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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

BRYAN LEE STETSON,

Plaintiff,

v.

WASHINGTON STATE DEPARTMENT  
OF CORRECTIONS, et al.,

Defendants.

NO. C15-5524 BHS-KLS

ORDER GRANTING MOTION TO  
SUBSTITUTE (DKT. 83)

On April 19, 2016, Defendants filed a Suggestion of Death pursuant to Federal Rule of Civil Procedure 25(a), notifying all parties of the death of Defendant Kathryn L. Bruner. Dkt. 35. Plaintiff Bryan Lee Stetson moves to substitute Ms. Bruner’s son, Tobey J. Whitney, as Ms. Bruner’s successor in her individual capacity. Dkt. 83.

On May 12, 2016, the Court ordered defendants to serve the nonparty successor or representative of Defendant Bruner’s estate with the Suggestion of Death. Dkt. 45, p. 4. On June 3, 2016, defendants provided Mr. Whitney with a copy of the Statement Noting Death of Defendant Bruner (Dkt. 35). Dkt. 52, Exhibit 1, at ¶ 5. On October 20, 2016, Mr. Whitney waived service of statement of death and the complaint in this action pursuant to Rule 4. Dkt. 92.

1           Thereafter, the Court noted Mr. Stetson's motion to substitute and defendants and Mr.  
2 Whitney filed their responses to the motion. Mr. Whitney states that he serves as the de facto  
3 executor of his mother's estate as she did not have a will. Dkt. 97, at 1. Mr. Whitney  
4 acknowledges actual notice of this suit, consents to his substitution, and subjects himself to the  
5 jurisdiction of this Court in this action. Dkt. 97, Declaration of Tobey J. Whitney. Although  
6 defendants question whether a de facto representative is a proper party under Rule 25, they do  
7 not oppose the substitution of Mr. Whitney for Ms. Bruner in her individual capacity in this  
8 action. Dkt. 96.

9           Therefore, it is **ORDERED**:

10           (1) Kathryn L. Bruner is no longer a party to this action by reason of death and  
11 Tobey J. Whitney is substituted as a party to this action in place of Kathryn L. Bruner, in her  
12 individual capacity. The Clerk shall substitute Mr. Whitney for Ms. Bruner on the docket and in  
13 the caption.

14           (2) The Clerk shall send copies of this Order to Mr. Whitney, counsel for defendants,  
15 and to plaintiff.

16           **DATED** this 5<sup>th</sup> day of December, 2016.

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19 Karen L. Strombom  
20 United States Magistrate Judge  
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