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IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA

ROSEMARY SMITH, et al.,)	1:05cv01594 AWI DLB
)	
)	
Plaintiffs,)	FINDINGS AND RECOMMENDATIONS
)	REGARDING DISMISSAL OF ACTION
vs.)	
)	
PFIZER, INC., et al.,)	
)	
Defendants.)	

Plaintiffs Rosemary Smith, Ricky E. Smith and Charles K. Smith are proceeding pro se in this product liability action filed on December 16, 2005. On April 18, 2006, the action was transferred to the United States District Court for the District of Massachusetts pursuant to an order of the Judicial Panel on Multi-District Litigation. The action was transferred back to this Court on May 24, 2011, after the completion of consolidated pretrial proceedings and discovery. The Court set a Status Conference for June 20, 2011, at 9:30 a.m.

On June 20, 2011, Plaintiffs failed to appear for the Status Conference despite receiving notice. Catherine Valerio Barrad appeared on behalf of Defendants.

On June 21, 2011, the Court issued an order to show cause why the action should not be dismissed due to Plaintiffs' failure to appear.

A hearing on the order to show cause was held before the Honorable Dennis L. Beck, United

1 States Magistrate Judge on August 12, 2011. Plaintiffs Rosemary Smith, Ricky E. Smith and
2 Charles K. Smith personally appeared. Catherine Valerio Barrad appeared telephonically on behalf
3 of Defendants.

4 During the hearing, the individual plaintiffs expressed to the Court that they wanted to
5 dismiss the instant action with each party agreeing to bear its own attorney fees and costs.
6 Defendants had no objection to dismissal and agreed that each party would bear its own attorney fees
7 and costs.

8 Based on the agreement of the parties, which was expressed on the record in open court, the
9 Court HEREBY RECOMMENDS that this matter be DISMISSED IN ITS ENTIRETY with each
10 party to bear its own attorneys' fees costs.

11 These findings and recommendations will be submitted to the Honorable Anthony W. Ishii
12 pursuant to the provisions of [Title 28 U.S.C. § 636\(b\)\(1\)](#). Within **fourteen (14) days** after being
13 served with these findings and recommendations, any party may file written objections with the
14 court. The document should be captioned "Objections to Magistrate Judge's Findings and
15 Recommendations." The parties are advised that failure to file objections within the specified time
16 may waive the right to appeal the District Court's order. [Martinez v. Ylst, 951 F.2d 1153 \(9th Cir. 1991\)](#).
17 [1991](#).

18
19 IT IS SO ORDERED.

20 **Dated: August 12, 2011**

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE

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