

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 15-cv-01239-NYW

MATTHEW RAY,

Plaintiff,

v.

DISH NETWORK L.L.C.,
ECHOSPHERE L.L.C.,

Defendants.

ORDER

Magistrate Judge Nina Y. Wang

This matter is before the court *sua sponte* on the Petition to Vacate Clause Construction Arbitration Award filed by Defendants DISH Network L.L.C. and Echosphere L.L.C. (collectively, “DISH” or “Defendants”) [#8, filed January 28, 2016]. On June 11, 2015, Plaintiff Matthew Ray (“Plaintiff” or “Mr. Ray”) initiated a case against Defendants, alleging violations of the Fair Labor Standards Act, Colorado Wage Claim Act, and Colorado Minimum Wage Act, as well as a breach of contract claim. [#1]. Plaintiff then filed a Notice of Voluntary Dismissal pursuant to Rule 41(a)(1)(A)(i) on July 2, 2015, after service of the Complaint but prior to any responsive pleading by Defendants. [#6]. The case was then closed. [#7].

Then, on January 28, 2016, DISH filed the current Petition to Vacate Clause Construction Arbitration Award [#8]. Because there is no open case, the Petition to Vacate Clause Construction Arbitration Award is improperly filed in this action. In addition, DISH has

identified, and this court has not found, any basis of jurisdiction to entertain the Petition in this action. *See Gaines v. Lawrence*, No. 07-3212-SAC, 2010 WL 3829467 (D. Kan. 2010) (finding no jurisdictional basis to reopen a case previously dismissed voluntarily). Instead, it appears more appropriate for DISH to initiate a new action should it wish to pursue the relief sought through the Petition to Vacate Clause Construction Arbitration Award.

Therefore, **IT IS ORDERED** that the Petition to Vacate Clause Construction Arbitration Award filed by Defendants DISH Network L.L.C. and Echosphere L.L.C. [#8] is **STRICKEN** and this action will **REMAIN CLOSED**.

DATED: February 9, 2016

BY THE COURT:

s/ Nina Y. Wang
United States Magistrate Judge