

**In the United States Court of Appeals  
for the Seventh Circuit**

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Nos. 19-1075 & 19-1292

E.F. TRANSIT, INC.,  
APPELLANT

*v.*

INDIANA ALCOHOL AND TOBACCO COMMISSION; DAVID COOK, IN HIS OFFICIAL CAPACITY AS CHAIRMAN OF THE INDIANA ALCOHOL AND TOBACCO COMMISSION; JOHN KRAUSS, IN HIS OFFICIAL CAPACITY AS VICE CHAIRMAN OF THE INDIANA ALCOHOL AND TOBACCO COMMISSION; DALE GRUBB, IN HIS OFFICIAL CAPACITY AS COMMISSIONER OF THE INDIANA ALCOHOL AND TOBACCO COMMISSION; MARJORIE MAGINN, IN HER OFFICIAL CAPACITY AS COMMISSIONER OF THE INDIANA ALCOHOL AND TOBACCO COMMISSION, APPELLEES

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**REPLY MEMORANDUM IN SUPPORT OF  
APPELLANT E.F. TRANSIT, INC.'S  
MOTION VOLUNTARILY TO DISMISS THE APPEAL**

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Appellees misunderstand the nature of the transaction that mooted this case and improperly speculate about E.F. Transit's intentions in moving to dismiss this appeal. E.F. Transit submits this reply in order to clarify the record and respectfully requests that the appeal be dismissed.

1. Appellees argue that the appeal is not moot because Reyes Holdings "now own[s]" E.F. Transit and its sister company, Monarch Beverage,

and may well seek to transport both liquor and beer. Opp. 2-3. That is incorrect. Reyes Holdings does not own E.F. Transit and Monarch Beverage, either directly or indirectly. Reyes Holdings is not a corporate successor-in-interest to either company; instead, its wholly owned subsidiary purchased substantially all of Monarch's and E.F. Transit's operating assets, rendering E.F. Transit unable to transport liquor and thus mooting this case.<sup>1</sup> See Saharia Decl. ¶¶ 3-4, Dkt. No. 89-2.

Reyes Holdings is a privately held third party that represents itself to be the largest beer distributor in the country. See <https://www.reyesholdings.com/about/overview>. A review of its website does *not* indicate that it distributes liquor. Appellees provide no basis to believe that Reyes Holdings intends to seek permission in the future to transport liquor. In any event, Reyes Holdings is not a party to this case, and undersigned counsel does not represent Reyes Holdings and cannot speak for it.

E.F. Transit agrees with Appellees that the parties have invested substantial time and resources litigating this case in the district court and twice on appeal. All parties understandably regret that the case may end without a resolution on the merits by this Court. But Article III constrains the Court's

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<sup>1</sup> Appellees are wrong that Reyes's wholly owned subsidiary purchased "*all* assets and liabilities from Monarch-EFT *except* this lawsuit." Opp. 2 (first emphasis added). E.F. Transit stated only that it sold "substantially all of its operating assets." Mot. to Dismiss, Dkt. 89-1, at 1; *see also* Saharia Decl. ¶ 4.

power to act in the absence of a live controversy. *See, e.g., Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1547 (2016). Following the asset sale, there no longer remains any plaintiff with a concrete stake in the outcome of the case, for the reasons stated in E.F. Transit's motion to dismiss.

Appellees have no basis to suggest that E.F. Transit is seeking voluntary dismissal for strategic reasons "to avert the consequences of a negative judgment." Opp. 2. E.F. Transit spent many years litigating this case and has confidence in the strength of its legal arguments. E.F. Transit seeks dismissal only because, as it winds down its corporate existence, it no longer has a stake in the result.

2. Appellees further argue that, if the Court dismisses the appeal, it should not vacate the district court's opinion and order. Without taking a position on the merits of Appellees' argument, E.F. Transit notes simply that it has not moved for vacatur of the judgment below.

Respectfully submitted,

s/ Amy Mason Saharia

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DECEMBER 28, 2020

**CERTIFICATE OF SERVICE**

I, Amy Mason Saharia, counsel for appellant E.F. Transit, Inc., and a member of the Bar of this Court, certify that, on December 28, 2020, a copy of the foregoing Reply Memorandum In Support of the Motion Voluntarily to Dismiss the Appeal was filed with the Clerk and served on the parties through the Court's electronic filing system. I further certify that all parties required to be served have been served.

s/ Amy Mason Saharia  
AMY MASON SAHARIA