

See News Release #80

SUPREME COURT OF LOUISIANA

No. 00-CC-1323

c/w

00-CA-1315

E.J. MERAL ET AL.

Versus

TED AUCOIN ET AL.

PER CURIAM

This action to recover medical monitoring expenses began as a purported class action by a single plaintiff who is now deceased. The action was never certified as a class action, and the heirs of the original plaintiff never attempted to substitute themselves in an effort to recover expenses incurred by the original plaintiff before his death. However, Woodrow Lopez and others, by supplemental petition, attempted to be recognized in this action as putative class representatives. Defendants excepted to these supplemental petitions.

Recognizing the personal nature of the medical monitoring cause of action asserted by the sole original plaintiff, we reverse the district court's decision overruling defendant's exception to strike the Third and Fourth Supplemental and Amending Petitions, which substituted and added new plaintiffs in place of the original, now deceased plaintiff. Upon the death of the original plaintiff, E. J. Meral, this action abated as a matter of law. La.

C. Civ. Pro. art. 428.

Accordingly, we grant defendants' application for certiorari and dismiss this action without prejudice. We also dismiss defendants' direct appeal.