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# Cooley Team Wins Appellate Ruling That Beneficial Shareholders Cannot Seek Inspection of Company Records Under California Law

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On July 2, 2021, the California Court of Appeal for the First Appellate District unanimously affirmed the superior court's denial of a shareholder-inspection demand brought under California law. In *Ramirez v. Gilead Sciences, Inc.*, the court ruled that a shareholder who holds shares as a beneficial owner lacks standing to bring a claim under Section 1601 of the California Corporations Code and has no separate common-law right to inspect company documents. Cooley lawyers Shannon Eagan, Tijana Brien, Barrett Anderson and Christopher Vail led the winning effort on behalf of Gilead.

The appeal turned on the distinction between beneficial shareholders and shareholders of record. Beneficial shareholders hold shares indirectly, through a bank or broker-dealer, whereas a shareholder of record holds shares directly with the company. The ruling has broad implications because, in today's market, most shareholders in public companies are beneficial owners rather than holders of record.

In this case, petitioner Anthony Ramirez sought to inspect a broad set of corporate records related to Gilead's novel HIV/AIDS treatments and therapies. Gilead opposed the request, arguing among other things that Ramirez could not bring a claim because he was not a shareholder of record. Specifically, Section 1601 provides that inspection demands may be asserted by "any shareholder or holder of a voting trust certificate," while Section 185 of the same division of the Corporations Code defines a "[s]hareholder" as the "holder of record of shares."

In an opinion certified for publication, the appellate court agreed with Gilead's position, affirming the superior court's denial of Ramirez's petition because the statutory language limiting the inspection rights to shareholders of record is "clear and unequivocal." The court also held that this unambiguous statutory language "demonstrates a legislative intent to modify the broader common law rule," and thus Ramirez had no alternative basis to demand inspection under California law.

The decision provides clarity on who may assert inspection demands under California law, but does not prevent beneficial shareholders from seeking corporate records in other ways. For example, they may still:

- Acquire their shares as record owners
- Request the holder of record of their shares to seek inspection on their behalf
- Seek inspection under another law, such as Section 220 of the Delaware General Corporation Law, which permits beneficial shareholders to access records in defined situations

Going forward, companies should evaluate how this ruling may shape their responses to shareholder-inspection demands. If you have questions about the effect of the *Ramirez* ruling, please reach out to a member of the Cooley securities litigation team.

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