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

LAWRENCE PAMER,
Plaintiff,

No. CIV S-07-1902-MCE-CMK-P

vs.

ORDER

ARNOLD SCHWARZENEGGER, et al.,
Defendants.

_____ /

Plaintiff, a state prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. Defendants have filed a notice of Plaintiff's death pursuant to Federal Rule of Civil Procedure 25(a)(1) (Doc. 117).

The court notes that the suggestion of death filed with the court does not contain a proof of service. The party suggesting the death of another party must serve the suggestion of death on the other parties to the action and the nonparty successors or representatives of the deceased. See Barlow v. Ground, 39 F.3d 231, 233 (9th Cir. 1994). Service of the notice is required on all parties pursuant to Rule 5 and on nonparties pursuant to Rule 4. See Fed. R. Civ. Proc. 25(a)(3). Prior to dismissing an action for failure to substitute the proper party, proper notice must be provided. See Barlow, 39 F.3d at 233, Fed. R. Civ. Proc. 25 (requiring dismissal

1 of action by the decedent if a motion to substitute is not filed within 90 days after service of the
2 statement suggesting death). Defendants are therefore directed to serve the suggestion of death
3 upon the record pursuant to Rule 25. See Fed. R. Civ. Proc. 25(a)(3).

4 SO ORDERED.

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6 DATED: December 22, 2011

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8 **CRAIG M. KELLISON**
9 UNITED STATES MAGISTRATE JUDGE
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