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8   UNITED STATES DISTRICT COURT

9   FOR THE EASTERN DISTRICT OF CALIFORNIA

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11   CRAIG WILLIAM VOSS,   No. 1: 17-cv-00626-DAD-EPG

12   Plaintiff,

13   v.   ORDER DISMISSING ACTION PURSUANT
                                                  TO FEDERAL RULE OF CIVIL PROCEDURE
14   BRIAN BAKER,   25(A)(1)

15   Defendant.
                                                  (Doc. No. 70)
16

17   On January 18, 2019, defense counsel ("counsel") filed a statement with the court entitled

18   "Suggestion of Death of Plaintiff Craig William Voss," providing notice that plaintiff had died

19   during the pendency of this action. (Doc. No. 70.) The statement indicates that counsel has no

20   knowledge or information regarding the successor or representative of plaintiff's estate, and no

21   knowledge of how he might ascertain that information. However, counsel filed a proof of service

22   with the court that indicates that he served plaintiff's parents with the suggestion of death on

23   January 18, 2019. (*Id.* at 3.)

24   "If a party dies and the claim is not thereby extinguished, the court may order substitution

25   of the proper parties. A motion for substitution may be made by any party or by the decedent's

26   successor or representative. If the motion is not made within 90 days after service of a statement

27   noting the death, the action by or against the decedent must be dismissed." Fed. R. Civ. P.

28   25(a)(1).

                                                  1

The notice of death was filed and served in this action more than ninety days ago, and no motion for substitution by the decedent's successor or representative has been made.

Accordingly:

1.) This action is dismissed pursuant to Federal Rule of Civil Procedure 25(a)(1);

2.) All pending motions (Doc. No. 62) are denied as moot; and

3.) The Clerk of the Court is directed to close this case.

IT IS SO ORDERED.

Dated: __**May 13, 2019**__ 　　　　　　＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿
                                                UNITED STATES DISTRICT JUDGE