

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Morton v. County of San Diego

Morton · No. 21-cv-1428-RBM-DDL · Decided August 29, 2025

SUMMARY

The United States District Court for the Southern District of California granted Marilyn Morton's unopposed motion to substitute parties under Federal Rule of Civil Procedure 25. The court held that the motion was timely, Dean Morton's claims survived his death, and Marilyn Morton was the proper successor in interest under California and Wisconsin law. Marilyn Morton was permitted to proceed on behalf of Dean Morton.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	David D. Leshner
JURISDICTION	United States District Court for the Southern District of California
DECIDED	August 29, 2025
DOCKET	21-cv-1428-RBM-DDL
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved under Federal Rule of Civil Procedure 25 to substitute Marilyn Morton for the deceased plaintiff Dean Morton as successor in interest. The unopposed motion followed an earlier denied substitution motion and an order requiring renewed filing.
STANDARD OF REVIEW	The court applied Federal Rule of Civil Procedure 25(a), determining whether the motion was timely, whether the claims survived Dean Morton's death, whether Marilyn Morton was the proper successor or representative, and whether service requirements were satisfied.
PRECEDENTIAL VALUE	Unpublished district-court order; precedential status unknown
PARTIES	Marilyn Morton, Dean Morton v. County of San Diego, et al.

TOPICS

- civil procedure
- probate procedure
- estate litigation
- section 1983

PRACTICE AREAS

civil procedure

probate

civil rights

QUESTIONS PRESENTED

1. Whether Marilyn Morton could be substituted for the deceased plaintiff Dean Morton under Federal Rule of Civil Procedure 25.
2. Whether the substitution motion was timely under Rule 25(a)(1).
3. Whether Dean Morton's claims survived his death and whether Marilyn Morton was the proper successor in interest under applicable California and Wisconsin law.
4. Whether the required service under Rule 25(a)(3) was satisfied.

HOLDINGS

1. A motion to substitute is timely when filed within ninety days after service of a statement noting the party's death, and the renewed motion here was timely because it was filed pursuant to the court's order before the renewed deadline.
2. Dean Morton's claims were not extinguished by his death.
3. Marilyn Morton was the proper party to substitute for Dean Morton because she was his surviving spouse and, under both California and Wisconsin law, succeeded to the entirety of his estate and the cause of action.
4. The service requirement for substitution was satisfied because the motion was served on all parties and nonparties in accordance with Federal Rule of Civil Procedure 25.

KEY QUOTATIONS

“Marilyn Morton may substitute into this litigation to proceed on behalf of Dean Morton, as his Successor in Interest.” (at 4)

FACTUAL BACKGROUND

Joseph Earl Morton was arrested by the San Diego County Sheriff's Department on May 11, 2020 and died by suicide in his jail cell on May 17, 2020. His parents, Marilyn Morton and Dean Morton, filed claims arising from his death. Dean Morton later died in Wisconsin without a will, and the court determined that his surviving spouse, Marilyn Morton, was the proper successor in interest to proceed on his claims.

PROCEDURAL HISTORY

Joseph Morton's parents, Marilyn Morton and Dean Morton, filed this action asserting Fourteenth Amendment, negligence or malpractice, and wrongful-death or survival claims. After Dean Morton died, the court ordered a motion to substitute. An initial motion seeking to substitute Linnea Morton was denied because Marilyn Morton was the proper successor, and the court ordered a renewed motion. Marilyn then filed the present unopposed motion, which the court granted.

DISPOSITION

other

CASES CITED

- Oatridge v. Future Motion, Inc., No. 5:21-CV-09906-BLF, 2025 WL 41935, at *1 (N.D. Cal. Jan. 6, 2025)
- Casa Nido P'ship v. Kwon, No. 20-cv-07923, 2024 WL 1421259, at *2 (N.D. Cal. Apr. 2, 2024)
- In re Korean Air Lines Co., Ltd., 642 F.3d 685, 699 (9th Cir. 2011)

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