

ALERT

California Court of Appeal Denies Inspection Rights to Beneficial Owners

On July 2, 2021, the California Court of Appeal, First Appellate District, Division Three in *Ramirez v. Gilead Sciences, Inc.* held that a beneficial owner of shares in a corporation has no right to inspect corporate records under California statutory law.

Section 1601(a) of the California Corporations Code provides any “shareholder” the right to inspect the accounting books, records and minutes of proceedings of the shareholders and the board of directors of any California corporation or any corporation formed outside California keeping any records in California or having its principal executive office in California, for a purpose reasonably related to the shareholder’s interests as a shareholder. Section 185 of the Corporations Code defines “shareholder” as one who is a holder of record of shares.

In this case, the plaintiff was a beneficial, not a record, holder of the shares because the shares were not issued directly in plaintiff’s name, but instead were held on his behalf in “street name” by a bank or broker-dealer. The court held that since Section 1601, when read together with Section 185, provides inspection rights only to shareholders of record (and not to beneficial owners), plaintiff lacked standing under Section 1601 to pursue his inspection claim. The court also held that the clear and unequivocal language of Section 1601 limiting the right of inspection to only holders of record, demonstrated a legislative intent to modify the broader common law rule that may have otherwise been available to beneficial owners.

Given this determination, beneficial owners who wish to assert statutory inspection rights under Section 1601 should consider having their shares registered in their own name or request that the record holder assert inspection rights on their behalf.

Please feel free to reach out to us with any questions or to discuss how this holding may impact you or your business.



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