

No. 25-948

In the Supreme Court of the United States

UPSOLVE, INC., ET AL.
Petitioners,

v.

LETITIA JAMES,
Respondent.

**On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Second Circuit**

SUPPLEMENTAL BRIEF OF PETITIONERS

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SUPPLEMENTAL BRIEF OF PETITIONERS

The petition in this matter seeks the Court’s review of the Second Circuit’s vacatur of a preliminary injunction entered by the district court. When the petition was filed, proceedings in the district court remained pending. On March 5, however, that court dismissed petitioners’ complaint and entered final judgment. Petitioners intend to appeal that judgment to the Second Circuit and thence (if warranted) to this Court. But given the district court’s entry of final judgment, the current petition and the original appeal concerning preliminary-injunctive relief would appear to be moot. *Council for Responsible Nutrition v. James*, 159 F.4th 155, 163 (2d Cir. 2025) (“A preliminary injunction appeal is mooted when *all* the claims underlying that injunction are dismissed via a final judgment.”). In light of this development, the Court may wish to issue a GVR with instructions for the Second Circuit to dismiss this interlocutory appeal as moot. *Harper v. Poway Unified Sch. Dist.*, 549 U.S. 1262 (2007). (To be clear, the action as a whole remains live, but the appeal concerning the propriety of preliminary relief does not.)

1. As explained in the petition, the Second Circuit’s decision below arose from an appeal of a preliminary injunction that authorized Petitioners to run a program in which trained, nonlawyer volunteers could provide limited legal advice to New Yorkers who desperately needed it. Pet. 2–3. The Second Circuit vacated that injunction, holding that a restriction on communicating legal advice (but not advice on other topics) was a content-neutral restriction on speech subject to only intermediate scrutiny. *Id.* at 4–5. It then remanded the case to the district court to

conduct the intermediate-scrutiny analysis in the first instance. *Id.* at 6 & n.1. Other proceedings in the case had been stayed in the district court pending appeal of the preliminary injunction, and the parties jointly asked the district court to continue that stay while review was sought in this Court. See D. Ct. Doc. 106 (Sep. 30, 2025). The district court declined. See D. Ct. Doc. 107 (Oct. 2, 2025).

Then, on March 5 of this year, the district court granted Respondent’s motion to dismiss the case under Federal Rule of Civil Procedure 12(b)(6). Supp. App. 98a.¹ The district court reasoned, essentially, that New York’s prohibition on unlicensed legal advice survives intermediate scrutiny without the government carrying any evidentiary burden at all: After all, the prohibition is necessarily narrowly tailored because it prohibits unlicensed legal advice across the board while allowing licensed legal advice as well as other speech that does not consist of one-on-one advice about the law. *Id.* at 94a–95a. If the district court’s decision represents the law of the Second Circuit, it conflicts with the holdings of other circuits that require government defendants to muster evidence in support of speech-suppressing licensing requirements. See, e.g., *Richwine v. Matuszak*, 148 F.4th 942 (7th Cir. 2025); *Hines v. Pardue*, 117 F.4th 769 (5th Cir. 2024), *petition for certiorari filed* Feb. 24, 2025 (No. 24-920). That split, like the split presented in the petition, would eventually warrant this Court’s review.

¹ On March 6, the district court issued a second, substantively identical “corrected” order. To avoid duplication, only the corrected order is reproduced in the Supplemental Appendix.

2. More immediately, though, the district court’s dismissal of the underlying case may undermine this Court’s jurisdiction over the pending petition here. This Court has confronted this situation before: In *Harper*, as here, the petitioners sought review of the denial of a temporary injunction, and the case was mooted by a final judgment while the petition was pending. 549 U.S. at 1262. This Court determined that the final judgment prevented it from reviewing the merits of the lower court’s interlocutory decision and that the proper remedy was “vacatur of the prior judgment . . . to ‘clea[r] the path for future relitigation of the issues between the parties and [to] eliminat[e] a judgment, review of which was prevented through happenstance.” *Ibid.* (quoting *Anderson v. Green*, 513 U.S. 557, 560 (1995) (per curiam)). The Court may therefore, as in *Harper*, wish to grant the petition for certiorari, vacate the judgment below, and remand this case “with instructions to dismiss the [interlocutory] appeal as moot.” *Ibid.*

CONCLUSION

The petition for certiorari should be granted, the decision below vacated, and the case remanded so the parties may litigate the appeal of the final judgment entered below.

Respectfully submitted on March 11, 2026,

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