

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

FRANK D'AGOSTINO,

Plaintiff,

v.

NAUGHTON, *et al.*,

Defendants.

Case No. 3:20-cv-00480-RCJ-WGC

**ORDER**

**I. DISCUSSION**

On January 14, 2021, following Defendants' filing of a suggestion of death on the record stating that Plaintiff Frank D'Agostino (#32883) had passed away on January 3, 2021, the Court issued an order allowing a 90-day period from the date of the order for a motion for substitution to be filed by any party or by the decedent's successor or representative. (ECF No. 13).

Pursuant to Federal Rule of Civil Procedure 25(a)(1), "[i]f 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." Fed. R. Civ. P. 25(a)(1).

The 90-day period has passed and there has been no motion for substitution. As such, the Court dismisses the case.

**II. CONCLUSION**

For the foregoing reasons, IT IS ORDERED that the Court dismisses this case pursuant to Fed. R. Civ. P. 25(a)(1).

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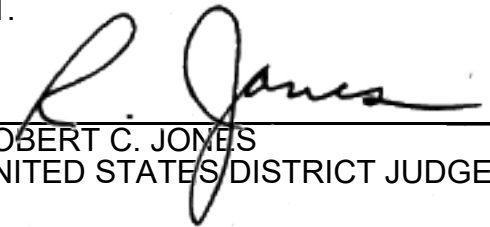
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1 IT IS FURTHER ORDERED that the Clerk of the Court will close the case and  
2 enter judgment accordingly.

3 DATED THIS 28th day of April 2021.

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6 ROBERT C. JONES  
7 UNITED STATES DISTRICT JUDGE  
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