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6 **UNITED STATES DISTRICT COURT**

7 EASTERN DISTRICT OF CALIFORNIA

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9 SOPHIA ELLIOTT, et al.,

10 Plaintiffs,

11 v.

12 ROBERT ROSS, et al.,

13 Defendants.

Case No. 1:17-cv-01214-LJO-SAB

ORDER GRANTING EX PARTE MOTION  
TO SUBSTITUTE REAL PARTY IN  
INTEREST

(ECF No. 37)

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15 On March 29, 2019, Plaintiffs filed an ex parte motion for substitution of the real party in  
16 interest because Dominic Elliott, formerly a minor represented through a guardian in this action,  
17 has now reached the age of eighteen. (ECF No. 37.) On April 1, 2019, the Court issued an order  
18 directing Defendants to either file a statement of non-opposition, or an opposition to Plaintiffs  
19 motion. (ECF No. 38.) On April 2, 2019, Defendants filed statements of non-opposition to  
20 Plaintiffs' motion. (ECF Nos. 39, 40.)

21 Although the Federal Rules of Civil Procedure do not explicitly address this situation,  
22 courts have applied Rule 25, Rule 17, and Rule 19 to allow for the substitution of a minor that  
23 becomes an adult during the pendency of an action. See Brooks v. District of Columbia, 841 F.  
24 Supp. 2d 253, 260–61 (D.D.C. 2012) (permitting substitution of the real party in interest under  
25 FRCP Rule 17(a)(3) after defendants challenged a guardian's standing to pursue an action on  
26 behalf of a plaintiff who had turned 18); Zachary M. v. Bd. of Educ. of Evanston Twp. High Sch.  
27 Dist. No. 202, 829 F. Supp. 2d 649, 652 n.1 (N.D. Ill. 2011) (stating that since the minor plaintiff  
28 had reached the age of majority during the pendency of the litigation and the defendants

1 challenged the minor's parents' continued standing, "[r]ather than rule on that challenge, [the  
2 court] allowed [the minor] to substitute in as the real party in interest" pursuant to Fed. R. Civ. P.  
3 17(a)(3)); Walker v. Evans, No. 10-12596, 2011 WL 3583248 at \*1 (E.D. Mich. Aug. 15, 2011)  
4 (finding that substitution of plaintiffs as real parties in interest after reaching the age of majority  
5 would be appropriate under Rule 15 or Rule 25).

6 Accordingly, IT IS HEREBY ORDERED that:

- 7 1. Dominic Elliot is substituted as the real party in interest in place of Dominic  
8 Elliott by and through his Guardian Ad Litem, Sophia Elliott; and
- 9 2. The Clerk of the Court is DIRECTED to amend the docket to reflect the  
10 substitution.

11 IT IS SO ORDERED.

12 Dated: April 2, 2019

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15 UNITED STATES MAGISTRATE JUDGE  
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