

SAMPLE CIVIL FORM 39

IN THE _____ COURT OF _____ COUNTY

A.B., Plaintiff)

v.)

C.D., Defendant)

CIVIL ACTION NO. _____

**PLAINTIFF'S MOTION FOR SUBSTITUTION—
DECEASED PARTY DEFENDANT**

Plaintiff shows to the court that _____, the above-named defendant, died intestate (or testate) on or about (*date*) _____; that letters of administration upon the estate of the said _____ were issued on (*date*) _____, to _____ as administrator by the _____ Court of the State of Alabama (or, that _____ was duly appointed executor of the last will of _____ by the _____ Court of the State of Alabama and qualified as such executor on (*date*) _____); and this is an action for [*state briefly nature of action*] and the claim of plaintiff was not extinguished by the death of defendant.

Wherefore plaintiff moves the court for an order substituting _____, administrator (*or, as the case may be*, executor) of the estate of _____, deceased, as party defendant herein.

Attorney for Plaintiff

Address

Committee Comments

This motion should be modified for use in situations where the plaintiff is the deceased, the action is not extinguished by the plaintiff's death and the plaintiff's representative desires to be substituted as the plaintiff.