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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

EDWARD LEE CHOYCE,

No. C 09-01528 MHP

Plaintiff,

ORDER

v.

DEPUTY MELENDEZ et al.,

Defendants.

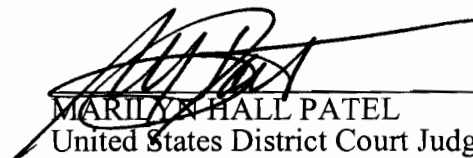
On April 29, 2010, defendants in this action filed a notice of the report of the death of plaintiff Edward Lee Choyce. Docket No. 41 (Notice). On May 1, 2010, the court entered an order requiring that if plaintiff's next of kin or legal representative desired to prosecute the action, they must file a motion for substitution of party no later than July 29, 2010. Docket No. 43. The court indicated that if no such motion was filed by that deadline, the action would be dismissed. *Id.*

The deadline for filing a motion for substitution of party has now passed without any action having been taken by plaintiff's next of kin or other legal representative. For the foregoing reasons, the complaint in this action is DISMISSED for lack of prosecution pursuant to Rule 41(b) of the Federal Rules of Procedure. The Clerk of Court shall close the file.

IT IS SO ORDERED.

Dated:

August 11, 2010


Marilyn Hall Patel
United States District Court Judge
Northern District of California