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VIA CM/ECF
David J. Smith
Clerk of Court
U.S. Court of Appeals for the 11th Circuit
56 Forsyth St., N.W.
Atlanta, Georgia 3030

Re: *Florida v. Dep't of Health and Human Servs.*, No. 25-12095

Dear Mr. Smith:

Pursuant to Federal Appellate Rule 28(j), we write to notify the Court of the decision in *McComb Children's Clinic, Ltd. v. Fink*, No. 5:24-cv-48 (S.D. Miss. Feb. 5, 2026), Dkt. No. 63, which supports defendants' argument that this case is moot.

As explained in defendants' brief (at 9, 17), *McComb* also involved a challenge to the 2024 Rule, and the *McComb* court ordered the parties to show cause as to why the case should not be dismissed as moot. On February 5, 2026, the court dismissed the case as moot. Op. 2. The court reasoned that *Tennessee v. Kennedy*, No. 1:24-cv-161, 2025 WL 2982069, at *13 (S.D. Miss. Oct. 22, 2025), universally vacated various provisions of the Rule related to gender-identity discrimination, and the government did not appeal, so the *McComb* plaintiff had already received the relief it sought. Op. 2, 6. The court rejected the plaintiff's argument that the *Tennessee* court's vacatur did not shield them from the 2024 Rule's sex stereotype provision, explaining that the *McComb* plaintiff "received complete relief" from the *Tennessee* vacatur. Op. 6.

The court also rejected the plaintiff's argument that it was entitled to a permanent injunction, reasoning that the *Tennessee* court's "universal vacatur removed the gender-identity language from the Rule" and thus "sufficiently redressed the harm suffered by" the *McComb* plaintiff. Op. 7. The court explained that "[i]t would be inappropriate to issue an injunction prohibiting enforcement of the gender identity provisions in a Rule nullified by a prior court judgment." *Id.*

The *McComb* opinion underscores that there is no longer a live case or controversy between the parties in this case. This Court should affirm the district court's judgment dismissing this case as moot.

Respectfully submitted,

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s/ Ashley C. Honold

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CERTIFICATE OF COMPLIANCE

This brief complies with the type-volume limit of Federal Rule of Appellate Procedure 28(j) because it contains 287 words. This brief also complies with the typeface and type-style requirements of Federal Rule of Appellate Procedure 32(a)(5)-(6) because it was prepared using Word for Microsoft 365 in Garamond 14-point font, a proportionally spaced typeface.

s/ Ashley C. Honold

Ashley C. Honold

CERTIFICATE OF SERVICE

I hereby certify that on February 9, 2026, I electronically filed the foregoing brief with the Clerk of the Court for the United States Court of Appeals for the Eleventh Circuit by using the appellate CM/ECF system.

s/ Ashley C. Honold

Ashley C. Honold