

GIRARD SHARP LLP

Sean P. Greene (Bar No. 328718)
(sgreen@girardsharp.com)
222 Pacific Coast Highway, 10th Floor
El Segundo, CA 90245
Telephone: (415) 544-6453
Facsimile: (415) 981-4846

*Counsel for Lead Plaintiff EAS Carpenters
and Liaison Counsel for the Class*

COHEN MILSTEIN SELLERS & TOLL PLLC

Steven J. Toll (admitted *pro hac vice*)
(stoll@cohenmilstein.com)
1100 New York Ave. NW • Suite 800
Washington, DC 20005
Telephone: (202) 408-4600

*Counsel for Lead Plaintiff EAS Carpenters
and Lead Counsel for the Class*

[Additional counsel appear on signature page]

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

Case No: 8:25-cv-00981-MRA-KES

Hon. Mónica Ramírez Almadani

**LEAD PLAINTIFF EAS CARPENTERS'
NOTICE OF MOTION AND
UNOPPOSED MOTION FOR RULE
60(b) RELIEF**

Date: January 8, 2025
Time: 10:00 a.m.

NOTICE OF MOTION AND UNOPPOSED MOTION

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on January 8, 2025 at 10:00 a.m., or as soon thereafter as the matter may be heard by the Court—in the courtroom of the Honorable Mónica Ramírez Almadani, Ronald Reagan Federal Building and United States Courthouse, Santa Ana Courtroom 9B, 9th Floor—Lead Plaintiff EAS Carpenters will and hereby does respectfully move, pursuant to Federal Rule of Civil Procedure 60(b)(1), for relief from its October 31, 2025 voluntary dismissal *with* prejudice (ECF No. 67), to instead voluntarily dismiss *without* prejudice. Lead Plaintiff seeks this relief to correct a scrivener’s error in Lead Plaintiff’s Notice of Voluntary Dismissal, which inadvertently stated that the dismissal was *with* prejudice. Lead Plaintiff respectfully requests—and Defendants do not oppose—that the dismissal instead be *without* prejudice, as Federal Rule of Civil Procedure 41(a)(1) provides by default and as the parties intended. For the reasons set forth herein, this Motion should be granted, and the Court should enter an order either: (1) declaring that the above-captioned action is dismissed without prejudice; or (2) allowing Lead Plaintiff to file a corrected notice of voluntary dismissal without prejudice. A proposed order is submitted herewith.

1 **MEMORANDUM IN SUPPORT OF LEAD PLAINTIFF’S**
2 **UNOPPOSED MOTION FOR RULE 60(b) RELIEF**

3 **I. INTRODUCTION AND BACKGROUND**

4 On October 31, 2025, Lead Plaintiff filed a Notice of Voluntary Dismissal,
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6 pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), “dismiss[ing] the above-
7 captioned action in its entirety, against all Defendants, with prejudice and without
8 costs.” ECF No. 67. In that Notice, Lead Plaintiff explained that “there is another
9 virtually identical class action filed in the U.S. District Court for the District of
10 Connecticut, as the principal defendant Compass Diversified is headquartered in
11 Connecticut,” and that, given the progress in that litigation, the parties agreed that this
12 case should be litigated in Connecticut. *Id.* Because Defendants had not yet filed either
13 an answer or motion for summary judgment, Lead Plaintiff’s Notice constituted the
14 dismissal of the above-captioned action, FED. R. CIV. P. 41(a)(1)(A). Since then, a
15 schedule has been put in place in the operative action in the District of Connecticut, and
16 Lead Plaintiff has been diligently working on an amended complaint to be filed there.
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18 On December 2, Lead Plaintiff became aware that it had inadvertently filed the
19 Notice as a dismissal *with* prejudice, despite the parties’ intention that the dismissal be
20 *without* prejudice, given the ongoing litigation in Connecticut. A dismissal with
21 prejudice is a final adjudication on the merits for *res judicata* purposes that could
22 potentially bar the parties from continuing this action in the District of Connecticut. *See*
23 *Robi v. Five Platters, Inc.*, 838 F.2d 318, 321-22 (9th Cir. 1988) (explaining that federal
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1 courts apply federal *res judicata* principles to the judgments of other federal courts). As
2 Lead Plaintiff is both eligible for and entitled to relief under Rule 60(b), Lead Plaintiff
3 respectfully moves this Court for relief from the Notice seeking an order either: (1)
4 declaring that the above-captioned action is dismissed without prejudice; or (2)
5 allowing Lead Plaintiff to file a corrected notice of voluntary dismissal without
6 prejudice.
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9 II. ARGUMENT

10 A. Lead Plaintiff Is Eligible for Rule 60(b) Relief.

11 Rule 60(b) permits a court, “[o]n motion and just terms,” to “relieve a party . . .
12 from a final judgment, order, or proceeding.” As a dismissal with prejudice is a final
13 judgment, order, or proceeding, Rule 60(b) is the proper vehicle for relief under the
14 present circumstances. *See Stewart v. U.S. Bancorp*, 297 F.3d 953, 956 (9th Cir. 2002)
15 (“The phrase ‘final judgment on the merits’ is often used interchangeably with
16 ‘dismissal with prejudice.’”); *Hells Canyon Pres. Council v. U.S. Forest Serv.*, 403 F.3d
17 683 (9th Cir. 2005) (“‘[F]inal judgment on the merits’ is synonymous with ‘dismissal
18 with prejudice.’” (alteration in original) (citation omitted)); *see also Waetzig v.*
19 *Halliburton Energy Servs., Inc.*, 604 U.S. 305, 311-12 (2025) (resolving a circuit split
20 in holding that a plaintiff’s voluntary dismissal under Rule 41(a), regardless of whether
21 it is with or without prejudice, “qualifies as a ‘final . . . proceeding’ under Rule 60(b)”).
22 As Lead Plaintiff seeks to correct its filing promptly after becoming aware of the
23 inadvertent scrivener’s error and within approximately one month of filing, this request
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1 is well within a “reasonable time.” *See* FED. R. CIV. P. 60(c)(1) (motions for relief under
2 Rule 60(b) “must be made within a reasonable time” and, when based on reasons such
3 as excusable neglect, can be made “no more than a year after the entry of judgment or
4 order or the date of the proceeding”).

6 **B. Lead Plaintiff Is Entitled to Rule 60(b) Relief.**

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8 Having established that Lead Plaintiff is procedurally eligible for Rule 60(b)
9 relief, Lead Plaintiff turns to the substance of Rule 60(b), under which Lead Plaintiff is
10 entitled to relief.

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12 Rule 60(b) provides relief for six enumerated reasons. *See* FED. R. CIV. P.
13 60(b)(1)-(6). Relevant here is the first of these reasons: “mistake, inadvertence, surprise,
14 or excusable neglect[.]” FED. R. CIV. P. 60(b)(1). As explained above, Lead Plaintiff
15 sought to dismiss this California action because “from a standpoint of judicial economy
16 and convenience, it would be more efficient to have this case litigated in Connecticut”
17 as the principal defendant Compass Diversified is headquartered in Connecticut and
18 that action had been progressing. ECF No. 67. Thus, the filing of the Notice itself
19 demonstrates the parties’ intent to continue litigating this action in a different forum,
20 and Lead Plaintiff made a drafting error in dismissing *with* prejudice instead of *without*
21 prejudice.

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25 Lead Plaintiff seeks to correct this excusable mistake as otherwise, the Notice
26 could operate as a “final judgment on the merits” that bars “all grounds for recovery
27 which could have been asserted, whether they were or not, in a prior suit between the
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1 same parties . . . on the same cause of action[.]” *Ross v. Int’l Bhd. of Elec. Workers*, 634
2 F.2d 453, 457 (9th Cir.1980). Correcting as much poses no prejudice to Defendants,
3 who do not oppose this Motion and who agreed to continue to litigate these claims in
4 Connecticut. Unlike in other instances in which the Ninth Circuit has denied Rule
5 60(b)(1) relief, this is not an attempt to “remedy the effects of a deliberate and
6 independent litigation decision that a party later comes to regret through second
7 thoughts[.]” *See Latshaw v. Trainer Wortham & Co.*, 452 F.3d 1097, 1099 (9th Cir.
8 2006). Because Lead Plaintiff’s scrivener’s error is a legitimate mistake, Lead Plaintiff
9 is entitled to Rule 60(b) relief.
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13 **III. CONCLUSION**

14 Lead Plaintiff is both eligible for and entitled to Rule 60(b) relief to correct the
15 dismissal of the above-captioned action such that it is dismissed *without* prejudice. Lead
16 Plaintiff therefore respectfully requests that this Court enter an order either: (1)
17 declaring that the above-captioned action is dismissed without prejudice; or (2)
18 allowing Lead Plaintiff to file a corrected notice of voluntary dismissal without
19 prejudice.
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2 Dated: December 4, 2025

Respectfully submitted,

3 **COHEN MILSTEIN SELLERS**
4 **& TOLL PLLC**

5 By: /s/ Christina D. Saler
6 Christina D. Saler*
7 (csaler@cohenmilstein.com)
8 100 N. 18th Street, Suite 1820
9 Philadelphia, PA 19103
Tel.: (267) 479-5700

10 -and-

11 Steven J. Toll*
12 (stoll@cohenmilstein.com)
13 S. Douglas Bunch
14 (dbunch@cohenmilstein.com)
15 Margaret (Emmy) Wydman
16 (ewydman@cohenmilstein.com)
17 Nathan Weiser
18 (nweiser@cohenmilstein.com)
1100 New York Ave., N.W., Suite 800
Washington, D.C. 20005
Tel.: (202) 406-4600

19 *Counsel for Lead Plaintiff EAS Carpenters*
20 *and Lead Counsel for the Class*

21 * Admitted *pro hac vice*

22 **GIRARD SHARP LLP**

23
24 Sean P. Greene (Bar No. 328718)
25 (sgreene@girardsharp.com)
26 222 Pacific Coast Highway, 10th Floor
27 El Segundo, CA 90245
Tel.: (415) 544-6453

28 Adam E. Polk (Bar No. 273000)

(apolk@girardsharp.com)
601 California St., Suite 1400
San Francisco, CA 94108
Tel.: (415) 544-6280

*Counsel for Lead Plaintiff EAS Carpenters
and Liaison Counsel for the Class*

CERTIFICATE OF SERVICE

I hereby certify that on December 4, 2025, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the email addresses denoted on the Electronic Mail Notice List.

/s/ Christina D. Saler
Christina D. Saler
(csaler@cohenmilstein.com)
100 N. 18th Street, Suite 1820
Philadelphia, PA 19103
Tel.: (267) 479-5700