

**IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

HISPANIC FEDERATION, PODER LATINX, VERÓNICA HERRERA-
LUCHA, NORKA MARTÍNEZ, and A. DOE,

Plaintiffs-Appellees,

v.

CORD BYRD, in his official capacity as Florida Secretary of State, and ASHLEY
MOODY, in her official capacity as Florida Attorney General,

Defendants-Appellants.

On Appeal from the United States District Court
for the Northern District of Florida
No. 4:23-cv-00218-MW-MAF (Hon. Mark Walker)

**PLAINTIFFS-APPELLEES' REPLY IN SUPPORT OF MOTION TO
DISMISS INTERLOCUTORY APPEAL AS MOOT AND
FOR LACK OF JURISDICTION**

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** Not admitted in the District of
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D.C. App. R. 49(c)(3).*

**CERTIFICATE OF INTERESTED PERSONS AND CORPORATE
DISCLOSURE STATEMENT**

Pursuant to Federal Rule of Appellate Procedure 26.1 and Circuit Rule 26.1, Plaintiffs-Appellees submit the following statement of their corporate interests:

1. Plaintiff Hispanic Federation has no parent corporation or any other publicly held corporation owning 10% or more of its stock.

2. Plaintiff Poder Latinx is a fiscally sponsored project of Tides Advocacy, a California nonprofit benefit corporation. Tides Advocacy has no parent corporation, and no publicly held corporation owns 10% or more of its stock.

3. All other Plaintiffs are individual persons.

Plaintiffs-Appellees further certify that the following persons have an interest in the outcome of this case:

1. Alicea, Delmarie, *Counsel for Plaintiffs*
2. Beato, Michael, *Counsel for Defendant*
3. Bell, Daniel W., *Counsel for Defendant*
4. Byrd, Cord, *Defendant*
5. Campbell-Harris, Dayton, *Counsel for Plaintiffs*
6. Cepeda Derieux, Adriel I., *Counsel for Plaintiffs*
7. Chappell, David W., *Counsel for Defendant*
8. Cruz, Roberto, *Counsel for Plaintiffs*
9. Darlington, Andrew, *Declarant for Defendants*

Hispanic Federation, et al. v. Fla. Sec'y of State et al.,
23-12313

10. Davis, Ashley, *Counsel for Defendant*
11. Doe, A., *Plaintiff*
12. Druks, Roni, *Counsel for Plaintiffs*
13. Ebenstein, Julie A., *Counsel for Plaintiffs*
14. Ellis, Rayne, *Counsel for Plaintiffs*
15. Freedman, John A., *Counsel for Plaintiffs*
16. Galindo, Miranda, *Counsel for Plaintiffs*
17. Herrera-Lucha, Verónica, *Plaintiff*
18. Hispanic Federation, *Plaintiff*
19. Jazil, Mohammad O., *Counsel for Defendant*
20. Karpatkin, Jeremy, *Counsel for Plaintiffs*
21. Keenan, Megan C., *Counsel for Plaintiffs*
22. Konor, Estee M., *Counsel for Plaintiffs*
23. Lin Lakin, Sophia, *Counsel for Plaintiffs*
24. Martínez, Norka, *Plaintiff*
25. McNamara, Caroline A., *Counsel for Plaintiffs*
26. McVay, Bradley, *Counsel for Defendant*
27. Moody, Ashley, *Defendant*
28. Morse, Stephanie, *Counsel for Defendant*
29. Nguyen, Phi, *Counsel for Plaintiff*

Hispanic Federation, et al. v. Fla. Sec'y of State et al.,
23-12313

30. Ochoa, Victoria, *Counsel for Plaintiffs*
31. Poder Latinx, *Plaintiff*
32. Preminger, Evan, *Counsel for Plaintiffs*
33. Ruiz, Cesar Z., *Counsel for Plaintiffs*
34. Schenck, Robert S., *Counsel for Defendant*
35. Sjostrom, Noah, *Counsel for Defendant*
36. Tilley, Daniel B., *Counsel for Plaintiffs*
37. Van de Bogart, Joseph S., *Counsel for Defendant*
38. Vargas De-Leon, Fulvia, *Counsel for Plaintiffs*
39. Walker, Mark E., *U.S. District Court Judge*
40. Warren, Nicholas L.V., *Counsel for Plaintiffs*
41. Whitaker, Henry C., *Counsel for Defendant*

**APPELLEES' REPLY IN SUPPORT OF MOTION TO DISMISS
INTERLOCUTORY APPEAL AS MOOT AND FOR LACK OF
JURISDICTION**

Defendants-Appellants' response only confirms this Court should dismiss this appeal for lack of jurisdiction. *See* Resp. in Opp. to Mot. to Dismiss, ECF No. 75 ("Response").

Defendants-Appellants acknowledge that the "final order" below "superseded" the order on appeal. *Id.* at 2. And they concede that the only way forward is "an appeal taken from the permanent injunction," *id.* (quotation marks omitted), just like the one they currently pursue in another docketed case. *See* *Hisp. Fed. v. Fla. Sec'y of State*, No. 24-11892 (11th Cir.).

That ought to end the matter. The law is clear that the district court's intervening order has "stripped this Court of its jurisdiction over this appeal." *Birmingham Fire Fighters Ass'n 117 v. City of Birmingham*, 603 F.3d 1248, 1255 (11th Cir. 2010). And "an appeal from the grant of a preliminary injunction," like this one, "becomes moot when the trial court enters a permanent injunction" *Grupo Mexicano de Desarrollo S.A. v. All. Bond Fund, Inc.*, 527 U.S. 308, 314 (1999).¹

¹ *See also* Mot. to Dismiss, ECF No. 74, at 6 n.3 (citing cases).

Defendants-Appellants ask the Court to refrain from dismissing this appeal, even though the appealed-from injunction has “dissolved.” *AcryliCon USA, LLC v. Silikal GmbH*, 985 F.3d 1350, 1361 n.25 (11th Cir. 2021). They offer no authority suggesting the Court should—or could—do so.² In fact, the law in this Circuit and elsewhere uniformly cuts otherwise. *See, e.g.*, ECF No. 74, at 6 n.3 (citing Eleventh Circuit cases); *see also, e.g., Smith v. Ill. Bell Tel. Co.*, 270 U.S. 587, 588–89 (1926) (appeal from interlocutory injunction dismissed where injunction merged in final decree from which an appeal was also pending before the Court); *Cont’l Training Servs., Inc. v. Cavazos*, 893 F.2d 877, 880 (7th Cir. 1990) (“[W]here a permanent injunction has been granted that supersedes the original preliminary injunction, the interlocutory injunction becomes merged in the final decree and the appeal from the interlocutory preliminary order is properly dismissed.”) (internal citations omitted). Nor do they explain why this Court should keep the same underlying case proceeding in two live appeals across two separate dockets.

But Plaintiffs-Appellees agree with Defendants-Appellants that litigation surrounding SB 7050 is, at moment, procedurally “complicated,” in part, because *this* appeal, No. 23-12313, has been consolidated with another. Resp. at 1. That’s why Plaintiffs-Appellees suggest the best path forward is for the State’s *new* appeal,

² Nor can Plaintiffs-Appellees, after duly researching the issue, find any.

No. 24-11892, to be administratively held in abeyance until other SB 7050-related disputes reach this Court—as Defendants-Appellants have made clear is their intent.³ Defendants-Appellants agree this would “make things easier.” *Id.* at 2. As such, the Court should dismiss *this* appeal, which is now plainly moot. *See In re: Chiquita Brands Int’l, Inc.*, 965 F.3d 1238, 1244–45 (11th Cir. 2020). The dispute that the parties briefed and argued in case No. 23-12313 can efficiently and properly proceed in docket No. 24-11892.

CONCLUSION

Plaintiffs-Appellees respectfully request this Court dismiss this appeal for lack of jurisdiction.

Dated: July 12, 2024

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³ *See* Resp. to Supp. Auth. filed by Secretary of State, ECF No. 73 (“Once the district court issues its orders in all SB7050 cases, the Secretary intends to file notices of appeal, and then to move to consolidate the cases . . .”).

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CERTIFICATE OF COMPLIANCE

This document complies with the word limit of FRAP 32, because, excluding the parts of the document exempted by FRAP 32(f), this document contains 566 words. This document complies with the typeface requirements of FRAP 32(a)(5) and the type-style requirements of FRAP 32(a)(6).

Dated: July 12, 2024

Respectfully submitted,

/s/ Adriel I. Cepeda Derieux