

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

KELLY RAINEY,

Plaintiff,

v.

DR. MARTIN,

Defendant.

ORDER

Case No. 17-cv-05-wmc

On October 11, 2019, counsel for defendant Dr. W. Bradford Martin filed a suggestion of death upon record as to defendant Martin pursuant to Federal Rule of Civil Procedure 25(a). As set forth in *Atkins v. City of Chicago*, 547 F.3d 869, 870-74 (7th Cir. 2008), Rule 25 requires the party filing the suggestion of death to both identify the proper party to be substituted and serve that individual with the notice. Until proper service is effectuated, the 90-day deadline is not triggered. *Id.* at 874 (“[N]othing will suffice to start the 90-day clock running except service on whoever is identified as the decedent’s representative or successor.”). Counsel for defendant Martin may have an opportunity to identify the proper party to be substituted and then to serve the notice on that party. Once that occurs, plaintiff will have 90 days to file a motion for substitution.

ORDER

IT IS ORDERED that counsel for defendant W. Bradford Martin may have until, **November 1, 2019**, to serve the proper person with notice of death or show cause why they are unable to do so. Once counsel files proof of service, plaintiff will have 90 days to file a motion for substitution.

Entered this 16th day of October, 2019.

BY THE COURT:

/s/

PETER OPPENEER
Magistrate Judge