

**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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**APPELLANT E.F. TRANSIT, INC.'S MOTION  
VOLUNTARILY TO DISMISS THE APPEAL**

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Pursuant to Federal Rule of Appellate Procedure 42(b), appellant E.F. Transit, Inc. respectfully moves to dismiss this appeal as moot. As set forth in the attached declaration of Amy Mason Saharia, on December 11, 2020, E.F. Transit transferred substantially all of its operating assets, including its motor vehicles, to an unaffiliated third party, Monarch Distributing, L.L.C., a wholly owned subsidiary of Reyes Holdings, L.L.C., pursuant to an asset purchase agreement. E.F. Transit did not transfer the right to pursue this case, which

remains with E.F. Transit. As of the date of the transaction, E.F. Transit is no longer engaged in warehousing or transportation services and is beginning to wind down its corporate existence. It no longer intends, or has the equipment or infrastructure, to provide warehousing and transportation services to liquor wholesalers. As a result, E.F. Transit no longer has any stake in the Court's resolution of the issue presented by this case—whether the Federal Aviation Administration Authorization Act preempts Appellees' actions to enforce state law to prevent E.F. Transit from providing transportation services to liquor wholesalers. Because the case no longer presents a live controversy, the Court should dismiss the appeal as moot.

Undersigned counsel has conferred with counsel for Appellees, Aaron Craft. Mr. Craft indicated that Appellees were unable to take a position regarding this motion in advance of the motion's filing.

Because the parties have not stipulated to the dismissal, costs, if any, must be fixed by the Court. *See* Fed. R. App. P. 42(b). E.F. Transit consents to payment of Appellees' reasonable costs, exclusive of any attorneys' fees, provided that Appellees itemize them in a bill of costs within 14 days after entry of the judgment of dismissal. *See* Fed. R. App. P. 39(d). E.F. Transit re-

serves the right to object to the extent the costs are unreasonable or inconsistent with the Rules of Appellate Procedure or this Court's Local Rules. *See, e.g.,* 7th Cir. L.R. 39.<sup>1</sup>

Respectfully submitted,

s/ Amy Mason Saharia

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*Counsel for Appellant E.F. Transit,  
Inc.*

DECEMBER 11, 2020

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<sup>1</sup> E.F. Transit notes that the district court entered a bill of costs in the amount of \$5205.35, and that the parties agreed to defer payment of those costs until the termination of this appeal. ECF Nos. 225, 227.

**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 11, 2020, a copy of the foregoing 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

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**DECLARATION OF AMY MASON SAHARIA  
IN SUPPORT OF APPELLANT E.F. TRANSIT, INC.'S  
MOTION VOLUNTARILY TO DISMISS THE APPEAL**

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1. I, Amy Mason Saharia, represent appellant E.F. Transit, Inc. in the above-captioned case.
2. I make this declaration pursuant to Federal Rule of Appellate Procedure 27(a)(2)(B) in support of E.F. Transit's motion for voluntary dismissal.

3. E.F. Transit and its sister company, Monarch Beverage Co., entered into an asset purchase agreement with Monarch Distributing, L.L.C., a wholly owned subsidiary of Reyes Holdings, L.L.C.

4. The agreement provides for the sale of substantially all of the operating assets of the sellers, E.F. Transit and Monarch Beverage Co.

5. The agreement does not provide for the transfer of E.F. Transit's right to maintain this appeal, which remains with E.F. Transit upon closing of the transaction.

6. The closing of the asset transfer took place on December 11, 2020.

7. As of the closing, E.F. Transit no longer has the assets nor the present intention to provide warehousing and transportation services to liquor wholesalers.

8. E.F. Transit is proceeding to wind down its corporate existence.

I declare under penalty of perjury that the foregoing is true and correct.

*See* 28 U.S.C. § 1746(2).

Executed on December 11, 2020.

Respectfully submitted,

s/ Amy Mason Saharia

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