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8  
 9 **UNITED STATES DISTRICT COURT**  
 10 **DISTRICT OF NEVADA**

11 TONIE ROBINSON,  
 12  
 Plaintiff,

CASE NO.: 2:17-cv-01491-RFB-PAL

13  
 14 vs.

**MOTION TO SUBSTITUTE PARTY**

15 MV TRANSPORTATION, INC.; DOE BUS  
 OPERATOR; DOE BUS DRIVER; DOES I-  
 16 X; and ROE CORPORATIONS I-X,  
 inclusive,  
 17  
 Defendants.  
 18

19 Ian C. Estrada, Esq., counsel for deceased Plaintiff, Tonie Robinson, the deceased's  
 20 surviving spouse, James Robinson, hereby move this Court to substitute Robert O. McMaster as  
 21 Plaintiff in this matter.

22 This Motion is made and based on the papers and pleadings on file herein, the following  
 23 Memorandum of Points and Authorities, and any oral argument by counsel at the time of any  
 24 hearing on this Motion.

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff Tonie Robinson died on November 23, 2018. On August 4, 2021, the Court  
4 denied Defendant MV Transportation, Inc.’s Motion to Dismiss and granted an extension of  
5 time, until August 9, 2021, for Plaintiff to file a Motion to Substitute Party.  
6

7 Pursuant to this Court’s August 4, 2021 Order as well as FRCP 25, the surviving spouse  
8 and legal heir of Plaintiff Tonie Robinson, James Robinson, moves the Court to substitute Robert  
9 O. McMaster, the Petitioner for Special Administration of the Estate of Tonie Robinson to be  
10 substituted into this matter as Plaintiff.

11 **II. STATEMENT OF FACTS**

12 On August 4, 2021, this Court denied Defendant MV Transportation’s Motion to Dismiss  
13 for failure to substitute a party in place of decedent, Tonie Robinson. The Court’s Minute Order  
14 denied the Motion without prejudice, finding that “there is excusable neglect in this case. The  
15 Court finds that the parties continued to have intermittent contact about this case and the failure  
16 to file the motion was an inadvertent oversight.” Therefore, the Court also granted the  
17 undersigned’s Motion to Extend Time to substitute party.

18 On August 9, 2021, Robert O. McMaster filed a Petition for Special Letters of  
19 Administration in the Eighth Judicial District Court of Nevada, Clark County to be named as the  
20 Special Administrator of the Estate of Tonie Robinson for purposes of continuing this litigation  
21 as a survival claim on behalf the estate pursuant to NRS 41.100. *See Exhibit 1.* This Motion  
22 will be supplemented with the Order Granting Petition and the Letters of Special Administration  
23 immediately upon receipt of the same.

24 **III. LEGAL ARGUMENT**

25 Pursuant to FRCP 25, Plaintiff Tonie Robinson’s surviving spouse and legal heir, James  
26 Robinson, and Petitioner for Special Administration of the Estate of Tonie Robinson, Robert O.  
27 McMaster, request that this Court substitute Robert O. McMaster as Plaintiff in this matter.  
28



1 Alternatively, Mr. Robinson and Mr. McMaster request that the Court extend the  
2 deadline for the estate to be substituted into this matter for 45 days to allow time for the Eighth  
3 Judicial District Court of Nevada to review Mr. McMaster’s Petition and to enter the Order and  
5 Letters of Special Administration.

6 **IV. CONCLUSION**

7 Based on the foregoing, the Court should enter an order substituting Robert O. McMaster  
8 as Plaintiff in this matter if this Motion is supplemented with the Order and Letters of Special  
9 Administration prior to the Court’s ruling on this matter. Alternatively, the Court should grant  
10 a 45 day extension of time to allow the undersigned to obtain an Order and Letters of Special  
11 Administration with Plaintiff to file a status update with the Court on the 45<sup>th</sup> day if the Order  
12 and Letters are not yet obtained.

13 DATED this 9<sup>th</sup> day of August, 2021

14 **RICHARD HARRIS LAW FIRM**

15 */s/ Ian C. Estrada*

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17 IAN C. ESTRADA, ESQ.

18 Nevada Bar No. 12575

19 801 South Fourth Street

20 Las Vegas, NV 89101

21 *Attorneys for Plaintiff and Heir, James Robinson*

22 **Order**

23 IT IS ORDERED that ECF No.  
24 66 is GRANTED as unopposed  
25 under LR 7-2(d).

26 **IT IS SO ORDERED**

27 **DATED:** 3:52 pm, August 30, 2021

28 

**BRENDA WEKSLER**  
**UNITED STATES MAGISTRATE JUDGE**

