

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

CHARLES M. SATTERFIELD, III, )  
in his individual capacity and as )  
Administrator of The Estates of )  
Daniel Oldroyd, deceased, and )  
Amelia Annie (Vercoe) Oldroyd, )  
deceased, )  
 )  
Plaintiff, )  
 )  
v. ) Civil Action No. 03-598-SLR  
 )  
M. JANE BRADY, in her individual )  
capacity and as Attorney General )  
Of the State of Delaware; WILLIAM )  
M. REMINGTON, in his individual )  
capacity and as State Escheator )  
Of the State of Delaware; and )  
J. PATRICK HURLEY, in his )  
individual capacity and as Deputy )  
Attorney General of the State of )  
Delaware, )  
 )  
Defendants. )

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Charles M. Satterfield, III, Houston, Texas. Plaintiff, pro se.

Allison E. Reardon, Esquire, Department of Justice, Wilmington,  
Delaware. Counsel for Defendants.

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MEMORANDUM OPINION

Dated: December 9, 2003  
Wilmington, Delaware

**ROBINSON, Chief Judge**

**I. INTRODUCTION**

Plaintiff Charles M. Satterfield, III filed this action on June 25, 2003 against Jane M. Brady in her individual capacity and as Attorney General of the State of Delaware ("Brady"), William M. Remington in his individual capacity and as State Escheator of the State of Delaware ("Remington")<sup>1</sup>, and J. Patrick Hurley in his individual capacity and as Deputy Attorney General of the State of Delaware ("Hurley") (hereinafter collectively referred to as ("defendants")). (D.I. 1) Plaintiff's complaint asserts claims under 42 U.S.C. § 1983 for the deprivation of constitutional rights under color of state law in violation of the Fourteenth Amendment to the United States Constitution and for violations of Delaware escheat laws. (Id.) In response to plaintiff's complaint, defendants filed a motion to dismiss on July 10, 2003. (D.I. 3) Shortly thereafter, on August 8, 2003, in response to notice of depositions served by plaintiff, defendants filed a motion to stay discovery pending the outcome of their motion to dismiss. (D.I. 13) Both defendants' motions are currently before the court.<sup>2</sup> The court has jurisdiction over

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<sup>1</sup> As of this time, service has not been effected upon defendant Remington. The Attorney General of the State of Delaware, however, asserts that she will defend Remington on the same grounds as stated herein if and when he is properly served.

<sup>2</sup> On August 18, 2003, plaintiff filed a notice of subpoena with the court and served it on Patrick Carter ("Carter") of the Delaware State Division of Revenue to appear for a deposition. (D.I. 11) Thereafter, plaintiff received a letter from Carter's

this action pursuant to 28 U.S.C. § 1331. For the reasons that follow, the court grants defendants' motion to dismiss and denies defendants' motion to stay discovery as moot.

## **II. BACKGROUND**

Plaintiff has been trying for many years to recover the current value of common stock originally purchased by his great-grandfather, Daniel Oldroyd ("Oldroyd"). (D.I. 1) The stock certificate, representing fifty shares of \$1.00 par value stock, was originally issued to Oldroyd on March 19, 1929 by E.L. Smith Oil Company, Inc. ("Smith Oil"). (Id.) Almost a decade later, in 1938, Smith Oil merged with Lion Oil and Refining Company ("Lion Oil"). (Id. at ¶ 11) In 1955, Lion Oil merged with Monsanto Company ("Monsanto"). (Id.) Each of these companies incorporated under the laws of the State of Delaware. (Id. at ¶ 8, 11)

Plaintiff alleges that Monsanto is in possession of his "un-exchanged" or "unclaimed" interest in the Smith Oil stock certificate. (Id. at ¶ 12) As a result of this belief, plaintiff initiated an action directly against Monsanto in an effort to recover the current value of this certificate. (Id. at

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counsel, Allison E. Reardon ("Reardon") indicating that he would not attend the deposition pending the court's decision on the defendants' motion to dismiss. (D.I. 23) In response to this letter plaintiff filed a motion for sanctions against Reardon on September 29, 2003. (D.I. 25) No supporting brief was filed in conjunction with this motion. The court does not require briefing to resolve this motion and denies it as being without merit.

¶ 13) In September of 1999, plaintiff contacted the Office of the Attorney General and spoke with Hurley to request the State's assistance with his litigation. (Id.). The State decided not to intervene with plaintiff's litigation against Monsanto. (D.I. 4)<sup>3</sup>.

### **III. STANDARD OF REVIEW**

By order dated August 1, 2003, the court held that because matters outside the pleadings were presented to the court in support of defendants' motion to dismiss, the court intended to review the motion as one for summary judgment pursuant to Fed. R. Civ. P. 12(b) and 56(b). (D.I. 6) A court shall grant summary judgment only if "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c). The moving party bears the burden of proving that no genuine issue of material fact exists. See Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 586 n.10 (1986).

"Facts that could alter the outcome are 'material,' and

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<sup>3</sup>The court held in its August 1st, 2003 order that because defendants relied upon an affidavit in support of their motion to dismiss, the averments of fact in the affidavit shall be accepted as true, pursuant to Fed. R. Civ. P. 56(e), for the purpose of deciding the motion to dismiss unless the plaintiff timely files a counter-affidavit or statement under penalty of perjury refuting said averments. (D.I. 6) Plaintiff has not filed such a counter-affidavit.

disputes are 'genuine' if evidence exists from which a rational person could conclude that the position of the person with the burden of proof on the disputed issue is correct." Horowitz v. Fed. Kemper Life Assurance Co., 57 F.3d 300, 302 n.1 (3d Cir. 1995) (internal citations omitted). If the moving party has demonstrated an absence of material fact, the nonmoving party then "must come forward with 'specific facts showing that there is a genuine issue for trial.'" Matsushita, 475 U.S. at 587 (quoting Fed. R. Civ. P. 56(e)). The court will "view the underlying facts and all reasonable inferences therefrom in the light most favorable to the party opposing the motion." Pa. Coal Ass'n v. Babbitt, 63 F.3d 231, 236 (3d Cir. 1995). The mere existence of some evidence in support of the nonmoving party, however, will not be sufficient for denial of a motion for summary judgment; there must be enough evidence to enable a jury reasonably to find for the nonmoving party on that issue. See Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 249 (1986). If the nonmoving party fails to make a sufficient showing on an essential element of his case with respect to which he has the burden of proof, then the moving party is entitled to judgment as a matter of law. See Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986).

#### **IV. DISCUSSION**

Section 1983 imposes liability on any person who, under color of state law, deprives another of any rights secured by the

Constitution or the laws of the United States. See 42 U.S.C. § 1983 (1996). To establish a § 1983 violation, a plaintiff must “demonstrate a violation of a right protected by the Constitution . . . that was committed by a person acting under the color of state law.” Nicini v. Morra, 212 F.3d 798, 806 (3d Cir. 2000). The “first step in evaluating a Section 1983 claim is to identify the exact contours of the underlying right said to have been violated and to determine whether the plaintiff has alleged a deprivation of a constitutional right at all.” Id. Plaintiff at bar alleges that defendants, under color of state law, violated his rights to due process and to equal protection as guaranteed by the Fourteenth Amendment by failing to file suit against Monsanto under Delaware escheat laws. (D.I. 1 at ¶¶ 40, 41)

Before addressing plaintiff’s due process and equal protection claims, the court recognizes that the Eleventh Amendment bars § 1983 claims against state officials sued in their official capacities. See Will v. Mich. Dep’t of State Police, 491 U.S. 58, 71 (1989). Therefore, the court dismisses plaintiff’s § 1983 claims against defendants in their official capacities. The court focuses the instant opinion on plaintiff’s claims against defendants in their individual capacities.

#### **A. Due Process Claim**

The court finds that plaintiff fails to state a claim for a violation of his due process rights. A due process claim consists of three elements: (1) defendants must deprive plaintiff

of an interest protected by law; (2) that deprivation must be the result of some governmental action; and (3) the deprivation must be without due process. See Cospito v. Heckler, 742 F.2d 72, 80 (3d Cir. 1984). As to the first element, this court has recognized that "a plaintiff must demonstrate that he or she was deprived of a life, liberty or property interest." See Cunningham v. Becker, 96 F. Supp 2d. 369, 374 (D. Del. 2000).

While plaintiff claims that he has been deprived of a property interest, namely the unclaimed shares of stock, the United States District Court for the Southern District of New York ruled that he does not have a property interest in the shares of stock. See Satterfield v. Monsanto Company and Solutia, Inc., 88 F. Supp. 2d 288 (S.D.N.Y. 2000), aff'd, 238 F.3d 217 (2d. Cir. 2001), cert. denied, 533 U.S. 956 (2001). As a result of this decision, the court finds that plaintiff fails to show the first element requisite to a due process claim. The court, therefore, need not consider the remaining two elements and grants defendants' motion for summary judgment as to plaintiff's due process claim.

#### **B. Equal Protection Claim**

The court also finds that plaintiff fails to state an equal protection claim against the defendants. "To prevail on an equal protection claim, a plaintiff must present evidence that s/he has been treated differently from persons who are similarly situated." See Williams v. Morton, 343 F.3d 212, 221 (3d Cir.

2003). In the present case, plaintiff does not present any evidence that he has been treated any differently from persons similarly situated.<sup>4</sup> Accordingly, the court finds that plaintiff fails to meet his burden with regard to his equal protection claim. The court grants defendants' motion for summary judgment as to plaintiff's equal protection claim.

## **V. CONCLUSION**

For the reasons stated, the court grants defendants' motion to dismiss, denies defendants' motion to stay discovery as moot, and denies plaintiff's motion for sanctions as lacking merit. An appropriate order shall issue.

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<sup>4</sup> The essence of plaintiff's equal protection claim is that because the State of Delaware failed to exercise its power under the State's escheat law, plaintiff was not afforded the same treatment as other owners of unclaimed property. However, plaintiff points out in his own brief that he has found no evidence of Delaware's escheat law being applied to unclaimed stock allegedly in the hands of Delaware corporations. Therefore, by making the decision not to intervene in plaintiff's litigation or to initiate an escheat of unclaimed stock, the State of Delaware actually treated plaintiff in a manner consistent with the other owners of unclaimed stock.

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Attorney General of the State of )  
Delaware, )  
 )  
Defendants. )

**O R D E R**

At Wilmington this 9th day of December, 2003,  
consistent with the memorandum opinion issued this same day;

IT IS ORDERED that:

1. Defendants' motion to dismiss (D.I. 3) is granted.
2. Defendants' motion to stay discovery (D.I. 13) is denied as moot.
3. Plaintiff's motion for sanctions (D.I. 25) is denied as being without merit.

Sue L. Robinson  
United States District Judge