



Issue Date: 08 January 2021

CASE NO.: 2019-STA-00054

In the Matter of:

KEVIN JUDY,
Claimant,

v.

COVENANT TRANSPORT, INC.,
Respondent.

ORDER DISMISSING COMPLAINT

This matter arises under the employee-protection provisions of the Surface Transportation Assistance Act of 1982, 49 U.S.C. § 31105, as amended (STAA). On November 4, 2019, after a conference call with counsel for the parties, I ordered Complainant to file a bill of particulars, specifying (1) each instance of protected activity in which Complainant alleges he engaged; (2) each instance of adverse employment action which he alleges he suffered; and (3) the nature and outcome of each complaint he has filed to date with OSHA.

Complainant filed his bill of particulars on January 14, 2020 as directed. Upon review of his submission, I determined that questions existed as to whether Complainant complied with the timeliness requirements of the STAA, and if he did not, whether his failure should be excused. I issued an order to Complainant to show cause why his complaint should not be dismissed, and directed that he submit certain documentation in support of his submission. Complainant filed a timely response.

Under the regulations implementing the STAA, found at 29 C.F.R. Part 1978, a person alleging discrimination must file a complaint with OSHA not later than 180 days after any alleged adverse action. 29 C.F.R. § 1978.103(d). OSHA may dismiss the complaint if it finds that the complainant has not made out a prima facie case of improper discrimination. 29 C.F.R. § 1978.104(e)(1). If the complaint is accepted for investigation, OSHA investigates and thereafter issues findings and a preliminary order, in which it either finds no violation of the STAA by the employer, or finds a violation, in which case OSHA orders relief to the complainant. 29 C.F.R. § 1978.105. Within 30 days of receipt of OSHA's findings and preliminary order, a party may object to them and request a hearing before an administrative law judge. 29 C.F.R. § 1978.106(a).

In this case, Complainant filed his complaint of discrimination on January 25, 2019. As he was terminated from his employment with Respondent in November of 2016, his complaint was facially untimely, as it was filed more than 180 days after the last adverse action alleged. Timely filing, however, is not a jurisdictional requirement, and untimely filing is subject to equitable tolling principles. I will review Complainant's submission to determine whether his complaint should be dismissed for lack of timeliness, or whether he is entitled to equitable tolling sufficient to make his filing timely.

Findings of Fact and Conclusions of Law

Complainant filed the present complaint on January 25, 2019, alleging "Covenant Transport dispatch will tell drivers to drive when they are fatigued even with the threat of termination if they do not do as told."¹ The complaint was investigated by the Occupational Safety and Health Administration under STAA. The investigator described the complaint as "Complainant alleged that Respondent ordered him on November 25, 2016 to rent a car and drive from his residence in Orlando, FL to Respondent's terminal in Chattanooga, TN while Complainant was on a FMLA absence." In the May 3, 2019 Secretary's Findings dismissing the complaint, the OSHA Regional Supervisory Investigator found (1) that it was untimely filed, and (2) that the same allegations were the subject of complaints filed on January 23, 2017 and May 8, 2017. The Secretary found that former was administratively closed after it was determined that OSHA did not have jurisdiction over the complaint, and the latter was voluntarily withdrawn by Complainant before an investigation was initiated.

The complaint alleges adverse actions occurring in November of 2016, and was filed more than two years later in January of 2019, clearly longer than 180 days after the actions complained of. However, the STAA limitation period for filing an administrative complaint may be subject to equitable tolling. 29 C.F.R. § 1978.103(d); see *Hicks v. Colonial Motor Freight Lines*, 84-STA-20 (Sec'y Dec. 10, 1985), slip op. at 7-8; cf. *Larry v. The Detroit Edison Co., Inc.*, 86-ETA-32 (Sec'y June 29, 1991), slip op. at 11-19, aff'd, No. 91-3737 (6th Cir. Apr. 17, 1992). Recognized bases for equitable tolling include:

- When the employer has actively misled the employee regarding the cause of action;
- When the employee has in some extraordinary way been prevented from filing the complaint; and
- When the employee has raised the precise statutory claim in issue but has done so in the wrong forum.

Edmund v. Metropolitan Transit Authority, ARB No. 09-034, ALJ No. 2009-STA-3, slip op. at p. 5 (ARB Nov. 19, 2009); see *School District of City of Allentown v.*

¹ Complainant apparently filed two other complaints on the same day, but those have not been referred to this Office for a hearing.

Marshall, 657 F.2d 16, 19-20 (3d Cir. 1981), quoting *Smith v. American President Lines, Ltd.*, 571 F.2d 102, 109 (2d Cir. 1978); *Hicks*, *supra*, slip op. at 8.

Mr. Judy argues that he meets each of the bases for equitable tolling, and each will be addressed below.

A. *Misleading the Employee*

1. May 2016 Events

Mr. Judy argues that Covenant Transport deceived him in a way to make it appear that he was being retaliated against for a telephone conversation in which he had behaved professionally and respectfully, and refers to Exhibits A, B, and C of his response to the Order to Show Cause in support of his argument.

Exhibit A is a memorandum dated May 12, 2016 sent by Mr. Judy to Kendra Lee in Employer's human resources department. The memo summarizes a series of conversations Mr. Judy had on May 6 with a dispatcher who, he said, spoke with him disrespectfully and in a demeaning way. After the conversations, Mr. Judy lost his role as a driver trainer; his statement to human resources indicated that he disagreed with that decision, and that he wanted Covenant Transport's employees to be more respectful.

Exhibit B is a memorandum dated May 15, 2016 from Mr. Judy to Ms. Kendra Donahue, another employee of Employer's human resources department. In the memo, Complainant described a meeting on May 13, 2016 to discuss the results of an investigation into the telephone conversations of May 6. Mr. Judy expressed his concern that a primary witness was not contacted during the investigation, and that he had been removed as a trainer. He noted that although he believed the investigation would be about the telephone conversations, it was an investigation into him instead.

Exhibit C is an email from the witness who had not been interviewed in the investigation discussed on May 13, in which the witness supported Mr. Judy's version of the telephone conversations – that Mr. Judy was professional, and that the dispatcher with whom he spoke was rude, unprofessional, and would not let Mr. Judy speak. The witness expressed his shock that Mr. Judy was removed as a driver trainer, saying that he was an outstanding trainer, and if he was removed from his position as a result of the May 6 conversations, the witness would have to reconsider whether he would stay with Employer.

2. Unemployment Compensation Claim

Mr. Judy additionally argues that even months later, Employer continued to “spread a false version of events” in order to deny him unemployment benefits from the state of Tennessee. He submits that their false documents worked, but only temporarily, because he won his benefits claim on appeal. He refers to Exhibits D and E in support of this argument.

Exhibit D is a letter dated January 5, 2017 from a representative of Employer to the Tennessee Department of Labor and Workforce, alleging that on May 12, 2016, Mr. Judy was more than two hours late to a meeting, and during the meeting became insubordinate, was untruthful, and was unprofessional, resulting in his removal by security and his termination effective May 16, 2016. Attached to the letter is a Corrective Counseling Form indicating that he became insubordinate on November 25, 2016 when discussing his status as a driver trainer, and had to be escorted out by security. That form shows that he was terminated on the same date. Also attached is a statement from an unidentified person detailing conversations they had had with Mr. Judy in May of 2016.

Exhibit E is a decision of the Appeals Tribunal awarding unemployment compensation benefits to Mr. Judy after Employer failed to appear at the hearing.

3. Discussion

The documentation in Exhibits A-E shows some factual discrepancies on the part of Employer. For example, Employer's response to the Tennessee Department of Labor and Workforce regarding Mr. Judy's claim for unemployment benefits states that he was discharged in May of 2016, but he was not in fact discharged until November of that year. And reading Exhibits A and B in a light favorable to Mr. Judy, it appears that the company misled him about the nature of the May 12 meeting – he thought it was to discuss the behavior of the dispatcher who was unprofessional when talking with him, but it was to discuss his own behavior.

But Complainant must show that the Employer actively misled him regarding his cause of action under the STAA. There is no evidence that Employer or any of its representatives said anything to Mr. Judy at any time about his rights under the Act, let alone that it misled him. Moreover, the factual discrepancies related to Mr. Judy's claim for unemployment compensation took place in early 2017, but according to Mr. Judy, he had filed a complaint with OSHA in August of 2016 and another in January of 2017. Clearly, then, he was aware of his rights under the STAA.

I find and conclude that Mr. Judy has not established entitlement to equitable tolling based on having been actively misled by Employer concerning his cause of action under the STAA. Likewise, because Mr. Judy refers to the same evidence in his argument that the Employer's actions lulled him into a failure to exercise his rights, I make the same finding and conclusion with respect to that argument.

B. Prevention from Filing Complaint in Extraordinary Way

1. Debilitating Illness or Injury

Mr. Judy argues that he suffered from a variety of physical ailments and mental health conditions that prevented him from filing his complaint timely. In support, he refers to Exhibits F-L.

Exhibit F is a medical note showing that Mr. Judy was diagnosed with an inguinal hernia, as well as stress and anxiety, on May 16, 2016. He was referred to a surgeon for treatment for the hernia, and to EAP, which I interpret to mean the Employee Assistance Program, with regard to the stress and anxiety. He was allowed to return to work with restrictions.

Exhibit G is a note dated June 8, 2016, from University Surgical Associates after evaluating Mr. Judy for a right inguinal hernia. The physician recommended surgery for that condition, but only after Mr. Judy was evaluated for what appeared to be significant anxiety. The physician permitted Mr. Judy to return to work in a sedentary occupation until surgery could be performed.

Exhibit H is a note dated July 11, 2016 from Prameet Bhushan, M.D., with regard to Complainant's psychological or psychological condition. After evaluating Mr. Judy, Dr. Bhushan diagnosed Complainant with post-traumatic stress disorder and recommended medical management, referral to a therapist, and self care.

Exhibit I is a therapist progress note dated July 26, 2016, from Tracy Schultz, Ph.D., a clinical psychologist. Dr. Schultz noted that his progress was fair and his treatment compliance was average.

Exhibit J is a record from Lake Health indicating that Mr. Judy went to the emergency department on August 17, 2016 complaining of chest pain. He reported an eight-month history of intermittent chest pain, tending to appear when he was stressed at work. He also reported nausea and vomiting along with the pain, and that he had coughed up blood that morning. After evaluation, Mr. Judy was discharged with a diagnosis of anxiety disorder, and prescribed medication for anxiety, for nausea, for pain, and for shortness of breath.

Exhibit K is a behavioral health consultation note dated February 23, 2017, describing Complainant as acutely anxious and stressed over events that had occurred at work before they let him go. He was prescribed medication for anxiety and depression.

Exhibit L is a record dated April 20, 2017 from Colonial Town Centra Care, where Complainant was seen for bilateral wrist pain. He reported that aggravating factors included grasp and movement, and it was aggravated by using a steering wheel. He stated that when he drove on November 24, 2016 he noticed pain in both wrists, worse on the left, and that he had not driven a semi since then. Mr. Judy reported that he was being treated for PTSD and that his primary care physician had given him gabapentin for the wrist pain, with no relief. The physician who saw Mr. Judy on April 20, 2017 recommended referral to an orthopedist to determine whether the wrist pain was work related, and recommended a workup by his primary care physician to assess his fatigue. Mr. Judy was permitted to return to functional activities with certain restrictions.

2. Discussion

Mr. Judy has documented that he suffered from physical and psychological conditions beginning before his termination from Employer, and continuing through April 20, 2017. But he has not demonstrated that those conditions prevented him from filing a timely complaint under the Act. The medical records either are silent on his ability to perform activities of daily life, or demonstrate that he could perform activities of daily life, with some physical restrictions on lifting, pushing, pulling, and the like. And even assuming that Mr. Judy was prevented by ill health from filing his complaint up to April 20, 2017, there is no evidence that Mr. Judy continued to be ill after that date or was incapable of filing his complaint much earlier than January of 2019. Indeed, his own submission shows that he filed complaints with OSHA, with the Tennessee Highway Patrol, with the Federal Motor Carrier Safety Administration, Tennessee OSHA, and the EEOC between August of 2016 and May of 2017, encompassing the entire period for which he has provided documentation of his physical and psychological impairments. Surely, if he could file those complaints, he was capable of filing another OSHA complaint under the Act.

Courts have generally declined to allow equitable tolling for reasons of ill health unless the plaintiff has been adjudicated, or institutionalized, as mentally incompetent. *Steward v. Holiday Inn, Inc.*, 609 F. Supp. 1468, 1469 (E.D. La. 1985) (physical and mental incapacity are not an additional category for tolling time limitation); *Kerver v. Exxon Prod. Research Co.*, 40 FEP Cases 1567, 1568 (S.D. Tex. 1986) (no tolling due to plaintiff's psychological impairment resulting from job loss). There is no evidence that Mr. Judy has been adjudicated or institutionalized as mentally incompetent. And although he argues that he was emotionally upset for many months and could not work until the fall of 2019, he has not supported that argument with any evidence. Complainant's bare assertion that he could not timely file his complaint because he had been under extreme duress and on medication for physical and psychological conditions does not provide sufficient grounds for equitable tolling. See *Ellis v. Ray A. Schoppert Trucking*, 92-STA-28 (Sec'y Sept. 23, 1992).²

I find and conclude that Mr. Judy has not established his entitlement to equitable tolling on the basis of his physical and/or psychological condition.

C. *Major Natural or Man-Made Disaster*

1. Flooding

Mr. Judy argues, referring to Exhibit M, that over the course of his employment with Employer, his condominium flooded multiple times, causing

² Moreover, as in *Ellis*, there is nothing to show that Mr. Judy could not have had a lay representative or an attorney file a complaint on his behalf. Although he states that he did not have an attorney, he has not claimed that he was unable, due to his illnesses, to find one.

damage to his home and his personal belongings. Additionally, he argues, referring to Exhibit N, that there was a hurricane in Orlando in the fall of 2017.

Exhibit M consists of two pictures of the interior of a building with missing drywall and bare studs. It is, candidly, impossible to tell whether the drywall was removed due to flooding damage or has not yet been installed, but for purposes of this order I will accept Complainant's implication that the pictures represent flood damage.

Exhibit N is a news article describing damage to areas of Orlando from Hurricane Irma in September of 2017.

2. Discussion

Exhibit M is undated, so there is no way to determine whether the damage was sustained during the period between Mr. Judy's termination and January of 2019, when he filed his complaint with OSHA. But in his submission, he states that this damage occurred while he was still employed by Covenant Transport. If so, it cannot have prevented him from filing his complaint in a timely fashion.

Exhibit N demonstrates the fact of a hurricane causing damage in Orlando, but does not support any allegation – which Mr. Judy has not made – that the hurricane caused damage to his home to the extent that it prevented him from filing a timely complaint.

I find and conclude that Mr. Judy has not shown entitlement to equitable tolling based on natural or man-made disasters.

D. Raising the Precise Statutory Claim in the Wrong Forum

1. Other Complaints

According to Complainant, he raised the precise statutory claim that he has raised in this matter to other agencies earlier, and is entitled to equitable tolling on that basis. He argues that he made a report to the Tennessee Department of Safety, Tennessee Highway Patrol on January 23, 2017, and was referred to the Federal Motor Carrier Safety Administration. He argues that the complaints filed with the FMCSA on January 23, 2017 (Exhibit O), to Tennessee OSHA on January 26, 2017 (Exhibit P), and to the EEOC on March 7 (Exhibit Q) and May 10 (Exhibit R), 2017, raised the same issues as the complaint before me, and show that he is entitled to equitable tolling.

Exhibit O consists of an email dated January 23, 2017 sent by Mr. Judy to FMCSA, detailing a number of safety concerns Mr. Judy had with Covenant Transport's operations. Included in the list of concerns was that Mr. Judy was required to rent a car and drive from Orlando to Chattanooga when he was tired, over his objection, and was terminated the following day when he asked why. Also included is an undated letter from FMCSA to Mr. Judy advising him that his

complaint had been received and, if his allegations were found to be valid, that FMCSA would investigate and inform him of their findings.

Exhibit P is a copy of a letter dated January 26, 2017 from the Tennessee Department of Labor and Workforce to Mr. Judy, advising him that the complaint he had filed two days earlier was not to be investigated because the complaint did not fall within that agency's jurisdiction. The letter referred Mr. Judy to the Tennessee Department of Safety, Tennessee Highway Patrol. He was advised to file a complaint with Tennessee OSHA or OSHA if he believed that he had been treated differently because of his safety or health activity.

Exhibit Q is a charge of discrimination filed by Mr. Judy on March 7, 2017 with the EEOC, alleging discrimination on the basis of sex and retaliation on May 11, 2016. He alleged that he was demoted from his position as a trainer as an act of retaliation, and because of his sex. In the body of his complaint, Mr. Judy stated that he was terminated after asking why he was told to drive while he was very tired.

Exhibit R is a charge of discrimination filed by Mr. Judy on May 10, 2017, alleging that he was terminated in retaliation for his having complained about a dispatcher's harassment related to his sex and age. In the body of his complaint, Mr. Judy stated that he had been forced to drive more than 500 miles while he was tired and that after he asked a supervisor why, he was discharged.

2. Discussion

To prevail in an action under the STAA, Complainant must show: (1) that he engaged in a protected activity; (2) that he suffered an adverse employment action; and (3) that the protected activity contributed to the adverse employment action.

The present case is based on Mr. Judy's allegation that he was terminated for raising concerns about being forced to drive from Orlando to Chattanooga while tired, over his objections. There is nothing to suggest that Mr. Judy made similar allegations in his January 24, 2017 complaint to the Tennessee Department of Labor and Workforce, and therefore he has not shown that he is entitled to equitable tolling based on that complaint.

The other three complaints, however, did include allegations that Mr. Judy was terminated for raising concerns about being required to drive a rental car from Orlando to Chattanooga while he was very tired. This creates the possibility that he is entitled to equitable tolling based on those complaints, which were all filed with agencies other than the Department of Labor. But the flaw in this reasoning is that Mr. Judy in fact filed a complaint making the same allegations with OSHA on January 24, 2017 (Exhibit X), at the same time that he was making complaints to FMCSA and the EEOC. Because he filed a proper – and timely – complaint with OSHA at that time, it is inconceivable that equitable tolling would be available because similar complaints were filed in the wrong fora.

I find and conclude that Mr. Judy is not entitled to equitable tolling on the basis that he filed the same statutory claim in the wrong forum.

E. Other Extenuating Circumstances

1. Care of Family Members

Mr. Judy argues that other extenuating circumstances should be taken into consideration in evaluating his claim for equitable tolling. Referring to Exhibit S, he argued that he had to be with Donna Dunn at the beginning of 2019, when her health took a turn for the worse; she passed away on May 5, 2019. Referring to Exhibit T, Mr. Judy argues that his brother Eric Judy had a various serious problem in August of 2016, and he was required to go to Ohio and care for him.

Exhibit S is a copy of a State of Ohio Health Care Power of Attorney of Donna L. Dunn, in which Ms. Dunn named Mr. Judy as her primary agent for making health care decisions on her behalf.

Exhibit T is a copy of a letter from the Unum Leave Management Center to Dr. Sara Prem, requesting her to provide certification of the need for Mr. Judy to take leave to care for his brother. The exhibit does not include her response.

2. Discussion

Mr. Judy's need to care for Ms. Dunn commenced at the beginning of 2019. Mr. Judy filed the present complaint on January 25, 2019. A need arising at the same time cannot be used to support equitable tolling, and in any event Mr. Judy's submission does not show that he was incapable of filing a complaint at the same time that he was caring for his family member.

Mr. Judy's need to care for Eric Judy occurred in August of 2016, well before Mr. Judy's termination. It therefore cannot be used to support equitable tolling for the 180-day period that began on his termination.

F. Withdrawal of May 2017 Complaint

1. Background

Mr. Judy filed a complaint on January 24, 2017 that alleged a number of adverse employment actions taken in retaliation for his protected activity of having questioned the order to drive while fatigued. (Exhibit X.) That complaint was timely filed. Mr. Judy states that the supervisory investigator administratively closed that complaint on March 13, 2017 after having advised Complainant to contact the Department of Transportation.

Mr. Judy filed another complaint on May 8, 2017 that alleged he was terminated for raising concerns about the order to drive while he was fatigued. (Exhibit Z.) This complaint was filed less than 180 days after his termination, and

was therefore timely. Complainant asserts that after he filed the complaint, an OSHA whistleblower investigator advised him to withdraw it voluntarily and file a lawsuit in federal court, because, he said, Employer would destroy relevant evidence and would prevail in the administrative complaint, giving them a perceived victory. Although he “had a bad feeling about it,” Mr. Judy followed the investigator’s advice and requested to withdraw his complaint. The request was approved by letter dated June 15, 2017. (Exhibit AC.)

2. Discussion

The allegations that Mr. Judy was discouraged from pursuing his May 2017 complaint are concerning. If true – and at this stage of the proceedings I must assume that they are – they may well constitute a basis for equitable tolling. Thus, for purposes of this order, I will assume without deciding that equitable tolling is available based on the conduct of the OSHA investigator. But the extent of the tolling is unclear. The most favorable view of that issue for Mr. Judy would be that the 180-day filing period began again on June 15, 2017, when his purported voluntary dismissal was approved. At that point, he would have had 180 more days, or until December 12, 2017, to re-file his complaint. He did not do so, and for the reasons discussed above, his failure to do so during that period of time is not subject to equitable tolling.

Conclusion

I find and conclude that Complainant has not met his burden to show that he is entitled to equitable tolling of the 180-day period allowed to file a complaint of discrimination, and that his complaint must therefore be dismissed.

ORDER

For the foregoing reasons, IT IS ORDERED that the complaint in this matter is DISMISSED.

SO ORDERED.

PCJ/ksw
Newport News, Virginia

PAUL C. JOHNSON, JR.
District Chief Administrative Law Judge

NOTICE OF APPEAL RIGHTS: To appeal, you must file a Petition for Review ("Petition") with the Administrative Review Board ("Board") within **fourteen (14) days** of the date of the administrative law judge's decision.

Your Petition is considered filed on the date of its postmark, facsimile transmittal, or e-filing; but if you file it in person, by hand-delivery or other means, it is filed when the Board receives it. See 29 C.F.R. § 1978.110(a). Your Petition must specifically identify the findings, conclusions or orders to which you object. You may be found to have waived any objections you do not raise specifically. See 29 C.F.R. § 1978.110(a).

At the time you file the Petition with the Board, you must serve it on all parties as well as the Chief Administrative Law Judge, U.S. Department of Labor, Office of Administrative Law Judges. You must also serve the Assistant Secretary, Occupational Safety and Health Administration and, in cases in which the Assistant Secretary is a party, the Associate Solicitor, Division of Occupational Safety and Health. See 29 C.F.R. § 1978.110(a).

If no Petition is timely filed, the administrative law judge's decision becomes the final order of the Secretary of Labor pursuant to 29 C.F.R. §§ 1978.109(e) and 1978.110(b). Even if a Petition is timely filed, the administrative law judge's decision becomes the final order of the Secretary of Labor unless the Board issues an order within thirty (30) days of the date the Petition is filed notifying the parties that it has accepted the case for review. See 29 C.F.R. § 1978.110(b).

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The Notice of Appeal Rights has changed because the Board has implemented a new eFile/eServe system ("EFS") which is available at <https://efile.dol.gov/>. If you use the Board's prior website link, dol-appeals.entellitrak.com ("EFSR"), you will be directed to the new system. Information regarding registration for access to the new EFS, as well as user guides, video tutorials, and answers to FAQs are found at <https://efile.dol.gov/support/>.

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Registration with EFS is a two-step process. First, all users, including those who are registered users of the current EFSR system, will need to create an account at login.gov (if they do not have one already). Second, users who have not previously registered with the EFSR system will then have to create a profile with EFS using their login.gov username and password. Existing EFSR system users will not have to create a new EFS profile. All users can learn how to file an appeal to the Board using EFS by consulting the written guide at: <https://efile.dol.gov/system/files/2020-11/file-new-appeal-arb.pdf> and the video tutorial at <https://efile.dol.gov/support/boards/new-appeal-arb>.

Establishing an EFS account under the new system should take less than an hour, but you will need additional time to review the user guides and training materials.

If you experience difficulty establishing your account, you can find contact information for login.gov and EFS at <https://efile.dol.gov/contact>.

If you file your appeal online, no paper copies need be filed. **You are still responsible for serving the notice of appeal on the other parties to the case.**

Filing Your Appeal by Mail

You may, in the alternative, including the period when EFSR and EFS are not available, file your appeal using regular mail to this address:

U.S. Department of Labor

Administrative Review Board

ATTN: Office of the Clerk of the Appellate Boards (OCAB)

200 Constitution Ave. NW

Washington, DC 20210-0001

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If you are a party other than the party that is appealing, you may request access to the appeal by obtaining a login.gov account and creating an EFS profile. Written directions and a video tutorial on how to request access to an appeal are located at: <https://efile.dol.gov/support/boards/request-access-an-appeal>

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