

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

ARTHUR T. BUSSIÈRE,  
  
  Plaintiff,  
  
                        v.  
  
TIGGS-BROWN,  
  
  Defendant.

**No. 1:13-cv-01565-SKO**  
  
**ORDER VACATING AMENDED  
SCHEDULING ORDER**  
  
**(Doc. 113)**

Plaintiff, Arthur T. Bussiere, was a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on Plaintiff’s First Amended Complaint on Plaintiff’s claim against Defendant Tiggs-Brown for deliberate indifference to Plaintiff’s serious medical needs in violation of the Eighth Amendment. Defendant has filed a notice of Plaintiff’s death (Doc. 120) and a proof of service pursuant to Rule 4 on Plaintiff’s nonparty successors or representatives (Doc. 122).

Federal Rule of Civil Procedure 25(a)(1) allows ninety days after service of the notice of death for the decedent’s non-party successors or representatives to file a motion for substitution. Plaintiff’s non-party successors or representatives were served with the notice of Plaintiff’s death in this action on December 22, 2017, and may file a motion for substitution anytime within ninety days thereafter. This case is currently set for trial on February 27, 2018, which is before the deadline for filing a motion for substitution. (Doc. 113.) As such, the trial and all pretrial deadlines must be vacated.

///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Accordingly, **IT IS HEREBY ORDERED**, that the Amended Scheduling Order setting the trial and pretrial deadlines, issued on September 20, 2017, be **VACATED**.<sup>1</sup>

IT IS SO ORDERED.

Dated: **January 19, 2018**

*/s/ Sheila K. Oberto*  
UNITED STATES MAGISTRATE JUDGE

---

<sup>1</sup> The trial and pretrial deadlines will be re-scheduled if Plaintiff's non-party successors or representatives file a timely motion for substitution.