

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

**IN RE: C.R. BARD, INC.,
PELVIC REPAIR SYSTEM
PRODUCTS LIABILITY LITIGATION**

MDL 2187

MARY EDWARDS and
WILLIAM EDWARDS,

Plaintiffs,

v.

CIVIL ACTION NO. 2:13-cv-11199

C. R. BARD, INC.,
TISSUE SCIENCE LABORATORIES LIMITED,
ETHICON, INC. and
JOHNSON & JOHNSON,

Defendants.

MEMORANDUM OPINION AND ORDER

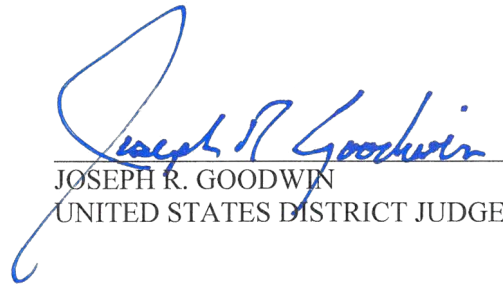
On November 14, 2018, plaintiffs' counsel filed a Suggestion of Death noting the death of plaintiff William Edwards during the pendency of this action [ECF No. 28]. Defendants C. R. Bard, Inc. and Tissue Science Laboratories Limited filed a Motion to Dismiss without Prejudice and an Amended Motion for Dismissal without Prejudice [ECF Nos. 31 and 32]. In the Motion to Dismiss and the Amended Motion for Dismissal, the defendants request dismissal of William Edwards for failure to substitute a party within the 90-day frame set out in the Federal Rules of Civil Procedure 25(a). Pretrial Order ("PTO") # 289 filed in *In re: C. R. Bard, Inc., Pelvic Repair Sys. Prods. Liab. Litig.*, 2:10-md-2187 ("Bard 2187") [ECF No. 6195] 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 parties and/or nonparties, and substitute the deceased party.

The court **FINDS** that the Suggestion of Death did not comply with Rule 25(a) as it does not appear to have been properly served upon non-parties or a personal representative of the estate. Regardless, the time period as set forth in PTO # 289 to substitute a party has since passed. Therefore, the court **ORDERS** that the plaintiff William Edwards is **DISMISSED** without prejudice and the Motion For Dismissal Without Prejudice and Amended Motion for Dismissal without Prejudice [ECF Nos. 31 and 32] 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: August 16, 2019



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE