

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ABEL CANTARO CASTILLO, *et al.*,
Plaintiffs,
v.
WESTERN RANGE ASSOCIATION, *et al.*,
Defendants.

Case No. 3:16-cv-00237-ART-CLB
ORDER DISMISSING FOR FAILURE
TO SUBSTITUTE PARTIES

Before the Court are Defendant Western Range Association's (WRA) motion for summary judgment (ECF No. 300) and its motion to dismiss (ECF No. 349). The Court grants the motion to dismiss because Plaintiff is deceased and there has been no motion to substitute under Fed. R. Civ. P. 25(a)(1).

Fed. R. Civ. P. 25(a)(1) states that, when a claim is not extinguished immediately upon a plaintiff's death, the plaintiff's successors or representatives must be served with a statement noting the death. Fed. R. Civ. P. 25(a)(1).¹ If, after 90 days of service, the successors and representatives fail to file a motion to substitute themselves as plaintiffs, "the action by . . . the decedent must be dismissed." *Id.*

On February 5, 2024, WRA filed a Suggestion of Death Upon the Record, indicating that Abel Cántaro Castillo, the sole remaining plaintiff in this action, had died. (ECF No. 328; *see* ECF No. 318 at 17.) On May 7, 2024, Castillo's nonparty successors or representatives were served with the Suggestion of Death. (ECF No. 345 at ¶ 6-10.) To date, no successor or representative has filed a motion for substitution. The Court must dismiss this case, but that dismissal is without prejudice. *Zanowick v. Baxter Healthcare Corporation*, 850 F.3d 1090, 1095 (9th Cir. 2017) ("In case there is any doubt, the court is no longer required to dismiss

¹ Defendants do not suggest that Plaintiff's claim is already extinguished, so the Court assumes that Rule 25(a)(1) applies here.

1 with prejudice under Rule 25(a).”).

2 It is therefore ordered that Defendant Western Range Association’s motion
3 to dismiss (ECF No. 349) is granted and the Amended Complaint (ECF No. 111)
4 is dismissed.

5 It is further ordered that Defendant’s motion for summary judgment (ECF
6 No. 300) is denied as moot.

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8 Dated this 22nd day of August 2024.

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11 ANNE R. TRAUM
12 UNITED STATES DISTRICT JUDGE
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