

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Diviacchi v. Stallings

No. 24-cv-07827-EMC (N.D. Cal. May 19, 2025) · No. 24-cv-07827-EMC · Decided May 19, 2025

SUMMARY

The United States District Court for the Northern District of California denies without prejudice Plaintiff Valeriano Diviacchi’s motion under Federal Rule of Civil Procedure 60(b)(5) and (6) to vacate the judgment and related orders. The court finds the motion premature because an amendment to California State Bar Rule 4.41 had not yet become effective, although it directs the parties to file a joint stipulation and proposed order after the amendment’s effective date. The court also grants Plaintiff an extension of time to appeal based on the case’s unusual circumstances.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Edward M. Chen
JURISDICTION	United States District Court for the Northern District of California
DECIDED	May 19, 2025
DOCKET	24-cv-07827-EMC
DISPOSITION	other
PROCEDURAL POSTURE	After entering final judgment for Defendants and denying Plaintiff's Rule 59(e) motion, the court considered Plaintiff's Rule 60(b)(5) and (6) motion to vacate the judgment and related orders, as well as Plaintiff's request for an extension of time to appeal.
STANDARD OF REVIEW	The court applied the equitable-relief standard under Federal Rule of Civil Procedure 60(b)(5) and (6), under which relief may be granted when prospective application of a judgment is no longer equitable or when another reason justifies relief.
PRECEDENTIAL VALUE	Unpublished, nonprecedential district court order
PARTIES	Valeriano Diviacchi v. Brandon Stallings, et al.

TOPICS

- motion for reconsideration
- mootness
- appellate procedure
- civil procedure
- equitable relief

PRACTICE AREAS

civil procedure

appellate procedure

remedies

QUESTIONS PRESENTED

1. Whether Plaintiff was entitled to relief from the final judgment under Federal Rule of Civil Procedure 60(b)(5) or (6) before the amendment to State Bar Rule 4.41 became effective.
2. Whether Plaintiff should receive an extension of time to appeal under Federal Rule of Appellate Procedure 4(a)(5).

HOLDINGS

1. Plaintiff's motion to vacate was premature because the amendment that would moot the dispute had not yet become effective; the motion was therefore denied without prejudice.
2. The court granted Plaintiff's request for a 30-day extension of time to appeal despite Defendants' opposition.

KEY QUOTATIONS

“Under these provisions, a court may relieve a party from a final judgment or order if “applying it prospectively is no longer equitable” or there is “any other reason that justifies relief.”” (at 1)

“The Court agrees with Defendants that Plaintiff’s motion at this juncture is premature.” (at 2)

“An appeal seems a pointless exercise if the Court will be signing off on the stipulation.” (at 2)

FACTUAL BACKGROUND

The court had entered final judgment against Plaintiff in a dispute concerning his ability to submit a moral character application under California State Bar Rule 4.41. After judgment, the California Supreme Court approved a proposed amendment to Rule 4.41, but the amendment had not yet become effective; its stated effective date was June 23, 2025. Defendants acknowledged that the dispute would become moot once the amendment took effect and did not oppose vacatur at that point, but argued that Plaintiff's motion was premature.

PROCEDURAL HISTORY

The court previously entered final judgment against Plaintiff and in favor of Defendants. Plaintiff's Rule 59(e) motion to alter or amend the judgment was denied. Plaintiff then moved under Rule 60(b)(5) and (6) to vacate, arguing that an impending amendment to California State Bar Rule 4.41 would moot the dispute; the court denied the motion as premature without prejudice, directed the parties to file a joint stipulation and proposed order after the amendment became effective, and granted Plaintiff an extension of time to appeal.

DISPOSITION

other

CASES CITED

- Visto Corp. v. Sproqit Techs., Inc., No. C-04-0651 EMC, 2006 U.S. Dist. LEXIS 99486, at *11-12 (N.D. Cal. Dec. 19, 2006)
- Am. Games, Inc. v. Trade Prods., 142 F.3d 1164, 1168, 1170 (9th Cir. 1998)
- Bd. of Trs. of the Glazing Health & Welfare Trust v. Chambers, 941 F.3d 1195, 1197 (9th Cir. 2019)

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