

JUL 23 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GLENN C. HENDERSON,

Plaintiff - Appellant,

v.

LOCAL 174, OFFICE &
PROFESSIONAL EMPLOYEES
INTERNATIONAL UNION; CHRISTINE
PAGE,

Defendants - Appellees.

No. 08-55154

D.C. No. CV-07-05100-PA

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Percy Anderson, District Judge, Presiding

Submitted July 14, 2009**

Before: SCHROEDER, THOMAS, and WARDLAW, Circuit Judges.

Glenn C. Henderson appeals pro se from the district court's order dismissing

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

his action against his former union and a union official alleging violations of the federal Racketeer Influenced and Corrupt Organizations Act and various other laws. We have jurisdiction under 28 U.S.C. § 1291. We vacate and remand.

The district court sua sponte dismissed the action under the doctrine of res judicata before the defendants had been served. It appears that the district court applied the screening requirements of the Prison Litigation Reform Act, 28 U.S.C. §§ 1915A and 1915(e)(2)(B)(ii), to the complaint. However, the record indicates that Henderson was neither a prisoner nor proceeding in forma pauperis. We therefore vacate and remand for further proceedings.

Henderson shall bear his own costs on appeal.

VACATED and REMANDED.