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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RICHARD SCOTT KINDRED,
Plaintiff,
v.
ALLENBY, *et al.*,
Defendants.

Case No. 1:18-cv-00554-ADA-EPG (PC)
ORDER DIRECTING DEFENSE COUNSEL
TO FILE SUPPLEMENT TO RESPONSE
DATED JANUARY 4, 2023 (ECF No. 116)

On December 14, 2022, the Court directed defense counsel “to file the signed return receipt (or other evidence of actual delivery) [of the Notice of Death and complaint], or to file a brief explaining why defense counsel believes she is not required to do so.” (ECF No. 115, p. 2).

On January 4, 2023, defense counsel filed a response. (ECF No. 116). In the response, defense counsel stated that actual delivery was attempted repeatedly, but the courier service was informed that Executor Bryen Kindred no longer lived at the address defense counsel had for him. Defense counsel argued that she should not be required to take any further action, in part because “Rule 25 does not mandate defense counsel incur the cost of identifying the location of successor parties whose location is misidentified in plaintiff’s estate planning documents.” (ECF No. 116, p. 2).

The Court notes that in another case involving plaintiff Richard Kindred, Kindred v. Cabrera, E.D. CA 1:19-cv-00901, defense counsel appears to have located Plaintiff’s surviving kin, Bryen Kindred and Carol Dietz, and served both of them with a copy of the complaint and

1 the Notice of Death. Id. at ECF No. 44. Addresses for both are included in the filing. Id.

2 Given this, the Court will direct defense counsel to file a supplement to her January 4,
3 2023 response (ECF No. 116).

4 Accordingly, IT IS ORDERED that defense counsel has fourteen days from the date of
5 service of this order to file a supplement to her January 4, 2023 response (ECF No. 116).

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7 IT IS SO ORDERED.

8 Dated: January 25, 2023

/s/ Eric P. Gray
UNITED STATES MAGISTRATE JUDGE

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