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United States Court of Appeals
Tenth Circuit

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Christopher M. Wolpert
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PUBLISH

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

FRED A. FISCHER; ROGER A. FISCHER,

Plaintiffs - Appellants,

and

CHIEFTAIN ROYALTY COMPANY,

Plaintiff,

v.

XTO ENERGY, INC. (including predecessors, successors, and affiliates),

Defendant - Appellee,

and

EXXON MOBIL CORPORATION; EXXONMOBIL OIL CORPORATION,

Movants - Appellees.

No. 25-7072

Appeal from the United States District Court for the Eastern District of Oklahoma (D.C. No. 6:11-CV-00029-DES)

Ryan C. Hudson (Rex A. Sharp, Scott B. Goodger, and Hammons P. Hepner, with him on the briefs), of Sharp Law, LLP, Prairie Village, Kansas, for Plaintiffs/Appellants.

Reagan M. Brown of Norton Rose Fulbright US LLP, Houston, Texas (L. Mark Walker and John J. Griffin, Jr. of Crowe & Dunlevy, P.C., Oklahoma City, Oklahoma; and Marla Broaddus of McGinnis Lochridge, Austin, Texas, with him on the brief), for Defendant-Appellee and Movants-Appellees.

Before **PHILLIPS** and **MORITZ**, Circuit Judges, and **GARCIA**, District Judge.*

PHILLIPS, Circuit Judge.

We lack appellate jurisdiction to address questions that a district court hasn't finished answering. So when a litigant appeals too early, we dismiss the appeal to allow the district court to complete its work.

This is one such case. In a post-judgment order, the district court gave the Fischer family a choice: stop violating an earlier injunction or show cause for their violation. The Fischers immediately appealed. But a post-judgment civil contempt order isn't final unless the court makes a contempt finding and imposes a specific, unavoidable sanction. Because the district court's order did neither, we lack appellate jurisdiction under 28 U.S.C. § 1291. We also lack jurisdiction under the Fischers' alternative theories. Thus, we dismiss.

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* The Honorable Matthew L. Garcia, U.S. District Judge, U.S. District Court for the District of New Mexico, sitting by designation.

BACKGROUND

In 2002, the Fischer family[1] sued Exxon Mobil[2] in Oklahoma state court ("*Fischer*"). The Fischers alleged that putative class members owned rights to oil, gas, and other minerals in Oklahoma; that Exxon Mobil operated or helped construct wells to extract those minerals; and that Exxon Mobil underpaid royalties from the minerals' sale. The complaint articulated nearly a dozen state-law claims arising between 1985 and 2017.

Exxon Mobil later acquired XTO Energy, Inc. A few months after that, Chieftain Royalty Company sued XTO and its "predecessors, successors and affiliates" in Oklahoma state court ("*Chieftain*"). App. vol. I at 43. As in *Fischer*, the *Chieftain* plaintiff alleged that putative class members owned rights to gas and gas constituents in Oklahoma, that XTO operated wells to extract those minerals or sold the minerals for other operators, and that XTO underpaid royalties from the minerals' sale. XTO removed the case to the Eastern District of Oklahoma.

Eventually the Eastern District of Oklahoma approved a settlement and entered final judgment in *Chieftain*. The settlement covered royalty-related

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[1] Fred A. Fischer sued as a general partner in the Fischer Family Farms Family Limited Partnership. Roger A. Fischer sued as an agent for the Allan and Carolyn Fischer Family Limited Partnership.

[2] The Fischers sued Exxon Mobil Corporation, which later argued that the Fischers hadn't sued the right member of the Exxon Mobil corporate family. For simplicity, we refer to members of that family as "Exxon Mobil."

claims arising between May 1, 2002, and May 31, 2017. The court permanently enjoined the settling class members from prosecuting similar claims against XTO and other released parties. The Fischers didn't opt out of the settlement class, and they received nearly a thousand dollars.

After *Chieftain* settled, Exxon Mobil moved for summary judgment in *Fischer*, arguing in part that *Chieftain* released Exxon Mobil from liability on any *Fischer* claims arising during the *Chieftain* claim period. The *Fischer* court denied the motion.

A few months later, Exxon Mobil asked the *Chieftain* court to block the Fischers from pursuing certain *Fischer* claims. Exxon Mobil asked the court to either (1) "enforce its existing injunction by requiring the Fischers to show cause for violating that injunction by pursuing released claims in a state court lawsuit" or (2) "issue a new injunction specifically prohibiting the Fischers from pursuing the released claims in state court." App. vol. II at 160.

The court partially granted and partially denied the motion. *Chieftain Royalty Co. v. XTO Energy, Inc.*, No. 11-CV-29, 2025 WL 2491191, at *1 (E.D. Okla. Aug. 29, 2025). Though it declined to issue a new injunction, the court ruled that "the Fischers' continued pursuit of released claims in state court violates the Judgment and should be enjoined." *Id.* at *5. It then ordered the Fischers to either (1) "show cause within ten days for their violation of the [existing] injunction by pursuing released claims in a state court lawsuit" or

(2) "agree to abide by the existing injunction . . . and dismiss the Released Claims they are pursuing in state court against the Released Parties." *Id.*

The Fischers appealed the district court's order. The same day, they responded to that order by agreeing not to "prosecute or advance the Released Claims during the pendency of the appeal."[3] App. vol. VI at 91.

We abated the Fischers' appeal "pending the district court's disposition of its show cause order." Dkt. No. 18 at 2. Two weeks later, the district court entered a two-line order deeming the Fischers' response "sufficient." App. vol. VI at 98. We then un-abated the appeal.

STANDARD OF REVIEW

We analyze our appellate jurisdiction de novo. *W. Watersheds Project v. Rollins*, 179 F.4th 1233, 1236 (10th Cir. 2026). The appellant bears the burden of establishing jurisdiction. *Id.*

DISCUSSION

The Fischers argue three grounds for appellate jurisdiction: final-order jurisdiction, jurisdiction under the collateral-order doctrine, and jurisdiction based on the modification of an injunction. None is persuasive. We dismiss for lack of jurisdiction.

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[3] By "Released Claims," the Fischers meant claims against Exxon Mobil arising during the *Chieftain* claim period. The Fischers said they "intend[ed] . . . to continue prosecuting" claims arising outside that period. App. vol. VI at 91.

I. Final-Order Jurisdiction

We have jurisdiction to review "all final decisions of the district courts." 28 U.S.C. § 1291. A final decision "signal[s] that the district court's business is done, that it has disassociated itself from the case, [and] that we may act without stepping on the district court's toes." *McClendon v. City of Albuquerque*, 630 F.3d 1288, 1294 (10th Cir. 2011). In a post-judgment proceeding like this one, an order becomes final once "it disposes of all the issues raised in the motion that initially sparked [the] proceeding[]." *In re Syngenta AG MIR 162 Corn Litig.*, 61 F.4th 1126, 1172 (10th Cir. 2023) (citation omitted).

The Fischers appeal the district court's order requiring them to either stop violating the *Chieftain* injunction or show cause for their violation. Though the order didn't mention contempt, the parties see the order as a first step in civil contempt proceedings. We see it that way, too, because courts usually initiate contempt proceedings with show-cause orders. *See, e.g.*, *SEC v. Hyatt*, 621 F.3d 687, 695–96 (7th Cir. 2010); *United States v. Ford*, 514 F.3d 1047, 1050 (10th Cir. 2008).

A post-judgment civil contempt order is final once the district court "(1) ma[kes] a finding of contempt and (2) impose[s] specific, unavoidable sanctions." *FTC v. Zurixx*, 26 F.4th 1172, 1177 (10th Cir. 2022) (citation modified). We apply this rule strictly. For example, in *Zurixx*, the district court found a nonparty in contempt for violating an injunction. *Id.* at 1175. But the court's order "contained no specifics about the amount of the possible sanction." *Id.* at 1178. The order also gave the nonparty a chance to purge the contempt finding. *Id.* at 1175, 1178. Because the court did not impose "a specific, unavoidable sanction," its contempt order was not final, and we dismissed for lack of appellate jurisdiction. *Id.* at 1178.

Likewise, in *United States v. Gonzales*, 531 F.3d 1198 (10th Cir. 2008), we dismissed an appeal from multiple orders directing a defendant to provide information to the IRS. *See id.* at 1200, 1203. One order held the defendant in contempt but gave him a chance to purge the contempt finding by testifying, which he did. *Id.* at 1200. A second order stated that if the defendant did not provide other information to the IRS, he could again be held in contempt. *Id.* Because the second order lacked a contempt finding and both orders lacked a sanction, we held that they were merely "a step along the way in the contempt process" and couldn't be appealed. *See id.* at 1202 (citation omitted).

The show-cause order here lacks both elements of finality. The order gave the Fischers a choice: "show cause . . . for their violation" or "agree to abide by the existing injunction." *Chieftain*, 2025 WL 2491191, at *5. It neither found the Fischers in contempt nor imposed a sanction. If the Fischers failed to show cause or abandon their state-court claims, the district court could then hold them in contempt and consider sanctions. Only after doing so would the court's "business [be] done" and its order final. *McClendon*, 630 F.3d at 1294.

This situation resembles the appellant's situation in *Thomas v. Blue Cross & Blue Shield Ass'n*, 594 F.3d 823 (11th Cir. 2010). In *Thomas*, the district court approved a class settlement and enjoined the class from bringing "Released Claims against one or more Released Parties." *Id.* at 827. A class member later sued one of the released parties in state court, then asked the district court to declare that the injunction did not bar his state-court claims. *Id.* The district court denied his request in a summary order that "did not expressly rule" whether the state claims were barred. *Id.* at 829–30.

The Eleventh Circuit held that the order "lack[ed] the finality required" for jurisdiction under 28 U.S.C. § 1291. *Id.* at 829. Though the order didn't mention contempt, the circuit characterized the order as a prelude to contempt because "injunctions are enforced through the civil contempt power." *Id.* at 830. Based on that characterization, the circuit held that the order wasn't final, because the order "did not hold [the class member] in contempt or impose any sanction for violating the injunction." *Id.* (citation modified).

The Fischers try to distinguish *Thomas* by noting that it "analyzed a state court lawsuit filed *after* the date of the original []class action." Fischers' 28(j) Ltr. at 1. They note that the state and federal cases in *Thomas* "targeted and named the same defendant." *Id.* And they insist that, unlike the cryptic order in *Thomas*, the show-cause order here "directly concluded that the Fischers' state court claims were released." *Id.* at 3.

We don't see how these details affect the show-cause order's finality. Either way, the order lacks a contempt finding and sanction. And without a contempt finding and sanction, we lack appellate jurisdiction—even when the district court "advised [a class member] that [its] claims [were] released and that [it was] enjoined from prosecuting them." *Thomas*, 594 F.3d at 830.[4]

The Fischers next observe that the final-order rule "receives a 'practical rather than a technical construction.'" Fischers' 28(j) Ltr. at 4 (quoting *Moya v. Schollenbarger*, 465 F.3d 444, 449 (10th Cir. 2006) (citation omitted)). Relying on that principle, they say the minute order deeming their response "sufficient" made the show-cause order final by eliminating any "further work or action for the district court to perform until this appeal is resolved." *Id.*

But the law is clear—for post-judgment contempt proceedings, work remains until the district court makes a contempt finding and imposes a specific, unavoidable sanction. *Zurixx*, 26 F.4th at 1177. And like the show-

[4] A leading treatise calls *Thomas*'s approach "questionable" and contrary to the goals of the final-order rule. *See* 16 Wright & Miller's Federal Practice & Procedure § 3924.2 n.37 (3d ed.) (last updated Apr. 2026); 15B Wright & Miller's Federal Practice & Procedure § 3916 n.18 (3d ed.) (last updated June 9, 2026). Yet the treatise also endorses the rule, adopted by several circuits, that contempt orders aren't final without a contempt finding and sanction. *See* 15B Wright & Miller's Federal Practice & Procedure § 3917 (3d ed.) (last updated Apr. 2026); *e.g.*, *Amara v. Cigna Corp.*, 53 F.4th 241, 251–52 (2d Cir. 2022); *In re U.S. Bureau of Prisons*, 918 F.3d 431, 437 (5th Cir. 2019); *Motorola, Inc. v. Comput. Displays Int'l*, 739 F.2d 1149, 1154 (7th Cir. 1984); *In re Tetracycline Cases*, 927 F.2d 411, 413 n.1 (8th Cir. 1991); *Plata v. Schwarzenegger*, 560 F.3d 976, 981 (9th Cir. 2009). The treatise doesn't explain how *Thomas* conflicts with that rule.

cause order, the minute order does neither. So the minute order doesn't support appellate jurisdiction under 28 U.S.C. § 1291.[5]

II. Jurisdiction Under the Collateral-Order Doctrine

The collateral-order doctrine is an outgrowth of the final-order rule, authorizing jurisdiction over "a small class of collateral rulings that, although they do not end the litigation, are appropriately deemed final." *Mohawk Indus. v. Carpenter*, 558 U.S. 100, 106 (2009) (citation modified). Under the collateral-order doctrine, we may review orders that (1) are "conclusive on the question[s] [they] decide[]," (2) "resolve[] important questions separate from the merits," and (3) are "effectively unreviewable if not presented in an interlocutory appeal." *Coomer v. Make Your Life Epic LLC*, 98 F.4th 1320,

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[5] Seemingly only one circuit has taken jurisdiction over a post-judgment enforcement order without a contempt finding or sanction. In *Interdynamics, Inc. v. Firma Wolf*, 698 F.2d 157 (3d Cir. 1982), a company asked the district court whether the company's new product would infringe another company's patent in violation of a consent decree. *Id.* at 160. The court ruled that the first company "would be [in] contempt" of the consent decree if it made or sold the product, and that company appealed. *Id.* (citation modified). Though the Third Circuit "doubt[ed] whether" the district court's order was final, it held that in that "procedurally unusual patent case," the order could be appealed as a declaratory judgment. *Id.* at 164. The Third Circuit later reached the same conclusion in an antitrust and contract case. *See Thermice Corp. v. Vistron Corp.*, 832 F.2d 248, 251–52 (3d Cir. 1987).

We decline to follow that reasoning here. In *Interdynamics*, the Third Circuit's characterization of the district court's order relied on the unusual procedural posture and the "special role" of declaratory judgments in patent cases. 698 F.2d at 165. Because neither is present here, we reserve the issue for a future case. For its part, *Thermice* saw itself as bound by *Interdynamics*. 832 F.2d at 251. Yet the only cases that bind *us* require a contempt finding and a sanction. *E.g.*, *Zurixx*, 26 F.4th at 1177. We stick with that approach today.

1323 (10th Cir. 2024) (citation modified). We apply these conditions not to the specific order on appeal but to "the *category* of orders" it represents. *Tucker v. Faith Bible Chapel Int'l*, 36 F.4th 1021, 1035 (10th Cir. 2022) (citation modified).

A post-judgment order to show cause for violating a court order usually conclusively decides that a violation occurred. But even if such an order meets the collateral-order doctrine's first condition, it fails to meet the others.

To start, post-judgment show-cause orders like this one don't resolve issues "separate from the merits." *Coomer*, 98 F.4th at 1323 (citation omitted). We treat post-judgment proceedings as "distinct from the suit[s] that generated the underlying judgment[s]." *In re Syngenta AG*, 61 F.4th at 1172 (citation omitted). In the post-judgment context, the "merits" are "the issues raised in the motion that initially sparked the postjudgment proceedings." *Id.* at 1172 (citation omitted); *e.g.*, *JPMorgan Chase Bank, N.A. v. Asia Pulp & Paper Co.*, 707 F.3d 853, 868 (7th Cir. 2013). So, for example, if a litigant brings a post-judgment motion to enforce an order against another party, the merits question is whether the second party violated the order. *Motorola, Inc. v. Comput. Displays Int'l*, 739 F.2d 1149, 1152–54 (7th Cir. 1984). And that means the collateral-order doctrine doesn't support an immediate appeal of a ruling on that question. *Id.* at 1154; *Coomer*, 98 F.4th at 1323; *Tucker*, 36 F.4th at 1034.

Post-judgment show-cause orders like this one also aren't "effectively unreviewable if not presented in an interlocutory appeal." *Coomer*, 98 F.4th at

1323 (citation modified). Again, appellate review is available once such orders ripen into final orders with contempt findings and sanctions. *Zurixx*, 26 F.4th at 1177; *Motorola*, 739 F.2d at 1154. Besides, an interlocutory order satisfies the "effectively unreviewable" condition "only if delaying review . . . would imperil a substantial public interest." *Vivos Therapeutics, Inc. v. Ortho-Tain, Inc.*, 142 F.4th 1262, 1266 n.2 (10th Cir. 2025) (citation modified). To that end, "the Supreme Court has repeatedly declined to extend collateral-order treatment to orders stemming from litigation between private parties." *Id.*

The Fischers argue that the show-cause order is effectively unreviewable "because unless this appeal proceeds, [they] will return to state court in a state of jurisdictional purgatory." Fischers' 28(j) Ltr. at 5. They note that the show-cause order is stayed pending appeal and contend that "if [they] were to dismiss their state court claims to avoid being held in contempt, they could never reinstate th[eir] 2002–17 claims because of the statute of limitations." *Id.*

That argument wrongly assumes that a litigant should not have to be held in contempt for us to exercise appellate jurisdiction. But as we and the Supreme Court have recognized, contempt is often an acceptable—and sometimes the only—method of securing appellate review. *See, e.g.*, *Mohawk Indus.*, 558 U.S. at 111; *Church of Scientology of Cal. v. United States*, 506 U.S. 9, 18 n.11 (1992); *Zurixx*, 26 F.4th at 1177–78; *Gonzales*, 531 F.3d at 1202–03. So rather than being stuck in a "jurisdictional purgatory," the Fischers have a clear path for challenging the show-cause order while preserving their state-court claims.

III. Jurisdiction Based on the Modification of an Injunction

We have jurisdiction to review "[i]nterlocutory orders of the district courts . . . granting, continuing, modifying, refusing or dissolving injunctions, or refusing to dissolve or modify injunctions." 28 U.S.C. § 1292(a)(1). In the Fischers' view, § 1292(a)(1) gives us jurisdiction here because the only way the district court could rule that the *Chieftain* injunction bars the Fischers' state-court claims is by modifying what the injunction said.

Whether an order triggers jurisdiction under § 1292(a)(1) depends on the order's "actual, practical effect," not its "captions and vocabulary." *Pimentel & Sons Guitar Makers v. Pimentel*, 477 F.3d 1151, 1153 (10th Cir. 2007). But "the benchmark for when an order modifies an injunction is a high one." *Southern Ute Indian Tribe v. Leavitt*, 564 F.3d 1198, 1209 (10th Cir. 2009). To avoid "collaps[ing] the jurisdictional inquiry into a decision on the merits," we ask only whether the order "gross[ly] or blatant[ly] misinterpret[s] . . . the original injunction." *Id.* (citation omitted).

The show-cause order does not grossly or blatantly misinterpret the *Chieftain* injunction. The order first concludes that Exxon Mobil meets the settlement's definition of "Released Parties" because Exxon Mobil is both a "predecessor" and an "affiliate" of XTO. *Chieftain*, 2025 WL 2491191, at *2–3. The order then concludes that the *Fischer* claims meet the settlement's definition of "Released Claims," which the court read as "cover[ing] every conceivable claim based on allegations that gas royalties were underpaid on

Class Wells during the Class Period." *Id.* at *3–4. Correct or not, these interpretations are reasonably supported by the settlement's language. Any misinterpretations are "subtle," not flagrant. *Pimentel*, 477 F.3d at 1155 (citation omitted). And that's enough to defeat jurisdiction under 28 U.S.C. § 1292(a)(1). *See id.* at 1154–55; *Southern Ute Indian Tribe*, 564 F.3d at 1209.

CONCLUSION

We dismiss the appeal for lack of appellate jurisdiction.[6]

[6] We also deny the Fischers' Rule 42(b)(2) motion to dismiss. Federal Rule of Appellate Procedure 42(b)(2) gives us "broad discretion" to grant or deny voluntary motions to dismiss. *In re Nexium Antitrust Litig.*, 778 F.3d 1, 2 (1st Cir. 2015) (citation omitted). Because we dismiss for lack of jurisdiction, the Fischers' request for dismissal is now moot. Another "relevant factor" is our "investment of time in preparing a decision." *Id.*; *e.g.*, *Albers v. Eli Lilly & Co.*, 354 F.3d 644, 646 (7th Cir. 2004) (denying a Rule 42(b)(2) motion "[a]fter a draft of th[e] opinion had been written"); *Ford v. Strickland*, 696 F.2d 804, 807 (11th Cir. 1983) (en banc) (denying a Rule 42(b)(2) motion "[a]fter full briefing, extended oral argument, and several months of deliberation during which the judges . . . sought to resolve and reconcile the various issues"). The Fischers moved to dismiss more than three months after oral argument, and by then we had finalized a draft opinion. Given the "public resources already devoted to this litigation," "[w]e think it best . . . to carry through so that the investment . . . will have some return." *Albers*, 354 F.3d at 646.