

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
KENTUCKY, LOUISVILLE DIVISION

Jeffrey Dewayne Clark and Garr Keith Hardin v. Louisville-
Jefferson County Metro Government, Kentucky et al.

Clark v. Louisville-Jefferson County Metro Government · No. 3:17-CV-00419-GNS-CHL · Decided December
10, 2025

SUMMARY

The court grants a motion to substitute Kenneth Ray Greer as successor to deceased party Joseph Greer under Federal Rule of Civil Procedure 25 and dismisses the related state-law malicious prosecution claim. The court denies a motion to substitute a deceased expert witness, finding insufficient diligence and prejudice to the opposing party, and denies a related motion to supplement as moot. The court grants the Meade County Defendants’ motion for joinder.

CASE DETAILS

COURT	United States District Court for the Western District of Kentucky, Louisville Division
WRITING FOR THE COURT	Greg N. Stivers
JURISDICTION	United States District Court for the Western District of Kentucky, Louisville Division
DECIDED	December 10, 2025
DOCKET	3:17-CV-00419-GNS-CHL
DISPOSITION	other
PROCEDURAL POSTURE	The district court ruled on plaintiffs' motion to substitute a deceased party, defendants' motion to substitute an expert witness, defendants' motion to supplement, and defendants' motion for joinder.
STANDARD OF REVIEW	Rule 25(a)(1) substitution is governed by whether the proposed party is a proper successor when the claim is not extinguished. Modification of a Rule 16 scheduling order requires good cause, principally diligence in attempting to meet the scheduling-order requirements, with consideration of foreseeability and prejudice.
PRECEDENTIAL VALUE	Unknown; district-court memorandum opinion and order with no reporter or neutral citation identified.

PARTIES

Jeffrey Dewayne Clark, Garr Keith Hardin v. Louisville-Jefferson County Metro Government, Kentucky, Meade County, Cliff Webb, William Adams, Robert Thurman, Cliff Wise

TOPICS

civil procedure

section 1983

probate procedure

joinder

remedies

PRACTICE AREAS

civil procedure

civil rights

probate

remedies

QUESTIONS PRESENTED

1. Whether Kenneth Ray Greer qualified as a successor who could be substituted for deceased party Joseph Greer under Federal Rule of Civil Procedure 25(a)(1) despite the absence of a formally appointed personal representative.
2. Whether federal or Kentucky law governed the substitution issue in this federal-question action.
3. Whether Clark's punitive-damages claim should be dismissed and, if so, whether dismissal would preclude recovery of punitive damages as a remedy.
4. Whether defendants showed good cause under Federal Rules of Civil Procedure 16(b)(4) and 26(a)(2) (D) to substitute Dr. Meredith Frame for deceased Dr. George Nichols after the expert-disclosure deadline.
5. Whether the Meade County Defendants should be permitted to join Thurman's expert-substitution motion.

HOLDINGS

1. A decedent's surviving child and primary beneficiary may qualify as a Rule 25 successor even when no estate has been opened and no personal representative has been formally appointed. Kenneth Ray Greer was therefore a suitable successor for Joseph Greer and could be substituted as a party.
2. Because the remaining claims were federal claims under 42 U.S.C. § 1983, federal procedural and substantive law governed the substitution issue rather than Kentucky state procedural law.
3. Punitive damages are a remedy rather than a separate cause of action. Dismissal of any separately pleaded punitive-damages claim would not preclude Clark from seeking punitive damages against Kenneth if the evidence ultimately warranted that remedy.
4. The motion to substitute was denied because it sought to modify the Rule 16 scheduling order without good cause. Defendants failed to demonstrate sufficient diligence, the substitution was foreseeable in light of the age of the underlying events and Dr. Nichols, and substitution would prejudice Clark by requiring reopened discovery and delay.
5. The Meade County Defendants' motion for joinder was granted because Clark did not respond within the time permitted by Local Rule 7.1(c).

KEY QUOTATIONS

“If a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent’s successor or representative.” (at 2)

“Thus, Clark is permitted to substitute Kenneth, even though he has not been formally appointed as personal representative of his father’s estate.” (at 3)

“A motion to substitute an expert witness is actually a motion to modify the Rule 16 scheduling order.” (at 5)

“The deadline for adding additional experts has passed and, under these circumstances, should not be modified.” (at 6)

FACTUAL BACKGROUND

Joseph Greer died while the federal civil-rights action was pending, and no estate or personal representative had been opened or appointed. Kenneth Ray Greer was Joseph's sole surviving child and beneficiary under the applicable Kentucky intestacy provisions. Dr. George Nichols, a pathologist involved in the underlying 1992 murder investigation, died in November 2024; defendants waited more than nine months, including more than two months after a litigation stay was lifted, before seeking to substitute Dr. Meredith Frame as an expert. Allowing the substitution would have required reopening discovery and would have prejudiced plaintiff by causing additional expense and delay.

PROCEDURAL HISTORY

Plaintiffs moved under Federal Rule of Civil Procedure 25 to substitute Kenneth Ray Greer as successor to deceased party Joseph Greer. Defendant Robert Thurman moved to substitute Dr. Meredith Frame for deceased witness Dr. George Nichols and to supplement that motion; the Meade County Defendants moved to join Thurman's substitution motion. The court granted the party-substitution and joinder motions, denied expert substitution, and denied the motion to supplement as moot.

DISPOSITION

other

CASES CITED

- *Rende v. Kay*, 415 F.2d 983 (D.C. Cir. 1969)
- *Watts v. Novartis Pharms. Corp.*, No. 5:08-CV-2354, 2015 WL 1456647, at *5 (N.D. Ohio Mar. 30, 2015)
- *Howard v. Lilly, Tr. of Land End Invs. Tr.*, No. 3:17-CV-322, 2019 WL 342139, at *3 (E.D. Tenn. Jan. 28, 2019)
- *Reilly v. Donnellon*, No. 19-11249, 2021 WL 2187151, at *2-3 (E.D. Mich. May 28, 2021)
- *In re Baycol Prods. Litig.*, 616 F.3d 778, 784-85 (8th Cir. 2010)
- *Mr. Roof of Louisville, LLC v. Estate of Henry*, 681 S.W.3d 115, 125 (Ky. 2023)
- *Saab Auto. AB v. Gen. Motors Co.*, 770 F.3d 436, 440 (6th Cir. 2014)
- *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 417 (2010)

- Cruz v. Don Pancho Mkt., LLC, 171 F. Supp. 3d 657, 666 (W.D. Mich. 2016)
- McSurely v. McClellan, 753 F.2d 88, 98 (D.C. Cir. 1985)
- Pike v. Hardin Cnty. Water Dist. No. 2, No. 3:23-CV-42-DJH-RSE, 2024 WL 1199439, at *5 (W.D. Ky. Mar. 20, 2024)
- Dalton v. Animas Corp., 913 F. Supp. 2d 370, 378 (W.D. Ky. 2012)
- Heard v. Strange, 127 F.4th 630, 634-35 (6th Cir. 2025)
- Gatza v. DCC Litig. Facility, Inc., 717 F. App'x 519, 521 (6th Cir. 2017)
- Moore v. Indus. Maint. Serv. of Tenn., Inc., 570 F. App'x 569, 577 (6th Cir. 2014)
- Inge v. Rock Fin. Corp., 281 F.3d 613, 625 (6th Cir. 2002)
- Bradford v. DANA Corp., 249 F.3d 807, 809 (8th Cir. 2001)
- State Farm Mut. Auto. Ins. Co. v. Physiomatrix, Inc., No. 12-CV-11500, 2014 WL 10294798, at *4 (E.D. Mich. June 16, 2014)
- Phx. Process Equip. Co. v. Cap. Equip. & Trading Corp., No. 3:16-CV-00024-CHB, 2022 WL 15722630, at *3 (W.D. Ky. May 24, 2022)
- Bond v. Pike Cnty., No. 7:20-CV-020-REW-MAS, 2021 WL 4127772, at *2 (E.D. Ky. Sept. 8, 2021)
- In re Onglyza (Saxagliptin) & Kombiglyze (Saxagliptin & Metformin) Prods. Liab. Litig., 93 F.4th 339, 350 (6th Cir. 2024)
- Com. Benefits Grp., Inc. v. McKesson Corp., 326 F. App'x 369, 377-78 (6th Cir. 2009)
- Mason v. Asset Acceptance, LLC, No. 1:06-CV-735, 2007 WL 2112347, at *2 (S.D. Ohio July 9, 2007)