiff filed a Notice of Hearing on that motion for July 25, 2017. By Memorandum Opinion and Order entered on June 29, 2017, the court granted the motion to substitute. The court is concerned that it granted the motion to substitute prematurely as a hearing appears to be contemplated by Rule 25(a)(3). Accordingly, the court hereby **SCHEDULES** a hearing on the motion to substitute for Tuesday, August 15, 2017, at 10:30 a.m., in Bluefield.* At that hearing, the court will consider whether there is any objection to the order of substitution and whether it should be vacated. Plaintiff is

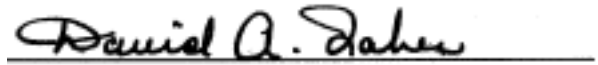
* The hearing cannot go forward as originally noticed because the Bluefield courtroom is unavailable.

directed to serve this Order "on the parties as provided in Rule 5 and on nonparties as provided in Rule 4."

The Clerk is directed to send a copy of this Memorandum Opinion and Order to counsel of record and unrepresented parties.

IT IS SO ORDERED this 17th day of July, 2017.

ENTER:



David A. Faber

Senior United States District Judge