

DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO Court Address: 1437 Bannock Street Denver, Colorado 80202	
Plaintiff: COLORADO ETHICS WATCH v. Defendant: SCOTT GESSLER, in his capacity as Colorado Secretary of State	▲ COURT USE ONLY ▲ Case Number:2011CV5350 Courtroom: 368
Attorneys for Plaintiff: Luis Toro, #22093 Colorado Ethics Watch 1630 Welton Street, Suite 415 Denver, Colorado 80202 Telephone: (303) 626-2100 Fax: (303) 626-2101 E-mail: ltoro@coloradoforethics.org	
UNOPPOSED MOTION TO DISMISS AS MOOT	

Plaintiff, Colorado Ethics Watch (“Ethics Watch”), pursuant to C.R.C.P. 41(a)(2), respectfully requests that the Court dismiss this case as moot, with each party to bear his or its own attorneys’ fees and costs. In support of this request, Ethics Watch states:

1. Undersigned counsel certifies that he has conferred with counsel for Defendant, and is authorized to state that Defendant does not oppose this motion.
2. In this action, Ethics Watch is asserting a claim for judicial review under the State Administrative Procedure Act, or in the alternative, under the Declaratory Judgment Act, challenging the Secretary’s adoption of Campaign and Political Finance Rule 5.13.
3. On December 27, 2011, the Secretary issued a Notice of Permanent Adoption of changes to the Campaign and Political Finance Rules, a copy of which is attached as **Exhibit 1**. The change repeals Rule 5.13, and replaces it with a new Rule 5.14 that requires biweekly campaign finance reports beginning January 30, well before the February 17 hearing date in this case. On December 29, the Attorney General’s office issued an opinion in support of the rule. See Colorado Code of Regulations eDocket, Details of Tracking Number 2011-00822, a copy of which is attached as **Exhibit 2**.
4. A case challenging an administrative agency’s authority to enact a rule becomes moot when the regulation is repealed and the complaint does not seek retrospective relief regarding the rule’s past application. *Air Pollution Control Comm’n v. Colorado-Ute Electric*

Ass'n, 672 P.2d 993, 997 (Colo. 1983). That is the situation here, and therefore, the case should be dismissed as moot.

WHEREFORE, Plaintiff respectfully requests that the Court enter an order dismissing this case as moot, with each party to bear his or its own attorneys' fees and costs.

A proposed Order is attached.

DATED: January 3, 2012.

Respectfully submitted,

signed original on file at Colorado Ethics Watch

/s/ Luis Toro

Luis Toro

CERTIFICATE OF SERVICE

I certify that on January 3, 2012 I served the foregoing UNOPPOSED MOTION TO DISMISS AS MOOT via LexisNexis File and Serve to the following:

Maurice G. Knaizer
Deputy Attorney General
1525 Sherman Street, 7th Floor
Denver, CO 80203

signed original on file at Colorado Ethics Watch

/s/ Luis Toro

Luis Toro