

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Christine M. Arguello**

Civil Action No. 12-cv-01943-CMA

G.H. DANIELS III & ASSOCIATES, INC.,
HANDY ANDY SNOW REMOVAL,

Plaintiffs,

v.

HILDA L. SOLIS, Secretary of the U.S. Department of Labor,
JANET NAPOLITANO, U.S. Department of Homeland Security,
HILLARY RODHAM CLINTON, Secretary of State,
ERIC H. HOLDER, JR., United States Attorney General,

Defendants.

ORDER DISMISSING CLAIMS FOR LACK OF JURISDICTION

On November 5, 2015, the Tenth Circuit issued an opinion reversing the district court's decision as to the claim of impermissible sub-delegation of the Department of Homeland Security's decision-making authority under the H-2B program to the Department of Labor (DOL); dismissing, for want of jurisdiction the appeal as to whether the DOL's denial of the applications for certifications for the 2010, 2011, and 2012 seasons violated the Administrative Procedure Act; and remanding the case to this Court with instructions to dismiss these claims for lack of jurisdiction. In a footnote, the Tenth Circuit indicated that it was leaving "it to the judge and parties on remand to hash out the [Civil Monetary Penalties (CMPs)] issue, including the effect of the interim final rule on the CMPs."

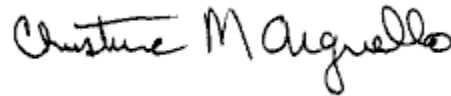
In accordance with the Tenth Circuit's opinion, it is

ORDERED that the claims relating to the DOL's denial of the applications for certifications for the 2010, 2011, and 2012 seasons are DISMISSED for lack of jurisdiction. It is

FURTHER ORDERED that within 14 days of the date of this Order, the Plaintiffs shall file a report with the Court advising whether or not they have complied with the administrative proceeding provisions of 29 C.F.R. § 503, and shall provide a copy of the final agency action, which is required for this Court to exercise appellate jurisdiction pursuant to 5 U.S.C. § 706 and *Lockheed Martin Corp. v. Admin. Review Bd.*, 717 F.3d 1121, 1128 (10th Cir. 2013).

DATED: December 29, 2015

BY THE COURT:



CHRISTINE M. ARGUELLO
United States District Judge