

1
2
3
4
5 **UNITED STATES DISTRICT COURT**
6 **EASTERN DISTRICT OF CALIFORNIA**
7

8 MARLON ALTAMIRANO, et al.,
9 Plaintiffs,
10 v.
11 ARNOLD SCHWARZENEGGER, et al.,
12 Defendants.

Case No. 1:15-cv-00607-LJO-SAB
ORDER DENYING MOTION TO AMEND
COMPLAINT AS UNNECESSARY; AND
ENTERING STIPULATION FOR SILLEN
AMENDMENT
(ECF Nos. 19, 21)

13
14 Plaintiffs filed a motion to amend the complaint on September 17, 2015. (ECF No. 19.)
15 On October 7, 2015, Plaintiffs filed a stipulation with Robert Sillen regarding amendment of the
16 complaint. (ECF No. 17.)

17 On October 16, 2015, a status conference and oral argument on the motion to amend
18 were heard. (ECF No. 22.) Counsel Benjamin Pavone and David Elliot appeared telephonically
19 for Plaintiffs; and counsel Jon Allin appeared telephonically for Defendants. During the October
20 16, 2015 conference, the parties discussed that counsel for Plaintiffs are attempting to resolve
21 how these related actions will proceed based on the decisions in Jackson and Smith finding that
22 Defendants are entitled to qualified immunity on the Eighth Amendment claims. The parties are
23 discussing how the qualified immunity decision will impact the additional claims that are raised
24 in these related actions.

25 Plaintiffs seek leave to file an amended complaint to add former Secretary of the
26 California Department of Corrections and Rehabilitation, James Tilton, as a defendant in this
27 action. Amendments of the pleadings are governed by Rule 15 of the Federal Rules of Civil
28 Procedure. Under Rule 15(a), a party may amend the party's pleading once as a matter of course

1 at any time before a responsive pleading is served. Otherwise, a party may amend only by leave
2 of the court or by written consent of the adverse party, and leave shall be freely given when
3 justice so requires. Fed. R. Civ. P. 15(a). Rule 15(a) is very liberal and leave to amend ‘shall be
4 freely given when justice so requires.’” Amerisource Bergen Corp. v. Dialysis West, Inc., 465
5 F.3d 946, 951 (9th Cir. 2006) (quoting Fed. R. Civ. P. 15(a)). However, courts “need not grant
6 leave to amend where the amendment: (1) prejudices the opposing party; (2) is sought in bad
7 faith; (3) produces an undue delay in the litigation; or (4) is futile.” Id.

8 In this instance, Plaintiffs seek leave to file an amended complaint to add the former
9 secretary of the California Department of Corrections and Rehabilitation as a defendant in this
10 action. (ECF No. 19 at 2.) At this time, Plaintiffs have not filed an amended complaint and no
11 answer has been filed. Plaintiffs may file an amended complaint as a matter of right. Therefore,
12 no motion to amend is necessary.

13 Plaintiffs have included an amendment to the complaint, however, Local Rule 220
14 provides that every pleading must be complete in itself without reference to the prior or
15 superseded pleading. The Court will not permit piecemeal pleading and any amended complaint
16 must be complete in itself to comply with the Local Rule.

17 Finally, Plaintiffs have filed a stipulation with Robert Sillen regarding amendment of the
18 complaint which shall be entered in this action.

19 Accordingly, IT IS HEREBY ORDERED that:

- 20 1. Plaintiffs’ motion to file an amended complaint is DENIED as unnecessary; and
- 21 2. The stipulation filed October 7, 2015 is entered in this action.

22 IT IS SO ORDERED.

23 Dated: October 19, 2015

24 
25 _____
26 UNITED STATES MAGISTRATE JUDGE