

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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U.S. DISTRICT COURT E.D.N.Y.

★ DEC 03 2014 ★

LONG ISLAND OFFICE

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DONALD ZARDA, :
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 Plaintiff, :
 :
 - against - :
 :
 ALTITUDE EXPRESS, INC., et al. :
 :
 Defendants. :
 :
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ORDER
10-CV-4334 (JFB)(GRB)

JOSEPH F. BIANCO, District Judge:

On October 6, 2014, counsel for the defendants notified the Court of the plaintiff's death, and the next day the counsel for the plaintiff confirmed that the plaintiff passed away in early October 2014 while base-jumping in Switzerland. On November 19, 2014, the counsel for deceased plaintiff made a motion under Rule 25(a)(1) to substitute the estate of the plaintiff for the deceased plaintiff. On December 1, 2014, defendants consented to the motion for substitution.

Rule 25(a)(1) permits any party or the decedent's successor or representative, upon a party's death, to make a motion for substitution of a "proper party" who is either a successor of the deceased party, such as a distributee of an estate, or a representative of a deceased party, meaning someone who is designated by state authority to represent the deceased's estate.

Logicom Inclusive, Inc. v. W.P. Stewart & Co., No. 04 Civ. 604 CSH, 2007 WL 646351, at *1 (S.D.N.Y. Feb. 26, 2007). The Rule requires that such motion for substitution be made within 90 days of service of the statement noting the death. In this case, the counsel for the plaintiff has made a timely motion for the substitution of the plaintiff's estate for the deceased plaintiff under Rule 25(a)(1).

Accordingly, IT IS HEREBY ORDERED that the motion for substitution of the plaintiff's estate for the deceased plaintiff is granted. The Court does not believe an in-person conference is necessary at this time. A telephone conference will be scheduled to address potential trial dates and a schedule for *in limine* motions.

SO ORDERED.

 JOSEPH F. BIANCO
UNITED STATES DISTRICT JUDGE

Dated: December 3, 2014
Central Islip, NY