

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH
DAKOTA, WESTERN DIVISION

NDN Collective, Sunny Red Bear, Nick Cottier, Bre Jackson, Mary
Bowman and George Bettelyoun v. Retsel Corporation, d/b/a Grand
Gateway Hotel and d/b/a Cheers Sports Lounge and Casino and
Connie Uhre

NDN Collective v. Retsel Corp. · No. 5:22-CV-05027-KES · Decided December 1, 2025

SUMMARY

The court denied defendants’ motion to stay the trial following defendant Connie Uhre’s death. It granted plaintiff Sunny Red Bear’s motion under Federal Rule of Civil Procedure 41(a)(2) to dismiss Uhre as a named defendant, concluding that dismissal would avoid delay without prejudicing the remaining parties because no unresolved factual issue required Uhre’s participation.

CASE DETAILS

COURT	United States District Court for the District of South Dakota, Western Division
WRITING FOR THE COURT	Karen E. Schreier
JURISDICTION	United States District Court for the District of South Dakota, Western Division
DECIDED	December 1, 2025
DOCKET	5:22-CV-05027-KES
DISPOSITION	other
PROCEDURAL POSTURE	After the death of defendant Connie Uhre, defendants moved to stay the scheduled trial pending the opening of probate proceedings and possible substitution of a representative for Uhre's estate. Plaintiff Sunny Red Bear moved under Federal Rule of Civil Procedure 41(a)(2) to dismiss Uhre as a named defendant. The district court denied the stay and granted dismissal of Uhre.
STANDARD OF REVIEW	The court applied the district court's sound discretion standard to substitution under Rule 25(a)(1) and considered whether dismissal under Rule 41(a)(2) was proper on terms the court deemed appropriate, including explanation, judicial economy, and prejudice.

PRECEDENTIAL VALUE

Unpublished district court order; precedential status is not stated in the opinion.

TOPICS

civil procedure

probate procedure

motions to dismiss

estate administration

estate litigation

PRACTICE AREAS

civil procedure

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torts

QUESTIONS PRESENTED

1. Whether Connie Uhre's death required a stay of the scheduled trial pending substitution of a representative for her estate under Federal Rule of Civil Procedure 25(a)(1).
2. Whether dismissal of Uhre as a named defendant without prejudice was appropriate under Federal Rule of Civil Procedure 41(a)(2).

HOLDINGS

1. Uhre's death did not require a stay of the proceedings or trial because Rule 25(a)(1) does not mandate a stay while a party seeks substitution, and the defendants did not show that Uhre's continued presence or estate representation was necessary to resolve remaining factual or legal issues.
2. Voluntary dismissal of Connie Uhre as a named defendant under Rule 41(a)(2) was appropriate because it adequately protected the remaining parties' interests, promoted judicial economy, avoided additional delay, and did not prejudice defendants.

KEY QUOTATIONS

"Thus, no party's rights will be prejudiced by a trial where Uhre's estate is not represented." (Docket 335 at 6)

"Thus, this court concludes that voluntary dismissal is appropriate because it adequately secures the remaining party's interests, aids judicial economy, and avoids additional delay." (Docket 335 at 6)

FACTUAL BACKGROUND

Connie Uhre was a defendant in a claim alleging that she assaulted plaintiff Sunny Red Bear. Her alleged assault also formed the factual basis for Red Bear's respondeat superior claim against Retsel Corporation. Uhre died before the scheduled trial, and no probate proceeding had been opened or personal representative appointed. The court had previously determined that no factual dispute remained as to whether Uhre committed the assault.

PROCEDURAL HISTORY

The case was set for trial on December 15, 2025 after multiple continuances. Connie Uhre died on September 5, 2025 while remaining a defendant on an assault claim. Defendants sought a stay under the theory that no personal representative had yet been appointed, while Red Bear sought dismissal of Uhre under Rule 41(a)(2).

The district court concluded that a stay was unnecessary and that dismissal would avoid delay without prejudicing the remaining parties.

DISPOSITION

other

CASES CITED

- Benacquisto v. Am. Express Fin. Corp., 44 F.4th 741, 744 (8th Cir. 2022)
- Kemp v. Balboa, 175 F.3d 1024 (8th Cir. 1999)
- Mullen v. Heinkel Filtering Sys., Inc., 770 F.3d 724, 728 (8th Cir. 2014)
- Donner v. Alcoa, Inc., 709 F.3d 694, 697 (8th Cir. 2013)

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