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Former inmate sues prison over Valley Fever

By Anna Scott

One-time drug dealer Arjang Panah made the most of his four years in California federal prison, earning a doctorate in international business administration before his release in 2008. Panah also acquired something less desirable behind bars: a debilitating lung infection known as Valley fever.



In a novel lawsuit, Panah accuses the U.S. government of negligence, alleging that officials at Taft Correctional Institution in Kern County should have taken measures to protect him from the fungus that causes Valley fever. The disease is ubiquitous in Central California and has been a scourge in regional prisons for years.

Last month, a U.S. district court judge refused to dismiss most of Panah's case and denied a motion for summary judgment, allowing the lawsuit to move toward trial.

If successful, the case could "absolutely expose the federal government to further litigation," said prison and sentencing consultant Eric Raffin of the prisoner advocacy group Allenatore, Esposito & Raffin, LLC. "It reads like a lot of stories we've heard from our clients here."

Litigation in this arena, however, is rare. A similar lawsuit filed by a former Taft inmate in 2002 was partly dismissed in 2009. Last week, a U.S. magistrate judge recommended summary judgment in favor of the remaining defendants. Panah's relies on the same federal statute as that case, but the allegations differ.

Assistant U.S. Attorney Joanne S. Osinoff in Los Angeles, who is defending the government against Panah's suit, declined to comment.

Representatives for the Federal Bureau of Prisons and the private contractor that runs Taft's day-to-day operations, Management & Training Corp. - neither of which are defendants in the case - also declined to comment.

Valley fever, which is spread by a fungus found in soil and develops into a chronic illness for some people, has reportedly affected thousands of people in California and in the Southwest in recent years.

It usually takes hold as an infection in the lungs and can cause coughing, fever, fatigue and other flu-like symptoms. Most people experience mild symptoms and can weather the condition without permanent damage. But some experience serious complications, including meningitis, or can become permanently disabled or die from the infection.

Panah, 43, was sentenced in 2004 to six years in prison for dealing methamphetamine. He contracted Valley fever in 2005 while incarcerated at Taft. The disease has caused him chronic problems, including breathing difficulty, bronchitis, asthma and episodes of flu-like symptoms, according to court documents.

Thursday, September 15, 2011

Energy Law

House GOP grill officials over Solyndra
House Republicans accused the Obama administration Wednesday of engaging in capitalism by rushing through a \$535 billion guarantee for a favored Fremont-based solar company that later went bankrupt.

Corporate

SAP subsidiary sentenced to \$20 million fine

A federal judge sentenced SAP subsidiary TomorrowNow Inc. to three years of probation and a \$20 million fine after the company pleaded Wednesday to infringement of Oracle Corp. copyrighted software.

Government

State doubling down on Medi-Cal false claims cases

False claims cases alleging Medi-Cal fraud are to be on the rise.

Bankruptcy

More fireworks in Crystal Cathedral bankruptcy case

Unsecured creditors of Orange County's Crystal Cathedral church likely will sue some insiders, including founder Robert H. Schul attorneys told a bankruptcy judge Wednesday.

Government

EPA orders \$20 million cleanup

The Environmental Protection Agency on Wednesday ordered defense giant Northrop Grumman to spend an estimated \$20 million to clean up contaminated groundwater in the industry.

Litigation

MGA taps Keller again

Bratz manufacturer MGA Entertainment Inc. tapped Irvine litigator Jennifer Keller as its counsel in a legal tussle with O'Melveny & LLP over allegedly unpaid attorney fees.

Judges and Judiciary

Kern County judge fine recommended

The state Fair Political Practices Commission recommended fining a Kern County Superior judge and his campaign committee and treating for his 2008 bench election \$5,500 for wrongdoing receiving cash contributions and failing to do

"What bothers me the most is, I thought I could just do my time and be done. I didn't know that I was going to get a life sentence," Panah said.

Panah currently works as an account executive in the aviation industry but ironically can't travel and must carefully monitor his health, he said.

"I never know when I get sick what the extent of it will be," Panah said in an interview. "The best case scenario for me is pneumonia symptoms, chest congestion, and I'll be weak for a few days."

Panah's lawyers, Ian Wallach and Jason K. Feldman of Feldman & Wallach, argued that prison officials were negligent in failing to educate Panah about the symptoms and ways to prevent Valley fever, even though the disease had stricken more than 80 inmates in the two years before Panah arrived at Taft, according to court documents. They also alleged that prison authorities failed to limit inmates' exposure through basic safeguards like paving over dirt areas or prohibiting outdoor activities on dusty days.

"[The prison] had an obligation under California law to provide a safe environment for inmates and knew there was a risk," Wallach said in an interview. "Inmates are extremely vulnerable."

Lawyers with the U.S. attorney's office argued in court documents that officials at Taft did take precautions, including transferring some inmates with compromised immune systems away from the facility and bringing in the Centers for Disease Control and Prevention to assess the situation and make recommendations after an outbreak in 2003 and 2004.

But in his Aug. 25 ruling, U.S. District Judge Gary Allen Feess said the government's actions were not enough.

"Whether or not defendant acted to protect some inmates does not take away from the fact that they took no preventative measures to protect inmates that remained at the facility," Feess wrote. He also wrote that officials "could have taken preventative measures to protect [Panah] against exposure."

Taft is not the only Central Valley prison that has dealt with Valley fever outbreaks.

More than 900 inmates at Pleasant Valley State Prison in Fresno County contracted the disease between 2004 and 2007, according to published reports. In 2009, 311 Pleasant Valley prisoners were diagnosed with the disease.

Nancy Kincade, a spokeswoman for California Correctional Health Care Services, said state prison officials have combated the illness by keeping inmates indoors on windy days and watering down prison construction sites to control dust, among other measures.

But prisons are at a disadvantage when it comes to environmental threats like Valley fever "because of the traditional lack of attention to the importance of medical care," said Steven Fama, a lawyer with the Prison Law Office, which advocates for inmates. Fama called the Panah case "notable" in the realm of litigation over prisoner health care.

Panah's lawsuit could go to a bench trial as early as next year, said his lawyer, Wallach.

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the true source of a loan.

Real Estate

Real estate lawyers fret over law

Lawyers representing shopping centers are wringing their hands about recently passed legislation requiring certain big box stores to for economic impact reports of their proposed developments.

Government Contracts

California eyeing retail bond market

California is positioned to offer municipal bond notes in denominations as low as \$25, an attempt to make the investment affordable to the general public.

Judges and Judiciary

Judicial Council will be main focus of meeting

When the California Judges Association gathers for its annual meeting this week, the main topic of conversation will be getting along with - and possibly reforming - the state's Judicial Council and Administrative Office of the Courts.

Law Practice

Bingham snags LA transactions partner from O'Melveny

Bingham McCutchen LLP, an international firm with five offices in California, has snagged structured transactions partner Dan Passag from O'Melveny & Myers LLP, adding him as partner at the firm's Los Angeles office.

Real Estate

Real Estate Deals

Lawyers with DLA Piper LLP and Bingham McCutchen LLP helped negotiate \$29 million financing for an 111,403-square-foot shopping center in Carlsbad.

Bar Associations

State Bar convention kicks off in Long Beach

More than a thousand lawyers will descend on Long Beach beginning today to hear speeches, discuss possible legislation and attend dozens of continuing legal education courses during the Bar annual meeting.

Corporate

California joins states restricting employment use of credit reports

AB 22 not only limits use of credit reports, but also imposes notice and disclosure obligations on employers. By **Rod M. Fliegel** and **Jennifer Mora** of Littler Mendelson PC

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blow to employers

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Technology & Science

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If the keyword purchased is someone's name would this infringe on the person's right of publicity? By **Simon J. Frankel, Jake Fr** and **Christopher Miller** of Covington & B LLP

Labor/Employment

Failure to pay wages? Now there's an app for that

New app encourages employees to file wage hour complaints against their employers. By **Tiffany Brosnan, Christy D. Joseph** and **Swen Prior** of Snell & Wilmer LLP

Litigation

Former inmate sues prison over Valley Fever

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