

FILED

UNITED STATES COURT OF APPEALS

JAN 21 2010

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

<p>MARCIANO PLATA; et al.,</p> <p style="text-align: center;">Plaintiffs - Appellees,</p> <p style="text-align: center;">v.</p> <p>ARNOLD SCHWARZENEGGER, Governor; et al.,</p> <p style="text-align: center;">Defendants - Appellants.</p>

No. 09-17154

D.C. No. 3:01-cv-01351-THE
Northern District of California,
San Francisco

ORDER

Before: SILVERMAN, PAEZ and BEA, Circuit Judges.

Appellees’ motion to dismiss this appeal for lack of jurisdiction is granted. *See* 28 U.S.C. § 1291; *Jensen Electric Company v. Moore, Caldwell, Rowland & Dodd, Inc.*, 873 F.2d 1327, 1329 (9th Cir. 1989); *see also Digital Equip. Corp. v. Desktop Direct, Inc.*, 511 U.S. 863, 867 (1994).

Appellants’ pending motion to stay is denied as moot.

Appellees’ motion for sanctions is granted because this is the fifth time that this court has dismissed an appeal by these appellants related to this litigation for lack of jurisdiction. *See* Fed. R. App. P. 38. This matter is referred to the Appellate Commissioner to determine the amount of sanctions.

DISMISSED.