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

COREY LAMAR SMITH, et al.,

Plaintiffs,

v.

ARNOLD SCHWARZENEGGER, et al.,

Defendants.

1:14-CV-00060-LJO-SAB

**MEMORANDUM DECISION AND
ORDER RE PLAINTIFFS'
OBJECTIONS TO FINDINGS AND
RECOMMENDATIONS (DOC. 70)**

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I. INTRODUCTION

Plaintiffs are former and current inmates at Pleasant Valley State Prison (“PVSP”) in Coalinga, California or Avenal State Prison (“ASP”) in Avenal, California, who contracted “Valley Fever” during their terms of incarceration. Doc. 2 (“Compl.”) at ¶ 1. This case is one of four related suits brought by various Plaintiffs who contracted Valley Fever while incarcerated. *See Jackson v. State of California*, 1:13-CV-1055-LJO-SAB; *Beagle v. Schwarzenegger*, 1:14-CV-430-LJO-SAB; *Abukar v. Schwarzenegger*, 1:14-CV-816-LJO-SAB. Plaintiffs bring this suit against Defendants,¹ various former and current government officials and former and current employees of PVSP, for their roles in causing Plaintiffs to contract Valley Fever. *Id.*

¹ Defendants are Arnold Schwarzenegger, Former Governor of California; Edmund G. Brown, Governor of California; Jeffrey A. Beard, Secretary, California Department of Corrections and Rehabilitation; Paul D. Brazelton Former Warden, Pleasant Valley State Prison; Matthew Cate, Former Secretary, California Department of Corrections and Rehabilitation; James D. Hartley, Warden, Avenal State Prison; Susan Hubbard, Former Director, Division of Adult Operations; Deborah Hysen, Chief Deputy Secretary, Facilities Planning, Construction & Management; Felix Igbiosa, Medical Director, Pleasant Valley State Prison; Chris Meyer, Senior Chief, Facilities Planning, Construction & Management; Tanya Rothchild, Former Chief, Classification Services Unit; Dwight Winslow, M.D., Former Medical Director, California Department of Corrections and Rehabilitation; and James A. Yates, Former Warden, Pleasant Valley State Prison (collectively, “Defendants”).

1 On June 24, 2014, the Magistrate Judge issued Findings and Recommendations (“F&Rs”). Doc.
2 70. Plaintiffs filed objections to the F&Rs on July 8, 2014 (Doc. 72) to which Defendants responded on
3 July 22, 2014 (Docs. 76, 77).

4 Likewise, the Magistrate Judge issued F&Rs in *Beagle* on June 24, 2014. *Beagle*, 14-CV-430-
5 LJO-SAB, Doc. 64. Plaintiffs filed objections to the F&Rs on July 8, 2014 (*id.* at Doc. 66) to which
6 Defendants responded on July 22, 2014 (*id.* at Docs. 70, 71). On July 25, 2014, this Court issued a
7 decision and order in *Beagle* resolving the plaintiffs’ objections to the F&Rs issued in that case. *Id.* at
8 Doc. 74 (“the *Beagle* order”).

9 The Court has reviewed the record of this case and that of *Beagle* and finds they are essentially
10 identical. Specifically, the Court finds the *Beagle* order to be directly applicable here. That is, the *Beagle*
11 order resolves Plaintiffs’ pending objections to the F&Rs and explains the extent to which the Court will
12 adopt the F&Rs here. Accordingly, for the reasons more thoroughly explained in the *Beagle* order, the
13 Court ORDERS that

- 14 1. Plaintiffs’ second cause of action is DISMISSED WITH LEAVE TO AMEND.
- 15 2. Plaintiffs’ third cause of action is DISMISSED WITHOUT LEAVE TO AMEND.
- 16 3. Defendants Winslow, Igbinsosa, and Schwarzenegger’s motions to dismiss are
17 GRANTED WITH LEAVE TO AMEND.
- 18 4. The Court ADOPTS IN PART the Findings and Recommendations filed on June 24,
2014 (Doc. 70).²

19 This is the last time amendment will be allowed. The Court neither has the time nor the
20 responsibility to become authors of amended complaints. Legal direction has been supplied herein—
21 *once*. Any amended complaint shall be filed on or before August 22, 2014.

22 IT IS SO ORDERED.

23 Dated: July 30, 2014

24 /s/ Lawrence J. O’Neill
25 UNITED STATES DISTRICT JUDGE

26 ² As explained in the *Beagle* order, the Court adopted the F&Rs unless otherwise indicated. *See Beagle*, 14-CV-430-LJO-SAB, Doc. 74, at 2 n. 3. The Court likewise ADOPTS the F&Rs here to the extent the Court did so in *Beagle*.