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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JERRY VALDIVIA, ALFRED YANCY,
and HOSSIE WELCH, on their own
behalf and on behalf of the class
of all persons similarly situated,

NO. CIV. S-94-671 LKK/GGH

Plaintiffs,

v.

O R D E R

ARNOLD SCHWARZENEGGER, Governor of
the State of California, et al.,

Defendants.

_____ /

On February 25, 2008, the Special Master filed his report and
recommendations regarding the use of hearsay evidence in parole
revocation proceedings. See Permanent Injunction, at 6. The
defendants have filed objections to the Special Master's report;
the plaintiffs encourage the court to adopt it, with modification.
The court declines both parties' requests and adopts the Special
Master's report and recommendations.

Despite defendants' objections, the court agrees with the
Special Master's interpretation of United States v. Comito, 177

1 F.3d 1166 (9th Cir. 1999), United States v. Hall, 419 F.3d 980 (9th
2 Cir. 2005) and related hearsay cases in this Circuit, and their
3 application to the defendants' parole revocation proceedings. His
4 findings of fact are supported by the record. The Special Master's
5 recommendations appear to the court well-calculated to ensure the
6 due process protections as expressed by the Supreme Court and the
7 Ninth Circuit are respected. All of defendants' objections are
8 overruled.

9 Plaintiffs' principally request that the Special Master's
10 recommendations be amended to include concrete deadlines by which
11 the defendants must accomplish certain remedial measures.¹ The
12 court declines to do so and defers to the Special Master, in his
13 conscientious attention to and intimate knowledge of the case, to
14 ensure that the remedial measures ordered are completed
15 expeditiously.

16 Accordingly, the court ORDERS:

- 17 1. The court ADOPTS the Special Master's Report and
18 Recommendations Regarding Motion to Enforce Paragraph 24
19 of the Valdivia Permanent Injunction (Docket No. 1398);
- 20 2. The parties SHALL undertake the acts recommended by the
21 Special Master at pp. 26-29 of the Report. The court
22 defers to the Special Master to ensure these acts are
23


24 ¹ The plaintiffs also request the court modify the Report to
25 state that the denial of plaintiffs' motions are made without
26 prejudice. It appears that this is apparent by the language
employed by the Special Master and that such modification is
unnecessary.

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timely accomplished. Should he believe necessary, the
Special Master may move the court to require specific
deadlines.

IT IS SO ORDERED.

DATED: March 25, 2008.


LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT