

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT**

**BRIAN T. POPE,**

*Defendant/Appellant,*

v.

**JEFF HULBERT, et al.,**

*Plaintiffs/Appellees.*

Case No.: 21-1608  
1:18-CV-00461-SAG

**APPELLEES' MOTION TO SUBSTITUTE PARTY**

**COMES NOW** the Appellees and Clayton R. Hulbert, as Personal Representative of the Estate of Jeffrey W. Hulbert, Deceased, by and through undersigned counsel, and files this Motion to Substitute Party, stating as follows:

- 1) On May 20, 2021, Defendant/Appellant Brian T. Pope filed a Notice of Interlocutory Appeal in the United States District Court for the District of Maryland appealing a memorandum and order entered by the trial court on April 22, 2021. *See* ECF 1.
- 2) On May 3, 2021, prior to the filing of the Notice of Interlocutory Appeal, Plaintiff/Appellee Jeff Hulbert passed away.
- 3) Pursuant to Fed. R. App. P. 43(a)(3), if a potential appellee passes away after the entry of judgment but before a notice of appeal is filed, the “appellant may proceed as if the death had not occurred,” and “[a]fter the notice of appeal is filed,

substitution must be in accordance with Rule 43(a)(1).” Under Fed. R. App. P. 43(a)(1), “the decedent's personal representative may be substituted as a party on motion filed with the circuit clerk by the representative or by any party.” A motion for substitution can be made “within 90 days after service of a statement noting the death.” Fed. R. Civ. P. 25(a)(1).

4) On July 2, 2021, Defendant/Appellant Brian T. Pope filed an Amended Suggestion of Death notifying this Court that Plaintiff/Appellee Jeff Hulbert had passed away. *See* ECF 11.

5) Clayton R. Hulbert has been appointed by the Register of Wills for Montgomery County, Maryland as the personal representative of the estate of Plaintiff/Appellant Jeff Hulbert.

6) As personal representative, Clayton R. Hulbert retained the undersigned counsel to represent the interests of the estate of Plaintiff/Appellee Jeff Hulbert in this litigation.

7) Defendant/Appellant Brian T. Pope has consented to the substitution requested herein.

8) Accordingly, undersigned counsel, on behalf of the Appellees and Clayton R. Hulbert, as Personal Representative of the Estate of Jeffrey W. Hulbert, Deceased, respectfully request that this Court substitute **Clayton R. Hulbert, as**

**Personal Representative of the Estate of Jeffrey W. Hulbert, Deceased** for **Plaintiff/Appellee Jeff Hulbert** as an appellee in this case.

**WHEREFORE**, Appellees and Clayton R. Hulbert, as Personal Representative of the Estate of Jeffrey W. Hulbert, Deceased, respectfully request that this Court substitute **Clayton R. Hulbert, as Personal Representative of the Estate of Jeffrey W. Hulbert, Deceased** for **Plaintiff/Appellee Jeff Hulbert** as an appellee in this case.

Respectfully submitted,

HANSEL LAW, PC

\_\_\_\_\_/s/ Cary J. Hansel\_\_\_\_\_

Cary J. Hansel  
cary@hansellaw.com  
2514 North Charles Street  
Baltimore, MD 21218  
T: 301-461-1040  
F: 443-451-8606

*Counsel for Appellees*

*Counsel for Clayton R. Hulbert, as Personal  
Representative of the Estate of Jeffrey W.  
Hulbert, Deceased*

**CERTIFICATE OF COMPLIANCE**

I HEREBY CERTIFY that the foregoing motion complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A) and contains 397 words, excluding the parts of the motion exempted from the word count by Fed. R. App. P. 32(f). The foregoing motion complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and (6) and was prepared with proportionately spaced type and typeface of 14-point Times New Roman.

\_\_\_\_\_/s/ Cary J. Hansel\_\_\_\_\_  
Cary J. Hansel

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on July 6, 2021, I caused the foregoing to be filed via the Court's electronic filing system, which will make service on all parties entitled to service.

\_\_\_\_\_/s/ Cary J. Hansel\_\_\_\_\_  
Cary J. Hansel