

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.

OPINION

Pesce

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

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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

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