## IN THE UNITED STATE DISTRICT COURT FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

## **CHARLESTON DIVISION**

IN RE: AMERICAN MEDICAL SYSTEMS, INC.

PELVIC REPAIR SYSTEM

PRODUCTS LIABILITY LITIGATION

**MDL 2325** 

BRIDGET R. HAMBY,

Plaintiff.

v.

CIVIL ACTION NO. 2:13-cv-07902

AMERICAN MEDICAL SYSTEMS, INC.,

Defendant.

## MEMORANDUM OPINION AND ORDER

On January 2, 2019, plaintiff's counsel filed a Suggestion of Death noting the death of plaintiff Bridget Hamby during the pendency of this action [ECF No. 14]. Defendant filed a Motion to Dismiss Plaintiff's Complaint with Prejudice requesting dismissal of this case because the deceased plaintiff has not been substituted [ECF No. 16], and counsel for plaintiff has not responded to the motion.

Pretrial Order ("PTO") # 259 filed in *In re: American Medical Systems, Inc., Pelvic Repair Sys. Prods. Liab. Litig.*, 2:12-md-2325 ("AMS 2325") [ECF No. 6347] outlines the procedures the court requires to either substitute a deceased party pursuant to Federal Rule of Civil Procedure 25(a), or to dismiss the deceased party from the civil action because of a failure to properly serve and substitute the deceased party.

The court **FINDS** that the Suggestion of Death did not comply with Rule 25(a) as it was never properly served upon non-parties or a personal representative of the estate. Regardless, the

ORDERS that this case is DISMISSED without prejudice and STRICKEN from the docket of this court. Any pending motions are DENIED as moot.

The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: December 18, 2019

JOSEPH R. GOODWIN

UNITED STATES DISTRICT JUDGE