

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PRECEDENTIAL VALUE	nonprecedential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)