

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

United States v. Proctor

No. 2:25-cv-00269-DC-AC (E.D. Cal. July 17, 2025) · No. No. 2:25-cv-00269-DC-AC · Decided July 17, 2025

SUMMARY

The United States District Court for the Eastern District of California grants the United States’ unopposed motion to substitute Laura Proctor, executor of Jimmie R. Cox’s estate, for Cox after Cox’s death. The court concludes that the motion was timely, that the claims to enforce a judgment lien and foreclose federal tax liens survived Cox’s death, and that Proctor was a proper party under Federal Rule of Civil Procedure 25(a)(1). The court directs the clerk to update the docket and case caption.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Dena M. Coggins
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	July 17, 2025
DOCKET	No. 2:25-cv-00269-DC-AC
DISPOSITION	other
PROCEDURAL POSTURE	The United States moved under Federal Rule of Civil Procedure 25(a)(1) to substitute Laura Proctor, executor and successor in interest of deceased defendant Jimmie R. Cox, and to change the case caption. The motion was unopposed and was decided on the papers.
STANDARD OF REVIEW	The court applied Federal Rule of Civil Procedure 25(a)(1) to determine whether substitution was timely, whether the claims survived the defendant's death, and whether the proposed substitute was a proper party.
PRECEDENTIAL VALUE	unpublished district court order; precedential status unknown
PARTIES	United States of America

TOPICS

- civil procedure
- tax liens
- probate procedure
- real estate
- remedies

PRACTICE AREAS

civil procedure

federal tax liens

probate and estate administration

real property remedies

QUESTIONS PRESENTED

1. Whether the United States' motion to substitute a party under Federal Rule of Civil Procedure 25(a)(1) was timely.
2. Whether the claims to enforce a judgment lien and foreclose a federal tax lien survived Jimmie R. Cox's death.
3. Whether Laura Proctor, as executor and successor in interest to Cox's estate, was a proper party for substitution.

HOLDINGS

1. The motion was timely because it was filed on the same day as the statement noting Cox's death and therefore well within Rule 25(a)(1)'s 90-day period.
2. The United States' claims to enforce the judgment lien under 28 U.S.C. § 3201(f) and to foreclose the federal tax lien under 26 U.S.C. § 7403 survived Cox's death and could proceed against his estate.
3. Laura Proctor was a proper party for substitution because she was Cox's executor and successor in interest.

KEY QUOTATIONS

“Rule 25(a) should be applied flexibly and liberally to permit substitution of the party or parties who . . . would adequately represent [the decedent’s] interests.” (Discussion)

FACTUAL BACKGROUND

The United States sued to enforce a judgment and federal tax liens arising from unpaid federal tax liabilities incurred by Jimmie R. Cox and his late wife, Sandra Cox, against real property in Yuba County. Cox died on January 29, 2025, after the action was filed. Cox's granddaughter, Laura Proctor, was serving as executor and successor in interest to his estate, and she did not oppose substitution.

PROCEDURAL HISTORY

The United States filed an action to enforce a judgment and federal tax liens against real property in Yuba County. Defendant Jimmie R. Cox died after the complaint was filed. The United States filed a statement noting his death and moved to substitute Cox's executor, Laura Proctor; the motion was unopposed by the remaining defendant, Yuba County, and was granted.

DISPOSITION

other

CASES CITED

- Maseda v. Saul, No. 20-cv-01657-JLT, 2021 WL 2268871, at *1 (E.D. Cal. June 3, 2021)
- Hilao v. Estate of Marcos, 103 F.3d 762, 766 (9th Cir. 1996)
- Gilmore v. Lockard, 2020 WL 3288417, at *1 (E.D. Cal. June 18, 2020)
- In re Baycol Products Litigation, 616 F.3d 778, 789 (8th Cir. 2010)
- Gilmore v. Lockard, 936 F.3d 857, 865 (9th Cir. 2019)
- United States v. Sharringhausen, 2023 WL 8115131, at *1 (S.D. Cal. Oct. 30, 2023)
- United States v. Aaron, 2022 WL 3227544, at *1, *4 (W.D. Wash. Aug. 10, 2022)
- United States v. Aaron, 2022 WL 22236530, at *1 (W.D. Wash. June 13, 2022)
- Eble v. Nissan of Yuba City, 2024 WL 4110269, at *1 (E.D. Cal. Aug. 1, 2024)
- Veliz v. Cintas Corp., 2008 WL 2811171, at *2 (N.D. Cal. July 17, 2008)
- Cotta v. County of Kings, 79 F. Supp. 3d 1148, 1158 (E.D. Cal. 2015)
- Miller v. Campbell, Warburton, Fitzsimmons, Smith, Mendel & Pastore, 162 Cal. App. 4th 1331, 1340 (2008)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
 CALIFORNIA 10 11 UNITED STATES OF AMERICA, No. 2:25-cv-00269-DC-AC 12 Plaintiff,
 ORDER GRANTING MOTION FOR SUBSTITUTION OF PARTY AND TO 13 v. CHANGE
 CASE CAPTION 14 JIMMIE R. COX, et al. (Doc. No. 11) 15 Defendants. 16 17 This matter is
 before the court on Plaintiff United States of America’s unopposed motion 18 for substitution of
 party and to change case caption.

(Doc. No. 11.) The pending motion was 19 taken under submission to be decided on the papers
 pursuant to Local Rule 230(g). (Doc. No. 16.) 20 For the reasons explained below, the court will
 grant the motion. 21 BACKGROUND 22 On January 22, 2025, Plaintiff filed a complaint to
 enforce judgment and federal tax liens 23 on real property located in Yuba County (“the Property”)
 against Defendants Jimmie R. Cox and 24 Yuba County stemming from an unpaid federal tax
 assessment incurred by Defendant Cox and 25 his late wife.

(Doc. No. 1.) Plaintiff alleges it previously obtained a judgment against Defendant 26 Cox and his
 late wife, Sandra Cox, for federal tax liabilities in the United States District Court of 27 Nevada.
 (Id. at ¶¶ 1–2.) Plaintiff alleges “[l]iens associated with the tax liabilities and the Nevada 28
 judgment for those liabilities attached to the [] Property.” (Id. at ¶ 3.)

Plaintiff further alleges 1 Defendant Cox may claim some right, title, or interest in the Property for
 himself and or as 2 successor in interest to his late wife. (Id. at ¶ 8.) On January 29, 2025,
 Defendant Cox passed 3 away. (Doc. No. 11-2.)

On April 22, 2025, Plaintiff filed a statement notifying the court of the 4 death of Defendant Cox.
 (Doc. No. 10.) That same day, Plaintiff filed the instant motion. (Doc. 5 No. 11.) 6 In its motion,
 Plaintiff states Laura Proctor, Defendant Cox’s granddaughter, is serving as 7 personal

representative/executor of Defendant Cox's estate pursuant to Defendant Cox's will, a 8 copy of which is attached to the pending motion.¹ (Doc.

No. 11-1 at ¶ 6.) In support of its motion, ⁹ Plaintiff also attached a copy of Defendant Cox's death certificate and a copy of his wife's death ¹⁰ certificate. (Doc. No. 11-2–11-4.) On May 14, 2025, Plaintiff filed a waiver of service of notice ¹¹ of death and motion to substitute, signed by Ms. Proctor. (Doc. No. 14.)

On May 16, 2025, ¹² Defendant Yuba County filed a statement of non-opposition to Plaintiff's motion. (Doc. No. 15.) ¹³ LEGAL STANDARD ¹⁴ Federal Rule of Civil Procedure 25(a)(1) provides: if a party dies and the claim is not ¹⁵ extinguished, the court may order substitution of the proper party. Fed. R. Civ. P. 25(a)(1). A ¹⁶ motion for substitution may be made by any party or by the decedent's successor or ¹⁷ representative.

Id. If the motion is not made within 90 days after service of a statement noting the ¹⁸ death, the action by or against the decedent must be dismissed. Id. ¹⁹ In deciding a motion to substitute under Rule 25(a)(1), a court must consider whether: (1) ²⁰ the motion is timely, (2) the claims pled are extinguished, and (3) the person being substituted is a ²¹ proper party.

Id.; *Maseda v. Saul*, No. 20-cv-01657-JLT, 2021 WL 2268871, at *1 (E.D. Cal. Jun. 22 3, 2021). If the requirements of Rule 25(a)(1) are met, "[t]he substituted party steps into the same ²³ position as [the] original party." *Hilao v. Est. of Marcos*, 103 F.3d 762, 766 (9th Cir. 1996). "Rule 24 ¹ In its motion, Plaintiff refers to Ms. Proctor as both the executor and personal representative of ²⁵ Defendant Cox's estate.

(Doc. No. 11-1.) Both terms are interchangeable under California law. See Cal. Prob. Code § 58(a) (A "personal representative" means an "executor, administrator, ²⁶ administrator with the will annexed, special administrator, successor personal representative, ²⁷ public administrator acting pursuant to Section 7660, or a person who performs substantially the same function under the law of another jurisdiction governing the person's status.").

For clarity, ²⁸ the court will refer to Ms. Proctor as the executor of Defendant's Cox's estate. ¹ 25(a) should be applied flexibly and liberally to permit substitution of the party or parties who... ² would adequately represent [the decedent's] interests." *Gilmore v. Lockard*, No. 12-cv-00925- ³ NONE-SAB, 2020 WL 3288417, at *1 (E.D. Cal. Jun. 18, 2020) (quoting *In re Baycol Prods.*

⁴ Litig., 616 F.3d 778, 789 (8th Cir. 2010)). ⁵ DISCUSSION ⁶ A. Timeliness of Motion ⁷ The court first addresses whether Plaintiff's motion is timely. Here, Plaintiff filed its ⁸ motion on the same day as it filed the statement noting the death of Defendant Cox. (Doc. Nos. ⁹ 10, 11); see *Gilmore v. Lockard*, 936 F.3d 857, 865 (9th Cir. 2019) (finding Rule 25 requires a ¹⁰ party to formally suggest the death of the party upon the record and the suggesting party must ¹¹ serve other parties and non-party successors or representatives of the deceased).

Thus, Plaintiff's 12 motion is within the 90-day time frame and is timely. 13 B. Survival of the Claims 14 The court next turns to whether Plaintiff's claims against Defendant Cox have been 15 extinguished. In its complaint, Plaintiff raises two claims against Defendant Cox: (1) to enforce 16 judgment lien against real property pursuant to 28 U.S.C. § 3201(f), and (2) to foreclose federal 17 tax lien against real property pursuant to 26 U.S.C. § 7403.

(Doc. No. 1 at ¶¶ 22–32.) A claim 18 under 28 U.S.C. § 3201(f) can be maintained against the estate of a defendant. See *United States* 19 *v. Sharringhausen*, No. 03-cv-00551-W-RBB, 2023 WL 8115131, at *1 (S.D. Cal. Oct. 30, 2023) 20 (substituting the estate of the defendant and renewing a judgment lien against the estate in 21 accordance with 28 U.S.C. § 3201).

Similarly, a claim under 26 U.S.C. § 7403 can be maintained 22 against the estate of a defendant. The United States must join “[a]ll persons having liens upon or 23 claiming any interest in the property involved in such action.” 26 U.S.C. § 7403(b).

Here, the 24 liens and judgment against Defendant Cox have passed to his estate and the United States must 25 join the estate to this action. See *United States v. Aaron*, No. 21-cv-00568-DGE, 2022 WL 26 3227544, at * 1, 4 (W.D. Wash. Aug. 10, 2022) (granting a substitution of party for a claim 27 28 1 brought by Plaintiff under § 7403, implicitly finding that claim was not extinguished.)2 2 Accordingly, the court finds Plaintiff's claims survived Defendant Cox's passing under Rule 3 25(a)(1).

4 C. Proper Party 5 Lastly, the court must determine whether Ms. Proctor is the proper party. “Rule 25 states a 6 ‘proper party’ is the decedent’s ‘successor in interest or legal representative.’” *Eble v. Nissan of* 7 *Yuba City*, No. 22-cv-01701-KJM-JDP, 2024 WL 4110269, at *1 (E.D. Cal. Aug. 1, 2024) 8 (quoting *Veliz v. Cintas Corp.*, No. 03-cv-01180, 2008 WL 2811171, at *2 (N.D.

Cal. Jul. 17, 9 2008)). In California, a decedent’s “successor in interest” is “the beneficiary of the decedent’s 10 estate or other successor in interest who succeeds to a cause of action or to a particular item of the 11 property that is the subject of a cause of action.” Cal. Civ. Proc. Code § 377.11. A decedent’s 12 “‘personal representative’ is the person or firm appointed by the probate court to administer the 13 probate of a decedent’s estate.” *Cotta v. County of Kings*, 79 F. Supp. 3d 1148, 1158 (E.D.

Cal. 14 2015) (quoting *Miller v. Campbell, Warburton, Fitzsimmons, Smith, Mendel & Pastore*, 162 Cal. 15 App. 4th 1331, 1340 (2008)). 16 Here, Plaintiff represents that Ms. Proctor is the proper party because Defendant Cox’s 17 will appointed Ms. Proctor to serve as the executor of Defendant Cox’s estate if his wife was 18 unable or unwilling to serve. (Doc.

No. 11-1 at 2.) The court notes Ms. Proctor is also a 19 “successor in interest” for Defendant Cox’s estate. (Doc. No. 11-3 at 5.) Accordingly, in light of 20 Plaintiff’s representations and the fact that Ms. Proctor does not oppose the requested 21 substitution, the court finds Ms. Proctor is the

proper party for substitution under Rule 25(a)(1). 22 CONCLUSION 23 For the reasons explained above: 24 1.

Plaintiff United States of America's motion for substitution of party and to change 25 the case caption (Doc. No. 11) is GRANTED; 26 2 Although the court in Aaron, 2022 WL 3227544, did not explicitly state Plaintiff's claims arose 27 under 26 U.S.C. § 7403, the court's prior order on June 13, 2022, did state Plaintiff's claims were brought under that statute.

United States v. Aaron, 21-cv-00568-DGE, 2022 WL 22236530, at *1 28 (W.D. Wash. Jun. 13, 2022). 1 2. Laura Proctor, Executor for Estate of Jimmie R. Cox is hereby substituted for 2 Defendant Jimmie R. Cox in this action; and 3 3.

The Clerk of the Court is DIRECTED to update the docket to reflect the 4 substitution of Defendant Laura Proctor in place of Defendant Jimmie R. Cox and 5 to update the caption of this case to reflect this substitution. 6 7 IT IS SO ORDERED. □ 9 | Dated: _ July 17, 2025 RVI <—_ Dena Coggins 10 United States District Judge 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28