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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY: DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

11	DONALD PETERSON,	
12		Plaintiff,
13	v.	
14	D.O.S. PIZZA, INC., a California	
15	corporation; VISTA FWY 78	
16	INVESTORS, a California general	
17	partnership; and DOES 1-10, inclusive,	
18		Defendant.

Case No.: 3:17-cv-00801-BEN-KSC

**ORDER GRANTING STIPULATION
TO FILE FIRST AMENDED
COMPLAINT, DISMISS DONALD
PETERSON, AND ADD NEW
PLAINTIFFS**

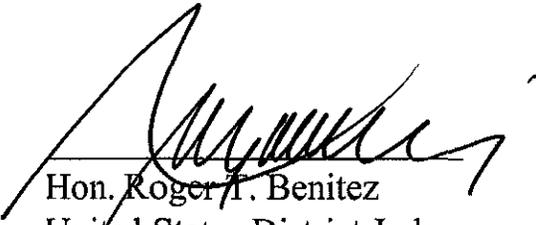
The parties have filed a "Stipulation to File First Amended Complaint; Dismiss Donald Peterson and Add Plaintiffs James Rutherford and the Association 4 Equal Access." (ECF No. 9). The motion is made on the grounds that Plaintiff Donald Peterson passed away in June 2017.

Peterson's complaint seeks injunctive relief for violations of the ADA. It also alleges state law claims. Normally, the death of a plaintiff renders a claim for injunctive relief moot. *Kennerly v. United States*, 721 F.2d 1252, 1260 (9th Cir. 1983). In such circumstances, courts in this District have denied motions to substitute a new plaintiff because the original plaintiff's death extinguished the ADA claim. *See Baria v. Yu*, No. 08-cv-0908-BEN, 2010 WL 2653322, at *1 (S.D. Cal. July 1, 2010).

1 However, the parties' present motion seeks leave to amend the complaint to add
2 new plaintiffs, file an amended complaint, and dismiss Donald Peterson. The stipulation
3 asserts that James Rutherford experienced similar violations as those originally alleged
4 by Donald Peterson. Defendant agrees to the stipulation. Given the parties' agreement
5 and the spirit of Rule 1 of the Federal Rules, *see* Fed. R. Civ. P. 1 ("These rules . . .
6 should be construed . . . to secure the just, speedy, and inexpensive determination of
7 every action."), the Court **GRANTS** the parties' motion. Plaintiffs must file the
8 Amended Complaint within three (3) days of the date of this Order.

9 **IT IS SO ORDERED.**

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11 Dated: August 3, 2017


12 Hon. Roger I. Benitez
13 United States District Judge
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