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JS-6

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION**

HIGH YIELD FUND RETURN, G.P.,

Plaintiff,

v.

BRUCE C. EDWARDS an individual;  
JEFFREY W. BENCK an individual;  
GREGORY S. CLARK an individual;  
PAUL F. FOLINO an individual;  
EUGENE J. FRANTZ an individual;  
BEATRIZ V. INFANTE, an individual;  
NERSI NAZARI an individual;  
and DEAN A. YOOST, an individual;

Defendants.

EMULEX Corp.

Nominal Defendant.

Case No. SACV14-00796 DOC (JCGx)

**JUDGMENT**

[The Honorable David O. Carter]

1           On May 21, 2014, plaintiff Richard Pfeffer filed this shareholder derivative  
2 action against defendants Bruce C. Edwards, Jeffrey W. Benck, Gregory S. Clark,  
3 Paul F. Folino, Eugene J. Frantz, Beatrice V. Infante, Nersi Nazari, and Dean A.  
4 Yoost, and nominal defendant Emulex Corporation (“Emulex”). On July 14, 2014,  
5 a verified amended shareholder’s derivative complaint was filed, in which plaintiff  
6 High Yield Fund Return, G.P. was substituted in place of Richard Pfeffer as the  
7 named plaintiff in the action. The amended complaint asserted, derivatively on  
8 behalf of nominal defendant Emulex against all individual defendants, a single  
9 cause of action for breach of fiduciary duty.

13           On August 15, 2014, defendants filed a motion to dismiss the amended  
14 complaint pursuant to Rules 12(b)(6) and 23.1 of the Federal Rules of Civil  
15 Procedure. On December 8, 2014, the Court, having read and considered the papers  
16 submitted by the parties, issued an order granting defendants’ motion to dismiss  
17 and dismissing the action in its entirety, with leave to amend. With respect to a  
18 further amended complaint, the Court’s order permitted plaintiff until January 23,  
19 2015 to file any amended complaint. On January 20, 2015, plaintiff filed a notice  
20 of intent not to file a further amended complaint.

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1           Having ordered that the motion to dismiss be granted in defendants' favor,  
2 and in light of plaintiff's intention to not file a further amended complaint, it is now  
3  
4 ORDERED, ADJUDGED AND DECREED THAT:

- 5           1. Plaintiff shall take nothing;  
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7           2. The action is dismissed in its entirety and with prejudice; and  
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9           3. The parties shall bear their own attorneys' fees and defendants may  
10 seek to recover their costs under Fed. R. Civ. P. 54(d)(1).

11           IT IS SO ORDERED.

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13 Dated: February 20, 2015

14 *David O. Carter*

15 \_\_\_\_\_  
16 Honorable David O. Carter  
17 United States District Judge  
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