

IN THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

COMMONWEALTH OF KENTUCKY, *et al.*,

Plaintiffs-Appellees,

v.

FEDERAL HIGHWAY ADMINISTRATION, *et al.*,

Defendants-Appellants.

No. 24-5532

MOTION FOR VOLUNTARY DISMISSAL OF APPEAL

Pursuant to Federal Rule of Appellate Procedure 42(b)(2), defendants-appellants Federal Highway Administration (FHWA) *et al.* respectfully move to dismiss the above-captioned appeal with prejudice, and with each party to bear its own costs. *See* Fed. R. App. 42(b)(2) (“An appeal may be dismissed on the appellant’s motion on terms . . . fixed by the court.”); *United States v. Brenner*, 3 F.4th 305, 306 (6th Cir. 2021) (recognizing that “motions to dismiss an appeal by an appellant are normally granted”).

Upon further consideration, FHWA no longer wishes to pursue appellate review of the district court’s decision in this case. The agency will continue to consider what further administrative steps may be appropriate as to the challenged final rule. We have advised plaintiffs’ counsel of this motion, but have not yet been informed of their position.

Respectfully submitted,

MICHAEL S. RAAB

/s/ Jeffrey E. Sandberg

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JANUARY 2025

CERTIFICATE OF COMPLIANCE

I certify that this motion complies with the word limit of Fed. R. App. P. 27(d)(2)(A) because, excluding the parts of the document exempted by Fed. R. App. P. 32(f), it contains 143 words.

/s/ Jeffrey E. Sandberg
Jeffrey E. Sandberg
Counsel for Defendants-Appellants

CERTIFICATE OF SERVICE

I hereby certify that on January 31, 2025, I electronically filed the foregoing motion with the Clerk of Court by using the appellate CM/ECF system. I certify that the participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

/s/ Jeffrey E. Sandberg
Jeffrey E. Sandberg
Counsel for Defendants-Appellants