

§ 12.34 Motion to Substitute Parties

IN THE (SUPREME COURT)(COURT OF APPEALS) OF THE STATE OF KANSAS

[Insert Name],

Plaintiffs-Appellants,

vs.

[Insert Appellate Court Case Number]

[Insert Name],

Defendant-Appellee.

MOTION TO SUBSTITUTE PARTIES

A special administrator of a probate estate brought this appeal on behalf of the estate. She has now died and her daughter, who has been appointed by the district court as the special administrator of the estate, asks to be substituted as the named appellant.

1. *Background.* Jane Pleader, was appointed by the District Court of [insert name] County as Special Administrator of the Estate of John Pleader, her husband. As special administrator she was to investigate and possibly pursue a claim against Dr. Richard Roe and others for medical malpractice.
2. *Authority.* K.S.A. 60-225(a).
3. *Reasons.* Jane Pleader filed a medical malpractice lawsuit against defendant Roe on [insert date], in the [insert name] County District Court.
4. Ultimately, by summary judgment and directed verdict, the district court dismissed the various claims of negligence the estate made against Dr. Richard Roe.
5. Jane Pleader brought this appeal on behalf of the probate estate.
6. Jane Pleader died on [insert date]. At that time, this appeal was still pending.

7. After the death of Jane Pleader, the [insert name] District Court appointed Betty Pleader as Special Administrator of the Estate of John Pleader to continue this lawsuit and other purposes. Betty Pleader, Special Administrator of the Estate of John Pleader now asks this court to substitute her as the appellant in this appeal in the place of Jane Pleader, so she can continue with this appeal.

Attorney's Signature

/s/ _____

Attorney's Name (typed or printed)

Kansas Attorney Registration Number

Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this Motion to Substitute Parties was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of those on whom service is made.]

/s/ _____

Attorney's Name and Registration Number

PRACTICE NOTE: A motion to substitute parties should contain enough detail to demonstrate that the substitution is proper.