

**United States Court of Appeals**  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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**No. 22-7168****September Term, 2022****1:22-cv-03357-CJN****Filed On:** February 23, 2023

District of Columbia, et al.,

Appellants

v.

Kroger Co. and Albertsons Companies, Inc.,

Appellees

**BEFORE:** Millett, Pillard, and Pan, Circuit Judges

**ORDER**

Upon consideration of the motions for summary affirmance, the opposition thereto, and the replies; the responses to the court's January 18, 2023 order; and the motion to vacate, the oppositions thereto, and the reply, it is

**ORDERED** that this appeal be dismissed as moot. Albertsons Companies, Inc. has issued the dividend that appellants' motion for a preliminary injunction sought to enjoin, and therefore "intervening events [have made] it impossible for [this court] to grant effectual relief to the prevailing party." See Planned Parenthood of Wisconsin, Inc. v. Azar, 942 F.3d 512, 516 (D.C. Cir. 2019) (internal quotation marks omitted). It is

**FURTHER ORDERED** that the motions for summary affirmance be dismissed as moot. It is

**FURTHER ORDERED** that the case be remanded to the district court with instructions to consider appellants' request for vacatur as a motion for relief from an order pursuant to Federal Rule of Civil Procedure 60(b). See U.S. Bancorp Mortg. Cor. v. Bonner Mall Partnership, 513 U.S. 18, 29 (1994).

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Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to issue the mandate forthwith to the district court.

**Per Curiam**

**FOR THE COURT:**

Mark J. Langer, Clerk

BY: /s/

Tatiana Magruder

Deputy Clerk