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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

LUIS VALENZUELA RODRIGUEZ,

Plaintiff,

v.

JAMES TILTON, et al.,

Defendants.

No. 2:08-cv-1028 GEB AC P

FINDINGS AND RECOMMENDATIONS

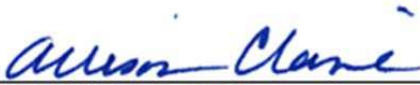
A statement noting the death of plaintiff Luis Valenzuela Rodriguez was filed on May 9, 2016, and states that service of the notice was made on plaintiff’s potential successors the same day. ECF No. 244. Pursuant to Federal Rule of Civil Procedure 25(a)(1), if a motion for substitution “is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.” That time period has now expired and no motion for substitution has been filed.

Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days after service of these findings and recommendations, any written objections may be filed with the court. The document should be captioned “Objections to Magistrate Judge’s Findings and Recommendations.” Any response to the objections shall be filed and served within fourteen

1 days after service of the objections. Failure to file objections within the specified time may waive  
2 the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

3 DATED: August 19, 2016

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5 ALLISON CLAIRE  
6 UNITED STATES MAGISTRATE JUDGE  
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