



### **Comment**

Where a defendant is dead prior to the commencement of an action, substitution of a special administrator or other personal representative under K.S.A. 60-225(a)(1) is impossible because the trial court has no jurisdiction to proceed. *Moore v. Luther*, 29 Kan. App. 2d 1004, 1010, 35 P.3d 277 (2001).

Where more than six months had passed since defendant's death had been noted on the record, and nothing had been done to substitute a proper party or to appoint a representative who might be substituted as a proper party, the court of appeals found that plaintiff had not moved for substitution within a reasonable time and the action had been properly dismissed. The court noted that "a reasonable time" implies a requirement of due diligence. *Livingston v. Bias*, 7 Kan. App. 2d 287, 290, 640 P.2d 362 (1982).