**UNITED STATES DISTRICT COURT**
**FOR THE WESTERN DISTRICT OF NORTH CAROLINA**
**ASHEVILLE DIVISION**

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| USA FARM LABOR, *et al.*,<br><br>Plaintiffs,<br><br>v.<br><br>LORI CHAVEZ-DEREMER, *in her official capacity as* Secretary of Labor, *et al.*<br><br>Defendants. | Case No. 1:23-cv-96 |

**Defendants' Unopposed Motion to Dismiss the Second Amended Complaint as Moot**

## INTRODUCTION

This case is moot. The Plaintiffs challenge a 2023 Department of Labor rule, *Adverse Effect Wage Rate Methodology for the Temporary Employment of H-2A Nonimmigrants in Non-Range Occupations in the United States*, 88 Fed. Reg. 12760 (Feb. 28, 2023) (hereinafter, "the Final Rule"), which was also challenged in two other cases. One of those cases has now concluded with the court entering a final judgment enjoining and vacating the Final Rule nationwide. Plaintiffs have thus received all the relief they seek and there is no further relief this Court can award. The case must be dismissed. Fed. R. Civ. P. 12(h)(3).

## FACTUAL AND PROCEDURAL BACKGROUND

The Plaintiffs' Second Amended Complaint challenges the Final Rule as arbitrary and capricious, not in accordance with law, in excess of statutory jurisdiction, and unsupported by substantial evidence, all in violation of the APA. ECF 10 at ¶¶ 60-61. Plaintiffs only challenge the Final Rule in this case. *Id.* at ¶¶ 60-91. Plaintiffs seek an order declaring the Final Rule invalid, enjoining enforcement of the Final Rule, and vacating it. *Id.* at Prayer for Relief. Summary judgment is fully briefed. *See* ECF 73, 75, 81, 82, 87, 88.

The Final Rule was also challenged in the Western District of Louisiana, *Teche Vermilion Sugar Cane Growers Ass'n v. Chavez-DeRemer*, No. 6:23-cv-831 (W.D.La.). On August 26, 2025, in response to an unopposed motion filed by the

plaintiffs in that case, the Western District of Louisiana entered a final judgment enjoining and vacating the Final Rule as violating the APA. *See* Exhibit A.

## STANDARD OF REVIEW

A federal court is "without power" to decide moot questions. *Int'l Bhd. of Teamsters, Local Union No. 639 v. Airgas, Inc.*, 885 F.3d 230, 235 (4th Cir. 2018). If an event occurs that "makes it impossible for a court to grant effective relief" then the case is moot. *Id.*

"If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action." Fed. R. Civ. P. 12(h)(3).

## ARGUMENT

This case is now moot. The Second Amended Complaint challenges only the 2023 Final Rule. *See* ECF 10, ¶¶ 4, 60-91; Prayer for Relief. The relief requested — "permanent injunction relief preventing Defendants from implementing or enforcing the Final Rule," "an order vacating and setting aside the Final Rule," and "a declaration that the Final Rule is unlawful under the Administrative Procedure Act"—was granted, nationwide, by the Western District of Louisiana on August 26, 2025. *See* Ex. A. Given the self-evident truth that "this Court cannot vacate an already vacated rule," dismissal is warranted. *Casa De Md., Inc. v. Mayorkas*, No. 8:20-cv-2118-PX, 2023 U.S. Dist. LEXIS 88009, at *12 (D. Md. May 18, 2023) (finding case moot where a different district court vacated challenged rule); *see also*

*Phillips v. McLaughlin,* 854 F.2d 673, 677 (4th Cir. 1988) (case moot because it was "founded on a challenge to a regulation which no longer applies to plaintiffs"); *Akiachak Native Cmty. v. U.S. Dep't of Interior*, 827 F.3d 100, 113 (D.C. Cir. 2016) ("[W]hen an agency has rescinded and replaced a challenged regulation, litigation over the legality of the original regulation becomes moot.").

Because this court no longer can afford plaintiffs any relief, this case is moot, this court lacks subject-matter jurisdiction over plaintiffs claims, and this case should be dismissed without prejudice. *See S. Walk at Broadlands Homeowner's Ass'n v. Openband at Broadlands, LLC*, 713 F.3d 175, 185 (4th Cir. 2013) (dismissal for lack of jurisdiction is without prejudice).

Counsel for Defendants consulted with counsel for the plaintiffs, who indicated that they do not oppose this motion.

**CONCLUSION**

Wherefore, Defendants request that this Court find that the case is moot and dismiss the case without prejudice.

Respectfully submitted,

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