

MAY 19 2014

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

In re: DIAMOND FOODS, INC.
DERIVATIVE LITIGATION,

DAVE LUCIA, derivatively on behalf of
Diamond Foods, Inc.,

Plaintiff - Appellant,

v.

MICHAEL J. MENDES; STEVEN M.
NEIL; LAURENCE M. BAER; EDWARD
A. BLECHSCHMIDT; JOHN J.
GILBERT; ROBERT M. LEA; GLEN C.
WARREN, Jr.; RICHARD G.
WOLFORD; ROBERT J. ZOLLARS;
ESTATE OF JOSEPH P. SILVEIRA;
DENNIS MUSSELL; DELOITTE &
TOUCHE LLP,

Defendants - Appellees.

No. 12-16299

D.C. Nos. 3:11-cv-05692-WHA
3:11-cv-06417-WHA

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
William Alsup, District Judge, Presiding

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

Argued and Submitted May 12, 2014
San Francisco, California

Before: D.W. NELSON, McKEOWN, and M. SMITH, Circuit Judges.

Dave Lucia appeals from the district court's judgment dismissing this shareholder derivative suit for lack of subject matter jurisdiction and denying leave to amend the First Amended Complaint. We have jurisdiction pursuant to 28 U.S.C. § 1291 and adopt the well-reasoned decision of the district court.

The parties' requests for judicial notice are granted.

AFFIRMED.