

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 17-CV-01177-LTB-NYW

DAKOTA TYLER MCGRATH,

Plaintiff,

v.

FORT COLLINS POLICE SERVICES OFFICER NICK RODGERS, in his individual
capacity,

Defendant.

**PLAINTIFF'S UNOPPOSED MOTION TO SUBSTITUTE
LAURA TYLER, AS PERSONAL REPRESENTATIVE OF THE ESTATE
OF DAKOTA MCGRATH, AS THE PROPER PLAINTIFF, IN LIEU
OF DECEASED PLAINTIFF DAKOTA MCGRATH**

Deceased Plaintiff, Dakota McGrath, by and through counsel, Anthony Viorst of the Viorst Law Offices, P.C., hereby moves to substitute Laura Tyler, as personal representative of the Estate of Dakota McGrath as the proper plaintiff in this matter, in lieu of deceased plaintiff Dakota McGrath, as follows:

Certification

Undersigned counsel certifies that he has conferred with opposing counsel, Matthew Hegarty, who does not oppose the relief requested herein.

1. Plaintiff Dakota McGrath died on May 21, 2018. Undersigned counsel filed a Statement Noting Death on June 4, 2018.

2. Notwithstanding Mr. McGrath's death, the claim set forth in the complaint is still viable, and has not been extinguished.

3. An Estate has now been opened on behalf of Mr. McGrath, and his mother, Laura Tyler, has been appointed as personal representative of that Estate. *See* Documents Establishing Estate (Attached).

4. Under these circumstances, Ms. Tyler, as the personal representative of the Estate, would be the proper party to pursue this matter. Federal Rule of Civil Procedure 25(a) authorizes this Court to order the substitution of Ms. Tyler as the proper party.

Dated this 6th day of August, 2018.

THE VIORST LAW OFFICES, P.C.

[Original signature on file at Viorst Law Offices, P.C.]

s/ Anthony Viorst

Anthony Viorst, #18508
Viorst Law Offices, PC
950 South Cherry Street, Suite 300
Denver, CO 80246
Telephone: (303) 759-3808
Facsimile: (303) 333-7127
E-mail: tony@hssspc.com
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of August, 2018, I electronically filed a true and correct copy of the above and foregoing **PLAINTIFF'S UNOPPOSED MOTION TO SUBSTITUTE LAURA TYLER, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF DAKOTA MCGRATH, AS THE PROPER PLAINTIFF, IN LIEU OF DECEASED PLAINTIFF DAKOTA MCGRATH** with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following e-mail address(es):

Matthew J. Hegarty, Esq.
Thomas J. Lyons, Esq.
Hall & Evans, LLC
1001 Seventeenth Street, Suite 300
Denver, CO 80202

[Original signature on file at Viorst Law Offices, P.C.]

s/ Michelle Spadavecchia

Legal Assistant