

AUG 05 2013

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

PHILIP PULVER,

Plaintiff - Appellant,

v.

BATTELLE MEMORIAL INSTITUTE, a  
non-profit corporation; et al.

Defendants - Appellees.

No. 10-35906

D.C. No. 2:05-cv-05028-RHW

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of Washington  
Robert H. Whaley, District Judge, Presiding

Submitted July 24, 2013\*\*

Before: ALARCÓN, CLIFTON, and CALLAHAN, Circuit Judges.

Philip Pulver appeals pro se from the district court's judgment dismissing his diversity action alleging breach of contract and other claims. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the district court's

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

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

dismissal for lack of standing. *Del. Valley Surgical Supply Inc. v. Johnson & Johnson*, 523 F.3d 1116, 1119 (9th Cir. 2008). We affirm.

The district court properly dismissed the action because Pulver was not a party to the contract in his individual capacity and lacked standing to maintain the corporate plaintiff's breach of contract claim in his individual capacity following the dismissal of the corporate plaintiff. *See Sherman v. British Leyland Motors, Ltd.*, 601 F.2d 429, 439-40 & n.13 (9th Cir. 1979) (president and sole stockholder of corporation lacked standing in his individual capacity to assert contract claims on behalf of corporation).

**AFFIRMED.**