

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Sara Burgess, et al. v. Alternative Sierra Investments, LLC, et al.

Burgess · No. 1:23-cv-01641-JLT-BAM · Decided November 13, 2025

SUMMARY

The United States District Court for the Eastern District of California directs Alternative Sierra Investments, LLC to submit supplemental briefing concerning service of its motion to substitute parties and notices of suggestion of death under Federal Rules of Civil Procedure 25(a)(3) and 4. The court also requires briefing on whether substitution is proper for James E. Laeng, who allegedly died before the action and crossclaim were commenced, or whether he should instead be dismissed.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Barbara A. McAuliffe
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	November 13, 2025
DOCKET	1:23-cv-01641-JLT-BAM
DISPOSITION	other
PROCEDURAL POSTURE	Defendant and cross-claimant Alternative Sierra Investments, LLC moved under Federal Rule of Civil Procedure 25 to substitute parties for deceased cross-defendants and filed suggestions of death. The magistrate judge directed supplemental briefing rather than deciding the motion.
PRECEDENTIAL VALUE	Unpublished district court order; nonprecedential

TOPICS

- service of process
- civil procedure
- estate litigation
- probate procedure

PRACTICE AREAS

- Civil procedure
- Probate and estate litigation

QUESTIONS PRESENTED

1. Whether the motion for substitution and the notices of suggestion of death were properly served on the affected parties and nonparties under Federal Rules of Civil Procedure 25(a)(3) and 4.
2. Whether substitution under Rule 25(a) is available for a party who died before commencement of the action.
3. Whether James E. Laeng should instead be dismissed from the action.

HOLDINGS

1. Supplemental briefing was warranted because the record did not establish that the motion for substitution and the notices of suggestion of death were properly served under Rules 25(a)(3) and 4, and because the propriety of substituting for James E. Laeng required further analysis.
2. The court identified a substantial legal question whether Rule 25(a) permits substitution for James E. Laeng because the information before the court indicated that he died before this action commenced, but the court did not finally resolve that question in this order.

KEY QUOTATIONS

“Because it is not evident from the proofs of service that ASI has complied with the Federal Rules of Civil Procedure and state law regarding proper service, ASI is directed to provide supplemental briefing demonstrating whether service of the motion to substitute and the notices of suggestion of death were properly served pursuant to Rule 25(a)(3).” (at 2)

“Accordingly, within twenty-one (21) days from the date of this order, ASI shall file supplemental briefing addressing (1) whether service of the motion to substitute and service of the notices of suggestion of death complied with Rule 25(a)(3) and Rule 4 of the Federal Rules of Civil Procedure; and (2) whether substitution under Rule 25(a) or dismissal is proper as to cross-defendant James E. Laeng.” (at 3)

FACTUAL BACKGROUND

Alternative Sierra Investments, LLC filed a crossclaim against several individuals and estates. Its newly retained counsel later learned that cross-defendants James E. Laeng and Mary E. Kessel had died, and that Greg L. Hoenes had been appointed executor of the Estate of Sally Hoenes. ASI served the motion and suggestions of death by mail, but the record did not show service on representatives of the Laeng and Kessel estates or on Hoenes in his capacity as executor.

PROCEDURAL HISTORY

Alternative Sierra Investments, LLC filed a crossclaim in January 2024. In August 2025, it moved to substitute parties for James E. Laeng, Mary E. Kessel, and the Estate of Sally Hoenes, asserting that Laeng and Kessel were deceased and that an executor had been appointed for the Hoenes estate. After preliminary review, the court found that the record did not establish proper service under Rules 25(a)(3) and 4 and raised a separate question whether Rule 25 could apply to Laeng because he died before the action commenced. The court ordered supplemental briefing within twenty-one days.

DISPOSITION

other

CASES CITED

- Jacques v. Tillery, No. 2:23-cv-0079 TLN KJN P, 2023 WL 5207668, at *2-3 (E.D. Cal. Aug. 14, 2023)
- Lacy v. Tyson, No. 1:07-cv-00381-LJO-GSA-PC, 2012 WL 4343837, at *2 (E.D. Cal. Sept. 20, 2012)

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