

1998 U.S. App. LEXIS 27810, \*

**ROBERT BRADLEY PASTOR, Plaintiff-Appellant, v. ERI, a California Corporation; ROB MILLER; SEA DWELLING CREATURES; SCOTT COHEN; ERIC COHEN; WALT SMITH INTERNATIONAL; WALT SMITH; DEBRA SMITH; TAI HANCOCK; ORISI KURIBOLA; UNKNOWN NEMANI, Defendants-Appellees.**

**No. 98-55552**

**UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT**

*1998 U.S. App. LEXIS 27810*

**October 20, 1998 \*\*, Submitted**

\*\* The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a); 9th Cir. R. 34-4.

**October 27, 1998, Filed**

**NOTICE:** [\*1] RULES OF THE NINTH CIRCUIT COURT OF APPEALS MAY LIMIT CITATION TO UNPUBLISHED OPINIONS. PLEASE REFER TO THE RULES OF THE UNITED STATES COURT OF APPEALS FOR THIS CIRCUIT.

**SUBSEQUENT HISTORY:** Reported in Table Case Format at: *1998 U.S. App. LEXIS 34198*.

**PRIOR HISTORY:** Appeal from the United States District Court for the Central District of California. D.C. No. CV-97-09175-JSL. J. Spencer Letts, District Judge, Presiding.

**DISPOSITION:** AFFIRMED.

**COUNSEL:** ROBERT BRADLEY PASTOR, Plaintiff - Appellant, Pro se, Fort Worth, TX.

For ERI, ROB MILLER, SEA DWELLING CREATURES, SCOTT COHEN, ERIC COHEN, Defendants - Appellees: Martin Leon Horwitz, MARTIN, HORWITZ LAW OFFICES, Beverly Hills, CA.

For WALT SMITH INTERNATIONAL, WALT SMITH; DEBRA SMITH; TAI HANCOCK; (Unknown) Nemani, Defendant - Appellee: No Appearance.

**JUDGES:** Before: T.G. NELSON, KLEINFELD, and HAWKINS, Circuit Judges.

**OPINION**

MEMORANDUM \*

\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as may be provided

by *9th Cir. R. 36-3*.

[\*2] Robert Bradley Pastor, a federal prisoner, appeals pro se the district court's dismissal of his action alleging that defendants conspired to drive South Sea Imports, Inc., a California corporation, out of business by monopolizing the coral rock importation business and driving down prices. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review the issue of standing de novo, see *Pareto v. FDIC*, 139 F.3d 696, 699 (9th Cir. 1998), and we affirm.

The district court properly dismissed Pastor's action because the complaint alleged direct injuries to South Sea Imports, Inc., and only indirect injuries to Pastor himself. See *id.* (stating that a shareholder may not sue as an individual if his or her injuries are merely incidental to or an indirect result of injuries to the corporation); *Sutter v. General Petroleum Corp.*, 28 Cal. 2d 525, 170 P.2d 898, 900-901 (Cal. 1946) (stating that a shareholder may not maintain an action on his or her own behalf for a wrong done by a third person to the corporation; a shareholder may sue as an individual only "where the action is based on a contract to which he is a party, or on a right [\*3] belonging severally to him, or on a fraud affecting him directly").

The district court properly rejected Pastor's attempt to represent South Sea Imports, Inc. See *Fed. R. Civ. P. 17(b)* ("The capacity of a corporation to sue or be sued shall be determined by the law under which it was organized."); Dist. of Central Cal. Local R. 2.9.1 ("A corporation . . . may not appear in any action or proceeding *pro se.*"); Dist. of Central Cal. Local R. 2.1 ("Appearance before the Court on behalf of a party may be made only by an attorney admitted to the Bar of or permitted to practice before this Court.").

**AFFIRMED.**