

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Smith v. Elevado Drinks, LLC

Smith v. Elevado Drinks, LLC · No. 1:25-cv-00571-CDB · Decided August 22, 2025

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF
CALIFORNIA 10 11 MICHAEL SMITH, et al., individually and Case No. 1:25-cv-00571-CDB
on behalf of all those similarly situated, 12 ORDER DIRECTING CLERK OF THE 13 Plaintiffs,
COURT TO CLOSE CASE PURSUANT v. TO RULE 41(a)(1) OF THE FEDERAL 14 RULES
OF CIVIL PROCEDURE ELEVADO DRINKS, LLC, et al., 15 (Doc.

17) Defendants. 16 Clerk of the Court to Assign District Judge 17 18 On May 14, 2025, Plaintiffs
Michael Smith and Jason Ferguson initiated this action with 19 the filing of a complaint, asserting
claims on behalf of themselves and a putative class against 20 Defendants Elevado Drinks, LLC,
Chaco Flaco Drinks, LLC, Hop the Wave Brewing Company, 21 and Charles Moore.

(Doc. 1). On August 20, 2025, Plaintiffs filed a notice of voluntary dismissal 22 of their complaint
with prejudice. (Doc. 15). On August 21, 2025, the Court directed Plaintiffs to 23 file an amended
notice clarifying the particulars of their voluntary dismissal separately as to the 24 individual
claims and the putative class claims. (Doc. 16). 25 Pending before the Court is Plaintiffs' amended
notice of voluntary dismissal with prejudice 26 as to their individual claims and without prejudice
as to the putative class claims.

(Doc. 17). 27 Plaintiffs' amended notice of dismissal comports with the requirements of Fed. R.
Civ. P. 28 41(a)(1)(A)(i) and Plaintiffs are entitled to dismiss their individual claims (at least)
without court 1 | order.

In aclass action, however, court approval of dismissal may be required under Rule 41(a)(2) 2 | if
□□□ class has been certified. Specifically, Rule 23(e) provides that any claims arising out of either
3 | a(1) "certified class" or (2) "class proposed to be certified for purposes of settlement... may be
4 | settled, voluntarily dismissed, or compromised only with the court's approval." Fed.

R. Civ. P. 5 | 23(e) (emphasis added). 6 In this case, Plaintiffs seek to dismiss their individual
claims with prejudice and the claims 7 | of the putative class without prejudice. (Doc. 17 at 2). No
class has been certified in this action 8 | nor is there a class proposed to be certified for purposes
of settlement. (See Docs. 1, 13).

Because 9 | no class has been certified in this case, and because any dismissal would not affect
putative class 10 | members' possible claims, Rule 23(e) does not mandate either Court approval

of the parties' 11 | stipulation to dismiss the action or notice to putative class members. See *Titus v. BlueChip 12 | Financial*, 786 Fed. App'x. 694, 695 (9th Cir. 2019) ("Because no class has been certified, Titus is 13 | the only plaintiff before the court; once she has dismissed her claims with prejudice, no other 14 | plaintiff can step into her shoes to continue this legal action") (unpublished) (citing *Emp'rs- 15 | Teamsters Local Nos. 175 & 505 Pension Tr.*

Fund vy. Anchor Capital Advisors, 498 F.3d 920, 924 16 | (9th Cir. 2007)). 17 In light of Plaintiffs' filing, the Court finds that Rule 23(e) does not require the Court's 18 || approval of the dismissal. This action shall be terminated by operation of law without further order 19 | of the Court. *Comm. Space Mgmt. Co., Inc. v. Boeing Co., Inc.*, 193 F.3d 1074, 1077-78 (9th Cir.

20 | 1999). 21 Accordingly, the Clerk of the Court is HEREBY DIRECTED to assign a district judge for 22 || the purpose of closing this case and then to CLOSE the case and adjust the docket to reflect 23 | voluntary dismissal with prejudice, pursuant to Rule 41(a)(1)(A)(), as to Plaintiffs' individual 24 | claims, and dismissal without prejudice as to the putative class claims.

25 | IT IS ORDERED. | Dated: _ August 22, 2025 | Wr bo 27 UNITED STATES MAGISTRATE JUDGE 28