

Henry v. Middletown Farmers Market, LLC, et. al.
C.A. No.: K14C-03-002 RBY
July 28, 2015

DECISION

Joyce Henry (“Plaintiff”), a patron of Dutch Country Farmer’s Market, was allegedly injured when a vendor table, operated by Jeanette Waters and Frances Dusell (“Defendants”), was swept up by a gust of wind, making impact with her person.

Several months ago, two events occurred, bringing the action to a stand-still. On March 5th, Plaintiff’s Counsel, Scott E. Chambers, Esq., filed a motion to withdraw, as he had been unable to contact Plaintiff for some time. Although unknown to the Court at the time, on March 7th, Plaintiff passed away. Counsel’s motion was granted on April 2, 2015.

On July 6, 2015, Defendants’ moved to dismiss Plaintiff’s action, following the withdrawal of her Counsel, as well as her death. Plaintiff, or a representative of hers, had until July 23, 2015, to respond to this motion. Defendants’ motion was not responded to, nor has anyone stepped forward to continue this action on Plaintiff’s behalf.

The reason asserted by the *pro se* Defendants for dismissal (“There is no plaintiff anymore”) does not articulate a proper basis for Dismissal. On the other hand, interpreting it more as a Dismissal on the basis of a failure to prosecute the action would have merit.

Accordingly, on that basis, Defendants’ motion is **GRANTED** to the extent that this matter is **DISMISSED** *without* prejudice.

Henry v. Middletown Farmers Market, LLC, et. al.

C.A. No.: K14C-03-002 RBY

July 28, 2015

IT IS SO ORDERED.

/s/ Robert B. Young

J.

RBY/lmc

oc: Prothonotary

cc: Joyce Henry

Jeannette Waters

Frances Dusell

Opinion Distribution