

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Raymond Montezello v. Pesce, et al.

Montezello v. Pesce · No. 2:21-cv-00906-DJC-EFB (PC) · Decided November 19, 2025

SUMMARY

The document contains findings and recommendations in a prisoner civil-rights action under 42 U.S.C. § 1983 in the Eastern District of California. The magistrate judge recommends denying the plaintiff’s motion to file a shareholder derivative action and striking his related notice because the California Department of Corrections and Rehabilitation is a state agency rather than a corporation.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	November 19, 2025
DOCKET	2:21-cv-00906-DJC-EFB (PC)
DISPOSITION	other
PROCEDURAL POSTURE	A state prisoner proceeding pro se in a 42 U.S.C. § 1983 action moved to e-file and add a shareholder derivative action. The magistrate judge issued findings and recommendations that the motion be denied and the related notice be stricken.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Raymond Montezello v. Pesce, et al.

TOPICS

- shareholder derivative suits
- civil rights
- prisoners rights
- civil procedure

PRACTICE AREAS

- civil rights
- corporate law
- civil procedure
- prisoners rights

QUESTIONS PRESENTED

- Whether plaintiff could add or e-file a shareholder derivative action concerning the California Department of Corrections and Rehabilitation in his existing § 1983 action.

HOLDINGS

1. The requested shareholder derivative action was inapt because the California Department of Corrections and Rehabilitation is a state agency, not a corporation; the magistrate judge therefore recommended denying the motion and striking the notice.

KEY QUOTATIONS

“Such an action is “an extraordinary process where courts permit a shareholder to step into the corporation’s shoes and to seek in its right the restitution he could not demand in his own.”” (at 1)

“However, this entity is not a corporation, but rather an agency of the state of California.” (at 1)

FACTUAL BACKGROUND

Plaintiff is a state prisoner proceeding without counsel in an action against three correctional officers under 42 U.S.C. § 1983. He sought to pursue a shareholder derivative action apparently on behalf of the California Department of Corrections and Rehabilitation, which he characterized as the relevant corporation. The court determined that the Department is a California state agency rather than a corporation.

PROCEDURAL HISTORY

Plaintiff's § 1983 action against three correctional officers was ready to proceed to trial. Plaintiff filed a motion to e-file a shareholder derivative action and later filed a notice of shareholder derivative action. The magistrate judge recommended denial of the motion and striking of the notice, subject to objections under 28 U.S.C. § 636(b)(1).

DISPOSITION

other

CASES CITED

- Quinn v. Anvil Corp., 620 F.3d 1005, 1012 (9th Cir. 2010)
- Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998)
- Martinez v. Yist, 951 F.2d 1153 (9th Cir. 1991)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 RAYMOND MONTEZELLO, No. 2:21-cv-00906-DJC-EFB (PC) 12
Plaintiff, 13 v. FINDINGS AND RECOMMENDATIONS 14 PESCE, et al., 15 Defendants. 16 17
Plaintiff is a state prisoner proceeding without counsel in an action brought pursuant to 42 18
U.S.C. § 1983.

The matter is ready to proceed to trial. Plaintiff has filed a motion “to e-file a 19 shareholder’s
derivative action.” ECF No. 71. Such an action is “an extraordinary process where 20 courts

permit a shareholder to step into the corporation's shoes and to seek in its right the 21 restitution he could not demand in his own." *Quinn v. Anvil Corp.*, 620 F.3d 1005, 1012 (9th Cir.

22 2010) (internal quotation marks omitted). Plaintiff herein proceeds against three correctional 23 officers. From the motion, it appears that the "corporation" plaintiff seeks to represent is the 24 California Department of Corrections and Rehabilitation.

However, this entity is not a 25 corporation, but rather an agency of the state of California. Accordingly, plaintiff's attempt to 26 add a shareholder's derivative action to the current litigation is inapt and must be denied. 27 //// 28 //// 1 It is therefore RECOMMENDED that: 2 1. Plaintiff's October 24, 2025 motion (ECF No. 71) be DENIED; and 3 2. Plaintiff's October 31, 2025 notice of shareholder's derivative action (ECF No. 4 72) be STRICKEN from the docket.

5 These findings and recommendations are submitted to the United States District Judge 6 || assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days 7 || after being served with these findings and recommendations, any party may file written 8 || objections with the court and serve a copy on all parties. Such a document should be captioned 9 || "Objections to Magistrate Judge's Findings and Recommendations." Failure to file objections 10 || within the specified time may waive the right to appeal the District Court's order.

Turner v. 11 || *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Yist*, 951 F.2d 1153 (9th Cir. 1991). 12 13 | Dated: November 19, 2025 _Slittidl Hema 14 UNITED STATES MAGISTRATE JUDGE 15 16 17 18 19 20 21 22 23 24 25 26 27 28