

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Theresa Brooke v. Mehta N. Bharat, et al.

Brooke · No. 1:25-cv-01145-JLT-CDB · Decided November 7, 2025

SUMMARY

The United States District Court for the Eastern District of California discharges an order to show cause without sanctions after finding plaintiff’s counsel’s failure to comply with a prior order was excusable neglect following the plaintiff’s death. The court directs counsel to serve the notice of suggestion of death on the deceased plaintiff’s successors or representatives under Federal Rule of Civil Procedure 25(a) and promptly file proof of service, with a 14-day deadline.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	November 7, 2025
DOCKET	1:25-cv-01145-JLT-CDB
DISPOSITION	other
PROCEDURAL POSTURE	After Defendants' default was acknowledged and Plaintiff failed to comply with an order setting a deadline to serve the default and file a motion for default judgment, the court issued an order to show cause why sanctions should not be imposed. Plaintiff's counsel responded that Plaintiff had died and that service and default-judgment proceedings should await substitution under Federal Rule of Civil Procedure 25(a).
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- service of process
- sanctions
- default
- civil procedure
- ada / disability

PRACTICE AREAS

- civil procedure
- civil rights
- Americans with Disabilities Act

QUESTIONS PRESENTED

1. Whether counsel's failure to comply with the court's deadline constituted excusable neglect and good cause existed to discharge the order to show cause without sanctions.
2. Whether counsel should be directed to serve the notice of suggestion of death on Plaintiff's next of kin and other successors or representatives under Federal Rule of Civil Procedure 25(a).

HOLDINGS

1. Counsel's failure to comply resulted from excusable neglect, and good cause existed to discharge the order to show cause without imposing sanctions.
2. Counsel was directed, within 14 days, to serve the notice of suggestion of death upon the parties and nonparty successors or representatives of the deceased consistent with Federal Rule of Civil Procedure 25(a), and to promptly file proof of service.

KEY QUOTATIONS

“Based on the representations by counsel for Plaintiff in response to the Court’s order to show cause, the Court finds that counsel’s conduct cited therein is the result of excusable neglect.” (at 1)

“The Court’s order to show cause (Doc. 14) is DISCHARGED without the imposition of sanctions” (at 2)

FACTUAL BACKGROUND

Theresa Brooke brought claims against Mehta N. Bharat and Nita Bharat under the Americans with Disabilities Act and California's Unruh Civil Rights Act. The court had acknowledged Defendants' default and set a schedule for serving the default and filing a motion for default judgment, but Plaintiff did not comply. Plaintiff's counsel then reported that Brooke had died on October 2, 2025, and explained that further default-judgment proceedings should await substitution of a proper party under Rule 25(a).

PROCEDURAL HISTORY

Plaintiff filed an action alleging violations of the Americans with Disabilities Act and California's Unruh Civil Rights Act. Following Defendants' default, the court ordered Plaintiff to serve the default and establish a timeline for seeking default judgment. When Plaintiff failed to comply, the court issued an order to show cause. After counsel explained that Plaintiff had died and that the deadline had been overlooked during the resulting grief, the court discharged the order to show cause without sanctions and directed counsel to serve the suggestion-of-death notice under Rule 25(a).

DISPOSITION

other

CASES CITED

- *In re Veritas Software Corp. Sec. Litig.*, 496 F.3d 962, 973 (9th Cir. 2007)

OPINION

Brooke

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10 11 THERESA BROOKE, Case No. 1:25-cv-01145-JLT-CDB 12 Plaintiff, ORDER
DISCHARGING ORDER TO SHOW

CAUSE

13 v. (Docs. 14, 15) 14 MEHTA N. BHARAT, et al.,

ORDER DIRECTING COUNSEL FOR

15 Defendants. PLAINTIFF TO EFFECT SERVICE OF

NOTICE OF SUGGESTION OF DEATH UPON

16 NEXT OF KIN PURSUANT TO FED. R. CIV.

P. 25(a) AND TO PROMPTLY FILE PROOF

17 OF SERVICE

18 (Docs. 12, 13)

19 14-DAY DEADLINE

20 Plaintiff Theresa Brooke initiated this action with the filing of a complaint against 21
Defendants Mehta N. Bharat and Nita Bharat, alleging violations of the Americans with
Disabilities 22 Act (“ADA”) and California’s Unruh Civil Rights Act (“Unruh Act”). (Doc. 1). 23
After Plaintiff failed to comply with the Court’s order to serve upon Defendants a copy of 24 its
October 3, 2025, minute order acknowledging Defendants’ default and setting a timeline for 25
Plaintiff’s filing of a motion for default judgment and proof of service, on October 21, 2025, the
26 Court ordered Plaintiff to show cause in writing why sanctions should not be imposed for
failure 27 to comply with the Court’s orders. (Doc. 14). 28 Pending before the Court is counsel for
Plaintiff’s response to the order to show cause. 1 (Doc. 15). Therein, counsel declares that Plaintiff
passed away on October 2, 2025. Id. ¶ 3. 2 Counsel declares that service of the default upon
Defendant would carry no purpose in light of 3 Plaintiff’s passing, “because the purpose of a
default is to precede a Motion for Default Judgment” 4 and because she cannot file such a motion,
“[s]he must wait for a proper party to be substituted in 5 pursuant to Rule 25(a).” Id. ¶ 7. Counsel
requests the Court excuse his failure to meet the deadline 6 to serve the default in light of the
above and because he overlooked the order in the grief he shares 7 with Plaintiff’s family. Id. ¶ 9.
8 Based on the representations by counsel for Plaintiff in response to the Court’s order to 9 show
cause, the Court finds that counsel’s conduct cited therein is the result of excusable neglect. 10 See
In re Veritas Software Corp. Sec. Litig., 496 F.3d 962, 973 (9th Cir. 2007). Accordingly, the 11
Court finds good cause to discharge the Order to Show Cause, and the Order to Show Cause (Doc.
12 14) will be discharged without imposition of sanctions. 13 Further, in light of counsel for
Plaintiff’s request that proceeding under Federal Rule of 14 Civil Procedure 25(a) may be the

proper procedure for this case, the Court will direct counsel for Plaintiff within 14 days from the entry of this order to effect service of the notice of suggestion of death filed in this case upon Plaintiff's next of kin consistent with Rule 25(a) and to promptly file proof of service thereafter. Remainder of This Page Intentionally Left Blank

Conclusion and Order 2 Accordingly, it is HEREBY ORDERED that: 1. The Court's order to show cause (Doc. 14) is DISCHARGED without the imposition of sanctions; and 2. Within 14 days of entry of this order, counsel for Plaintiff is DIRECTED to effect service of the notice of suggestion of death (Docs. 12, 13) upon parties and nonparty successors or representatives of the deceased consistent with Federal Rule of Civil

Procedure 25(a) and to promptly file proof of service on the docket.

Any failure for counsel for Plaintiff to timely comply with this order will result in the imposition of sanctions, including financial sanctions and/or a recommendation to dismiss this case. Tr Is SO ORDERED. Dated: _ November 7, 2025

UNITED STATES MAGISTRATE JUDGE

15 16 17 18 19 20 21 22 23 24 25 26 27 28