IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 21-cv-03283-NYW-STV

DUKE BRADFORD,
ARKANSAS VALLEY ADVENTURE, LLC, d/b/a AVA Rafting and Zipline, and
COLORADO RIVER OUTFITTERS ASSOCIATION,

Plaintiffs,

v.

U.S. DEPARTMENT OF LABOR,
U.S. DEPARTMENT OF LABOR, WAGE & HOUR DIVISION,
JOSEPH R. BIDEN, President of the United States,
MARTIN J. WALSH, U.S. Secretary of Labor, and
JESSICA LOOMAN, Acting Administrator,

Defendants.

MINUTE ORDER

Entered by Judge Nina Y. Wang

This matter is before the Court on a *sua sponte* review of the docket. Plaintiffs initiated this civil action on December 7, 2021. [Doc. 1]. Generally, Plaintiffs challenge President Biden's Executive Order 14026, *Increasing the Minimum Wage for Federal Contractors*, 86 Fed. Reg. 22,835 (Apr. 27, 2021), implemented through the United States Department of Labor's final rule titled *Increasing the Minimum Wage for Federal Contractors*, 86 Fed. Reg. 67,126, 67,225 (Nov. 24, 2021), which increased the minimum wage for certain federal contractors and which was set to take effect on January 30, 2022. *See, e.g.*, [Doc. 1 at ¶¶ 13–14].

On December 9, 2021, Plaintiffs filed a Motion for Preliminary Injunction, seeking a court order enjoining enforcement of the final rule. *See* [Doc. 7]. After a hearing on the matter, *see* [Doc. 29], the then-presiding judge, Chief Judge Philip A. Brimmer,[1] denied the Motion for Preliminary Injunction upon concluding that Plaintiffs had failed to demonstrate a likelihood of success on the merits of their claims. [Doc. 31 at 46–47]. Plaintiffs filed an interlocutory appeal of Judge Brimmer's Order, [Doc. 33], and the Tenth Circuit subsequently granted Plaintiffs' motion to for an injunction pending the appeal, staying enforcement of the Minimum Wage Order in certain contexts. [Doc. 44 at 2]. The interlocutory appeal remains pending before the Tenth Circuit.

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[1] This case was originally assigned to Chief Judge Brimmer. [Doc. 2]. The case was reassigned to the undersigned upon her appointment as a United States District Judge. [Doc. 66].

On April 14, 2022, Magistrate Judge Scott T. Varholak held a Scheduling Conference in this case and entered a Scheduling Order that same day. [Doc. 51; Doc. 52]. Because the Parties agreed that "this matter should proceed on the administrative record without discovery," [Doc. 52 at 4], Judge Varholak set a briefing schedule for cross-motions for summary judgment. [*Id.* at 7]. Plaintiffs filed their Motion for Summary Judgment on June 15, 2022, [Doc. 56], and Defendants filed their Cross-Motion for Summary Judgment on August 2, 2022. [Doc. 63]. The Parties filed a Joint Appendix Containing Portions of the Administrative Record on October 12, 2022. [Doc. 77].

"The filing of a notice of appeal is an event of jurisdictional significance—it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal." *Stewart v. Donges*, 915 F.2d 572, 574 (10th Cir. 1990). Because the substantive issues and arguments involved in Plaintiffs' interlocutory appeal significantly overlap with the substantive issues and arguments raised in the Parties' Motions for Summary Judgment, it would not be appropriate for this Court to proceed to ruling on the dispositive motions until the Tenth Circuit issues a ruling on Plaintiffs' interlocutory appeal.

In similar circumstances, courts within this District have elected to administratively close the district court case pending resolution of an interlocutory appeal. *See, e.g.*, *Barnes v. Sec. Life of Denver Ins. Co.*, No. 18-cv-00718-WJM-SKC, 2019 WL 142113, at *2 (D. Colo. Jan. 9, 2019) ("The Court has no power to act in this matter until the appeal is resolved. Thus, the Court also finds that administrative closure, subject to reopening for good cause shown, is warranted."); *Surat v. Klamser*, No. 19-cv0-0901-WJM-NRN, 2022 WL 2904706, at *2 (D. Colo. July 22, 2022); *Qwest Corp. v. AT&T Corp.*, No. 04-cv-00909-EWN-MJW, 2005 WL 8171452, at *4 (D. Colo. Aug. 5, 2005).

"District courts have the inherent power to manage their dockets 'to achieve the orderly and expeditious disposition of cases' as long as the action is a reasonable response to a specific problem and does not contradict any express rule or statute." *Barnes*, 2019 WL 142113, at *2 (quoting *Dietz v. Bouldin*, 579 U.S. 40, 46 (2016)). The Local Rules of Practice for this District provide that "[a] district judge . . . may order the clerk to close a civil action administratively subject to reopening for good cause." D.C.COLO.LCivR 41.2. Administrative closure is construed as "the practical equivalent of a stay." *Quinn v. CGR*, 828 F.2d 1463, 1465 n.2 (10th Cir. 1987). Demonstrating good cause to reopen an administratively closed matter is not onerous; rather, "good cause to reopen a case exists where the parties wish to litigate the remaining issues that have become ripe for review." *Patterson v. Santini*, 631 F. App'x 531, 534 (10th Cir. 2015) (quotations omitted); *see also Frederick v. Hartford Underwriters Ins. Co.*, No. 11-cv-02306-RM-KLM, 2015 WL 1499662, at *1 (D. Colo. Mar. 27, 2015) ("Here, Defendant seeks a determination of the parties' rights and claims. Thus, good cause exists to reopen the matter." (internal citations omitted)).

In an effort to efficiently and effectively manage its docket, the Court finds good cause to administratively close this case pending a Tenth Circuit decision on Plaintiffs' interlocutory appeal. Indeed, because this Court lacks jurisdiction over the substance of this case, this litigation is unable to meaningfully progress while Plaintiffs' interlocutory appeal is pending. Moreover, the Court recognizes a distinct possibility that one or both Parties may seek to further develop their

substantive arguments by filing a renewed motion for summary judgment after the Tenth Circuit issues a decision on the appeal. In light of these circumstances, the Court concludes that the most efficient course of action is to administratively close this case under Local Rule 41.2, subject to reopening for good cause shown after the Tenth Circuit has ruled on Plaintiff's interlocutory appeal.

Accordingly, it is **ORDERED** that:

(1) This case is **ADMINISTRATIVELY CLOSED** pending a Tenth Circuit decision on Plaintiffs' interlocutory appeal;

(2) This case may be re-opened upon **a motion** of any Party for good cause shown, filed any time after the Tenth Circuit has issued its mandate in the pending interlocutory appeal;

(3) Within **seven days** of the Tenth Circuit's mandate, the Parties **SHALL FILE** a joint Status Report informing the Court whether either side intends to file a renewed motion for summary judgment.[2] If either side intends to file a renewed motion for summary judgment, the Parties shall propose a new briefing schedule in their joint Status Report; and

(4) If the Parties represent to the Court that neither Party to file a renewed motion for summary judgment in light of the Tenth Circuit's decision, the Court will reinstate Plaintiffs' Motion for Summary Judgment [Doc. 56] and Defendants' Cross-Motion for Summary Judgment [Doc. 63].

DATED: January 18, 2023

[2] The Parties are advised that the Court will not permit supplemental or additional briefing on Plaintiffs' Motion for Summary Judgment [Doc. 56] or Defendants' Cross-Motion for Summary Judgment [Doc. 63]. **Should any Party seek to further develop their arguments in light of the Tenth Circuit's decision in the interlocutory appeal, that Party will be required to file a renewed motion for summary judgment.**