

S.D.N.Y. – N.Y.C.
20-cv-1689
Woods, J.

United States Court of Appeals
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 29th day of October, two thousand twenty- one.

Present:

Robert D. Sack,
Gerard E. Lynch,
Joseph F. Bianco,
Circuit Judges.

State of New York, Commonwealth of
Pennsylvania, State of California, State of
Colorado, State of Delaware, District of Columbia,
State of Illinois, State of Maryland, Commonwealth
of Massachusetts, State of Michigan, State of
Minnesota, State of New Jersey, State of New
Mexico, State of Oregon, State of Rhode Island,
State of Washington, State of Vermont,
Commonwealth of Virginia,

Plaintiffs-Appellees,

v.

20-3806(L); 20-3815(CON)

Martin J. Walsh, Secretary of the United States
Department of Labor, United States Department of
Labor, United States of America,

Defendants-Appellants,



International Franchise Association, The Chamber of
Commerce of the United States of America, HR Policy

Association, National Retail Federation, Associated
Builders and Contractors, American Lodging and Hotel
Association,

Intervenors-Defendants-Appellants.

Defendants-Appellants move for a dismissal of their pending appeal as moot. Intervenors-Appellants oppose the motion. Intervenors-Appellants alternatively assert that, if the motion is granted, the order and judgment of the district court should be vacated, with which Defendants-Appellants agree. Upon due consideration, it is hereby ORDERED that the motion is GRANTED because the Department of Labor has rescinded the regulation from which injunctive relief was sought and, accordingly, there is no justiciable claim for relief. *Video Tutorial Servs., Inc. v. MCI Telecomms. Corp.*, 79 F.3d 3, 6 (2d Cir. 1996) (per curiam) (concluding that “[w]hen an appeal becomes moot” it must be dismissed because “we have no jurisdiction over moot controversies”). It is further ordered that the district court’s order and judgment are VACATED, and the matter is REMANDED to the district court with instructions to dismiss the action as moot. *Arizonans for Off. Eng. v. Arizona*, 520 U.S. 43, 71 (1997) (“When a civil case becomes moot pending appellate adjudication, ‘[t]he established practice . . . in the federal system . . . is to reverse or vacate the judgment below and remand with a direction to dismiss.’” (quoting *United States v. Munsingwear, Inc.*, 340 U.S. 36, 39 (1950))).

FOR THE COURT:
Catherine O’Hagan Wolfe, Clerk of Court

A True Copy

Catherine O’Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit