

**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

OPINION

Brooke

PER CURIAM.

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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 15 Plaintiff within 14 days from the entry of this order to effect service of the notice of suggestion of 16 death filed in this case upon Plaintiff's next of kin consistent with Rule 25(a) and to promptly file 17 proof of service thereafter. 18 19 20 21 Remainder of This Page Intentionally Left Blank 22 23 24 25 26 27 28 1 Conclusion and Order 2 Accordingly, it is HEREBY ORDERED that: 3 1. The Court's order to show cause (Doc. 14) is DISCHARGED without the imposition of 4 sanctions; and 5 2. Within 14 days of entry of this order, counsel for Plaintiff is DIRECTED to effect 6 service of the notice of suggestion of death (Docs. 12, 13) upon parties and nonparty 7 successors or representatives of the deceased consistent with Federal Rule of Civil 8 Procedure 25(a) and to promptly file proof of service on the docket. 9 Any failure for counsel for Plaintiff to timely comply with this order will result in the 10 | imposition of sanctions, including financial sanctions and/or a recommendation to dismiss 11 | this case. 12 | Tr Is SO ORDERED. Dated: _ November 7, 2025 14 UNITED STATES MAGISTRATE JUDGE 15 16 17 18 19 20 21 22 23 24 25 26 27 28