

1 Rule ~~23.1~~ 23A. Derivative actions by shareholders.

2 (a) In The complaint in a derivative action brought by one or more shareholders or  
3 members to enforce a right of a corporation or of an unincorporated association, ~~the~~  
4 ~~corporation or association having failed to enforce a right which may properly be~~  
5 ~~asserted by it, the complaint~~ shall be verified and shall allege:

6 (a)(1) the right that the corporation or association could have enforced and did not;

7 ~~(1) (a)(2)~~ that the plaintiff was a shareholder or member at the time of the transaction  
8 ~~of which he complains complained of~~ or that ~~his~~ the plaintiff's share or membership  
9 thereafter devolved on him to the plaintiff by operation of law, ~~and;~~

10 ~~(2) (a)(3)~~ that the action is not a collusive one to confer jurisdiction on a the court of  
11 ~~the United States which that~~ it would not otherwise have;

12 (a)(4) The complaint shall also allege with particularity, the plaintiff's efforts, if any,  
13 ~~made by the plaintiff~~ to obtain the desired action ~~he desires from the directors or~~  
14 ~~comparable authority and, if necessary, from the shareholders or members;~~ and

15 (a)(5) the reasons for ~~his~~ the failure to obtain the action or for not making the effort.

16 (b) The derivative action may not be maintained if it appears that the plaintiff does  
17 not fairly and adequately represent the interests of the shareholders or members  
18 similarly situated in enforcing the right of the corporation or association.

19 (c) The action shall not be dismissed or compromised without the approval of the  
20 court, and notice of the proposed dismissal or compromise shall be given to  
21 shareholders or members in such manner as the court directs.