IN THE DISTRICT COURT OF THE UNITED STATES FOR THE

MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

IN RE:	)	
	)	
JOHN C. TOMBERLIN AND JAN M. TOMBERLIN,	)	
	)	
Debtors.	)	
	)	
JOHN C. TOMBERLIN,	)	
	)	
Appellant,	)	
	)	CIVIL ACTION NO.
v.	)	2:17cv872-MHT
	)	(WO)
MULTIBANK 2009-1 CML-ADC VENTURE, LLC,	)	
	)	
Appellee.	)	

ORDER

This matter is before the court on appellee Multibank 2009-1 CML-ADC Venture, LLC's motion to substitute NCP Bayou 2, LLC, as appellee, pursuant to Federal Rule of Civil Procedure 25(c). Multibank requests that the court schedule a hearing on the motion so that it can serve of notice of the hearing,

which it asserts is required by Rule 25(c).* Rule 25(c) requires service of a motion to substitute in compliance with Rule 25(a)(3); Rule 25(a)(3) states that, "A motion to substitute, together with a notice of hearing, must be served on the parties as provided in Rule 5."

While the wording of Rule 25(a)(3) is somewhat confusing, it appears that the court need not hold a hearing before granting a motion to substitute under Rule 25 unless specific reasons make a hearing necessary. *See* 7C Fed. Prac. & Proc. Civ. § 1958 (3d ed.) ("The court also may decide the motion without an evidentiary hearing if it determines it is not necessary."); *Sullivan v. Running Waters Irrigation, Inc.*, 739 F.3d 354, 359-360 (7th Cir. 2014) (holding that district's failure to hold a hearing before granting a motion to substitute was not in error

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* Multibank has already served the appellant with a copy of the motion to substitute by electronic means. *See* Fed. R. Civ. P. 5(2)(E) (allowing service by electronic means).

because, *inter alia*, a need for hearing had not been shown).

* * *

Accordingly, it is ORDERED that the parties show cause, if any there be, in writing by January 30, 2018, as to (1) why the motion to substitute should not be granted, and (2) whether and why the court should hold a hearing before deciding the motion.

DONE, this the 16th day of January, 2018.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE