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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

BRYAN EDWARD O'NEAL and
KATHLEEN ROBINSON,

Plaintiffs

v.

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT, et al.,

Defendants

Case No.: 2:17-cv-02765-APG-EJY

Order Regarding Suggestion of Death

On November 17, 2020, the defendants filed notices suggesting the death of plaintiff Bryan O'Neal. ECF Nos. 96, 97. It is unclear from the defendants' submissions when O'Neal died, but it appears to have been during the week of November 9, 2020. *See* ECF No. 96-1 at 3 (stating that Kathleen Robinson phoned defense counsel on November 16 and advised that O'Neal, who was her husband, had been "murdered last week").

Under Federal Rule of Civil Procedure 25(a)(1), when "a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed." Consequently, a motion for substitution must be made **by February 16, 2021**, or I will dismiss O'Neal's claims in this case.

O'Neal died while the time to object to Magistrate Judge Youchah's November 3, 2020 report and recommendation was still running. *See* ECF No. 93. Because I cannot determine when O'Neal died, it is unclear to me how many days he would have had left to object to the report and recommendation. Consequently, should a party be substituted in for O'Neal, that

1 party will have 14 days from the date of substitution to file an objection to the report and
2 recommendation.

3 DATED this 18th day of November, 2020.

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6 ANDREW P. GORDON
7 UNITED STATES DISTRICT JUDGE
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