

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

**Jack Allen Wilson**

**Plaintiff,**

**vs.**

**Edward Alamedia, Jr., et al.,**

**Defendants.**

**No. CV 06-1393- JMR**

**ORDER**

On July 28, 2009, Defendants filed a Statement of Fact of Death of Plaintiff Jack Allen Wilson (Doc. No. 14). The Statement declared that Defendants served a copy of the statement of death upon Wilson’s only known family member, his father Mr. Mort Wilson, pursuant to Federal Rules of Civil Procedure 4 and 25(a)(1). Pursuant to Federal Rule of Civil Procedure 25(a)(1):

If a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent’s successor or representative. *If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.*

Fed. R. Civ. Pro. 25(a)(1)(2010) (emphasis added).

As of today’s date, more than 90 days have passed since the filing of the Statement of Fact of Death, and no motion for substitution has been made.

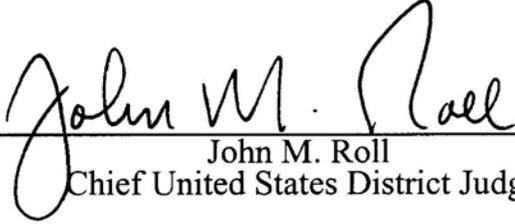
Therefore, this action must be dismissed in its entirety.

Accordingly,

**IT IS HEREBY ORDERED** that this matter is **dismissed, without prejudice, under Federal Rule of Civil Procedure 25(a).**

**IT IS FURTHER ORDERED** that the Clerk of Court is directed to **enter judgment accordingly and close this case.**

Dated this 1st day of June, 2010.

  
\_\_\_\_\_  
John M. Roll  
Chief United States District Judge