U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 18 June 2020

CASE NO.: 2020-STA-37

In The Matter Of:

ADRIANO BUDRI,
Pro Se Complainant,

v.

FIRSTFLEET, INC.,
Respondent.

ORDER OF DISMISSAL

This proceeding arises under the Surface Transportation Assistance Act of 1982[1] and the regulations promulgated thereunder.[2] The Secretary of Labor is empowered to investigate and determine "whistleblower" complaints filed by employees of commercial motor carriers who are allegedly discharged or otherwise discriminated against with regard to their terms and conditions of employment because the employee refused to operate a vehicle when such operation would violate a regulation, standard, or order of the United States related to commercial motor vehicles.

BACKGROUND

This is the fourth iteration of litigation concerning the termination of Complainant's employment with Respondent. Respondent hired Complainant as a commercial truck driver on 25 Jan 17. Citing an unreported accident in which Complainant tore a door off of a trailer, a failure to deliver a time sensitive order, and a failure to properly secure a load that resulted in cargo damage, Respondent fired Complainant on 17 Feb 17.

Complainant responded on 20 Mar 17 by filing a complaint with OSHA, alleging that Respondent had terminated him in retaliation for his protected activity. OSHA dismissed his complaint, he objected, and the case was referred to OALJ. Respondent filed a Motion for Summary Dismissal and Complainant filed an answer in opposition. The

[1] 49 U.S.C. § 31105 (herein the Act).
[2] 29 C.F.R. Part 1978.

Administrative Law Judge entered mixed findings as to the allegations of protected activity, but also found that none of the alleged protected activity contributed to Complainant's termination. Accordingly, he granted Respondent's motion and dismissed the complaint.[3]

Complainant appealed that decision to the Administrative Review Board (ARB), which found error in the ALJ's mixed findings as to protected activity, but nonetheless affirmed his determination that no alleged protected activity contributed to the termination. Complainant appealed the ARB's affirmance of the dismissal decision to the Fifth Circuit, which issued a *per curiam* affirmance of the dismissal on 9 Apr 19.[4] Complainant's subsequent petition for *writ of certiorari* to the Supreme Court was denied on 15 Oct 19.[5]

In the meantime, Complainant had filed a second complaint with OSHA, alleging that Respondent had taken additional adverse action against him by reporting negative information about him to Tenstreet, a company that provides data about truck drivers to potential employers. OSHA dismissed the complaint, Complainant objected, and the case was referred to the same ALJ, who withheld adjudication of the second complaint until the ARB acted on Complainant's appeal of the dismissal of the first complaint.

After the ARB affirmed the dismissal of the first complaint, the ALJ found that Complainant had first learned of the alleged adverse action on 12 Jun 17. He further noted that since a reporting agency's retention of the same information does not create a continuous violation, Complainant's OSHA complaint was untimely. He also found that no protected activity contributed to the information Respondent provided Tenstreet. Therefore, he dismissed the complaint on those alternative grounds.[6] Once again, Complainant appealed to the ARB, which summarily affirmed the ALJ's dismissal for untimeliness.

However, again in the meantime, while that appeal was pending, Complainant had filed an action against Respondent in Federal District Court. After the ARB affirmed the dismissal, he sent it notice of his pending District Court complaint. The ARB responded by vacating its previous order of affirmance for lack of jurisdiction on 30 Jul 19.[7] The District Court then dismissed his complaint, noting that he had received a final agency determination in the form of the ARB affirmance of the ALJ's dismissal and he had elected to appeal that determination to the Fifth Circuit.[8] The district court also reprimanded Complainant, ordering him to obtain authorization before filing any

[3] 2017-STA-86.
[4] 764 Fed. Appx 431 (9 Apr 19).
[5] 2019 WL 5150521.
[6] 2018-STA-33 (26 Jun 18).
[7] ARB 2018-0055 (25 Mar 19).
[8] 2019 WL 5587181 (20 Sep 19).

additional civil action.[9] Complainant appealed that ruling to the Fifth Circuit, which ultimately dismissed the appeal because of his failure to comply with its order.[10]

Once again in the meantime, Complainant filed his third complaint to OSHA. It specified no protected activity, but alleged as an adverse action that Respondent provided Tenstreet information that continued to be maintained by Tenstreet as of 12 Jun 17, 15 Jan 18, 25 Oct 18, and 29 Aug 19. OSHA dismissed the complaint, Complainant objected, the case was referred to me, and I ordered Complainant to file a Bill of Particulars. His response was a lengthy collection of largely irrelevant documents and various allegations, including new allegations of protected activity, which were entirely irrelevant to the question of whether his complaint to OSHA was untimely.

Respondent moved to dismiss and Complainant essentially revisited his earlier unsuccessful argument that Tenstreet's maintenance of the information provided by Respondent constitutes a continuing adverse action by Respondent. I dismissed the complaint as untimely.[11] Complainant appealed, and the ARB affirmed.[12]

CURRENT POSTURE

Complainant filed his fourth and current complaint with OSHA on 7 Feb 20. He alleged that on 31 Oct 19 he had received notice that negative or derogatory information that Respondent had provided to Tenstreet, LLC on or about 12 Jun 17 would remain on his driver's report. On 28 Feb 20, OSHA dismissed the complaint. On 8 Mar 20 Complainant objected to the OSHA findings and requested a hearing before the Office of Administrative Law Judges (OALJ). The case was referred to OALJ and assigned to me.

Given Complainant's history, I directed the parties' attention to the Rules of Practice as amended by the Chief Judge's Administrative Order in light of COVID-19's impact on case management. I instructed them to file all documents by email only to the office filing address. I specifically ordered Complainant to discontinue his use of individual DOL OALJ email addresses, as that practice only serves to confuse and delay.

I also ordered Complainant to file a detailed Bill of Particulars that explains his principal factual allegations in regard to each alleged protected activity and each adverse action and the date of each such adverse action. I explained that no detailed specific facts were necessary if he was alleging the same protected activity or adverse action from previous complaints, since he could incorporate them by reference. I specifically directed him to identify any alleged adverse actions that were not included in his previous three complaints and to limit his response to five pages.

[9] 2019 WL 5578975 (29 Oct 19).
[10] 19-11203, 2019 WL 8645418 (5th Cir. Dec. 18, 2019).
[11] 2019-STA-71 (26 Dec 19).
[12] ARB No. 2020-0021, (7 Jan 20) (*per curiam*).

Complainant responded by requesting additional time in order to conduct additional discovery and research. I denied the request, explaining again that at that point in the litigation he needed only to identify the facts he believed entitled him to relief. No legal research, argument, or supporting evidence was necessary.

Complainant then filed a Motion for Leave to exceed the length limitations in my order. He specifically requested permission to file a five-page chart with text as small as eight point font, along with five pages in the directed font. He cited the extensive litigation history of his case and pointed out that he is acting *pro se*.

Within twenty-four hours of filing that motion, Complainant supplemented it with an email (with no apparent copy to opposing counsel) explaining that his draft Bill of Particulars was 18 pages long. He went on to recount his former supervisor's criminal record, pointed out that his first pre hearing statement required 78 pages, and offered legal arguments.

I denied the motion to exceed the prescribed length. I noted that Complainant either did not understand the purpose of my order or was simply incapable of following it. I again instructed him that the only purpose of the Bill of Particulars was to state his protected activity and Respondent's adverse action. I again explained that the length of the litigation and the number of appeals have no relevance to anything that should be contained in the Bill of Particulars, which required no discussion of criminal records, FOIA requests, consumer investigation reports, conspiracies, or legal theories concerning tolling of statutes of limitations. I also provided examples of the appropriate format and emphasized that no legal arguments or proof supporting the factual allegations were necessary and none would be accepted. I assured Complainant that if any of the specifics in the Bill of Particulars were determined to be vague or insufficiently specific, he would have an opportunity to amend them and if the issue of whether he filed a timely complaint arose, he would have an opportunity to submit legal arguments and establish facts to support those legal arguments.

Notwithstanding my specific order to the contrary, Complainant responded by submitting ten separate filings. Although the filings included what was titled a *Bill of Particulars* with only a very few exceptions, they were fundamentally contrary to my specific direction. Many of the filings included lengthy discussions about the history of the litigation and appeals, criminal records, and arguments about weighing evidence. I noted that, given the simplicity and specificity of my order, along with Complainant's experience in litigation, his filings could be viewed as submitted in willful disobedience of my order. I cautioned Complainant that his actions of defiance could constitute grounds for dismissal.

Nonetheless, I extracted from the lengthy mix of irrelevant factual assertions, misstated legal principles, and inapposite arguments the information that Complainant was ordered to submit. I concluded that Complainant had alleged:

- Protected activity on or about 21 Feb 17
    - Reported unsafe conditions to Respondent
    - Refused to operate unsafe equipment
    - Filing a complaint and/or being perceived to file a complaint
    - Furnishing information related to the safety accident or incident
    - Reporting accurate hours of service

- Adverse Actions
    - Terminated by Respondent on or about 21 Feb 17
    - On 12 Jun 17, a third-party reporting agency (Tenstreet) reported negative information received from Respondent
    - Sometime after 12 Jun 17, Respondent disclosed to Tenstreet new and additional adverse employment actions

I noted that the adverse actions of termination and release of negative information by Tenstreet as of 12 Jun 17 formed the basis of Complainant's first two complaints, which were ultimately denied and affirmed on appeal. I further noted that Complainant resurrected them in his third complaint and I denied them as subject to issue preclusion and *res judicata*. Consequently, I denied the current complaint as to those adverse actions.

That left as the only possible adverse action Complainant's allegation that on 31 Oct 19, Tenstreet's attorney disclosed that sometime after 12 Jun 17, Respondent sent Tenstreet new and additional adverse information. I noted that while the disclosure by Tenstreet's attorney itself could not be an adverse action by Respondent, depending on its specific timing and content, an additional transmittal of information by Respondent might constitute a cognizable adverse action.

Therefore, I ordered Complainant to specifically allege, as he was originally ordered to do, what Respondent did that constitutes a new adverse action. I specifically directed him to identify what information he alleges Respondent provided to Tenstreet and on what date it was provided. He was also ordered to state on what date and how he became aware of that disclosure by Respondent and was given examples of the proper format. I ordered him to limit his response to no more than three pages and not to submit any legal arguments, case citations, or evidence. I explained again that Complainant was not to argue why his protected activity was based on his reasonable belief, why any protected activity played a role in any adverse action, or even why his complaint was timely, since he would be given the opportunity to do so, if necessary, at the appropriate time later in the litigation. I warned him that if he nevertheless once again began filing multiple

motions and submitting documents in violation of this order, his case may be denied because of his repeated violations of court orders.

Complainant responded by filing emails in which he requested permission to allege (1) a new adverse action related to a link on a social media site that he first learned of on 21 Feb 20 and (2) "what may be additional adverse action(s) that occurred after the post 12 Jun 17 disclosure that was the subject of my order to clarify."

Since the request was generally consistent with my order, I granted him leave to do so, although I again told him he was not to submit any evidence, legal arguments, discussions about the actions of opposing counsel, or argue about the credibility of any evidence. I again cautioned him that his case could be dismissed because of his obstreperous conduct, but increased the maximum limit of his response from three to four pages.

Complainant's response alleged that

1) He requested five consumer investigations from Tenstreet and

> after to have received the first consumer report dated June 12, 2017, and to obtain specific information about the adverse employment action information notice for "company policy violation" and provided from FIRSTFLEET as employment references provider to TENSTREET as private consumer reporting agency and specialized in trucking employment references. According to TENSTREET's Attorney, it was the "company policy violation" that led the Complainant for one involuntary termination of the employment and not being eligible to be rehired.

2) He received a letter from Tenstreet's attorney on 11 Nov 19. The letter was a "supplemental communication of information and regarding the consumer report of the fifth consumer investigation concluded[.]" It contained "a description of the (03) three supposed issues occurred and not having been disclosed to Complainant from all consumer reports requested on and after June 12, 2017." The incidents were "**1)** Early arrival at Anheuser Busch for pick-up; **2)** Failure to secure load, and **3)** Failure to inform FIRSTFLEET of a non-DOT accident in February, 2017." The letter "does not mention any specific citation as '*Company Policy Violation*' and described from the FIRSTFLEET'S Employee Handbook for Company Policies Violations." Nor does it "mention any citation of the page and description for company policy violation from FIRSTFLEET, INC as employer."

3) On 21 Mar 20, Complainant became aware that a social media website[13] that

[13] https://www.businessinsurance.com/article/20190410/NEWS08/912327802/Driverfired-for-accidents-behavior-not-protected-activity.

> published adverse employment actions against the Complainant and whose source of the information has been obtained from the ALJ's recommended "D&O" of the first administrative *de novo* proceeding occurred, from the ARB final administrative decision from the first administrative *de novo* proceeding occurred and from the Panel's holding from the U.S. Court of Appeals for the 5th Circuit occurred and from the first administrative *de novo* proceeding occurred and that have as origin the defamatory information from one suspicious hearsay self service affidavit provided from one felony FIRSTFLEET'S Fleet Manager to the ALJ assigned of the first administrative *de novo* proceeding.

I determined that Complainant had been afforded more than sufficient opportunities to clarify and identify the adverse actions he alleges as a basis for his current complaint. Accordingly, I ordered Respondent to file its answer to his allegations and any motions to dismiss. I informed Complainant that he would then have an opportunity to respond, if necessary. I again ordered Complainant to file no additional motions or documents relating to evidence, arguments, or legal citations until he received Respondent's answer and any motions.

Nonetheless, and even in recognition that he was violating my order,[14] Complainant filed an eight page document that he identified as a Motion for an Order to Show Cause, but was primarily an attack on Respondent and its counsel. Complainant attached to his motion a copy of the confidential settlement documents in a different case. A few days later, Complainant filed what he described as a Motion for Judicial Notice, but what was again an attack on Respondent's counsel for what he alleged was unethical conduct. Complainant then filed yet two more motions with accusations of fraud by Respondent and its counsel a few days later, still in violation of my order.[15]

On 21 May 20 Respondent filed a Motion to Dismiss the complaint, arguing that, to the extent that Complainant had alleged any adverse actions, they had been fully adjudicated in his previous three complaints, correctly found to be out of time, and in any event are barred by *res judicata* and estoppel. It also noted that Complainant had threatened to file yet another complaint with OSHA if he is not satisfied with the current litigation, cited the expense it has incurred, the waste of judicial resources, and asked for sanctions and a protective order to prevent Complainant from continuing to abuse the administrative process.

The same day he received Respondent's Motion, Complainant sent an email asking when his answer was due and "the specific issues for stipulation to be replied." He observed

[14] His email states, "In spite of the fact that the Respondent FIRSTFLEET, Inc has until **05/20/2020** to respond the Complainant's Factual Allegations and filed in this Court…."

[15] Complainant addressed his filing to more than 40 email addresses, including the individual OALJ email accounts he had been ordered not to use.

that Respondent had alleged "untimely filling, res-judicata, and collateral estoppel doctrines, and rebutting the Complainant's equitable principles doctrine for tolling and estoppels…." He also complained that "Respondent has overstepped the ALJ's order stipulations and having filed besides of the Motion to Dismiss for Summary Decision, also one another Motion to Show Cause, and including another Motion and requesting sanctions against the Complainant too."

Less than five hours after sending his request for guidance, Complainant nevertheless filed his answer to Respondent's Motion. Over the next four hours, he filed a number of exhibits, followed by more exhibits the next day.

Complainant then filed:

- An emergency motion for discovery and a subpoena
- A request for written interrogatories
- A 29 page motion to "show cause" that his case should not be dismissed
- A motion to compel production and or allow inspection
- A notice of intent to serve subpoena *duces tecum*
- A copy of a letter he sent to a newspaper in Tennessee
- A motion to take judicial notice that he had been previously denied a fair hearing
- A motion for judicial notice and invoking discovery
- A copy of a letter sent to the Tennessee Bar
- A copy of a letter sent to the Secretary of Labor
- A request to have his filings entered into the OALJ docket tracking system
- A request for judicial notice that he may remove his case to District Court
- A request for judicial notice of the criminal records of Respondent's managers
- A notice of deposition of Daniel Humphreys
- A notice of deposition upon written questions of Daniel Humphreys
- A notice of deposition of John Cole
- A response to Respondent's motion to quash the Humphreys deposition
- A request for in camera inspection of counsel's "self service" documents
- A request for written interrogatories of Humphreys
- A copy of his request that the Fifth Circuit take notice of this fourth complaint
- A request for notice of compliance and the issuance of a further scheduling order
- A motion for a referral of counsel's misconduct to his state bar
- A motion for notice that Respondent/Tenstreet actions constitute blacklisting
- A motion for notice that Respondent violated the Federal Credit Reporting Act
- A request for extensive discovery and expedited adjudication

Complainant's most recent filings were (1) a warning that if I fail to rule on his dispositive motion and enter an order granting broad discovery he will obtain a writ of

mandamus from the Fifth Circuit ordering me to do so; (2) a request for notice that he had recently visited a social media site that discussed his case and therefore just became aware of a new adverse action, making his complaint timely; and (3) a letter to the OALJ General Counsel complaining that no orders or decisions have been issued in his case and again threatening to obtain a writ of mandamus.

DISCUSSION

Complainant's penultimate filing clearly demonstrates his misapprehension of the law. His allegation that he just came upon a social media site discussing the termination of his employment with Respondent and subsequent litigation provides him no basis to argue that his complaint is now timely. As I and every other adjudicative body to which he has made that argument have repeatedly instructed him, maintenance and/or re-disclosure by a third party of information provided by an employer does not constitute new or continuous adverse action. Moreover, none of the other allegations Complainant made in his initial or amended Bill of Particulars[16] constituted actionable adverse activity. Consequently, Complainant's fourth and most recent complaint fails to state a claim upon which relief can be granted.

However, even if that were not the case, Complainant's conduct warrants dismissal of his complaint. The applicable regulations give presiding administrative law judges the power to regulate the course of proceedings, terminate proceedings through dismissals, and take any appropriate action authorized by the Federal Rules of Civil Procedure.[17] Those rules authorize involuntary dismissal of a claim where a party fails to comply with court orders.[18] Factors to consider before imposing the harsh remedy of dismissal include

> (1) prejudice to the other party, (2) the amount of interference with the judicial process, (3) the culpability, willfulness, bad faith or fault of the litigant, (4) whether the party was warned in advance that dismissal of the action could be a likely sanction for failure to cooperate or noncompliance, and (5) whether the efficacy of lesser sanctions were considered.[19]

A strong argument could be made that the very act of filing this complaint constituted no more than an attempt to vex Respondent, given that nothing related to his three previous filings could have given any reasonable person cause to believe he might have a good faith basis for filing a fourth. However, even Complainant understood that he was

[16] See numbered paragraphs one and two of three, supra.
[17] 29 C.F.R. §§ 18.12 (b) (1), (6), and (10).
[18] Rule 41(b), Fed. R. Civ. Pro.
[19] *Howick v. Campbell-Ewald Co.*, ARB Nos. 03-156 and 04-065, (ARB Nov. 30, 2004) (citing *Conkle v.Potter*, 352 F.3d 1333, 1337 (10th Cir. 2003); *Gripe v. City of Enid*, 312 F.3d 1184, 1188 (10th Cir. 2002); *Mulbah v. Detroit Bd. of Educ.*, 261 F.3d 586, 589 (6th Cir. 2001); *Knoll v. Am. Tel. & Tel. Co.*, 176 F.3d 359, 363 (6th Cir. 1999); *Ehrehaus v. Reynolds*, 964 F.2d 916, 920 (10th Cir. 1992).

disregarding my orders in the manner in which he litigated his claim.[20] Those orders were specifically designed to help him clearly articulate his allegations and further the interests of fair, but efficient, litigation. They were intended to prevent the waste of judicial resources in a time when a national health emergency made managing litigation and adjudicating disputes more difficult than ever. He filed dozens of documents and motions in direct defiance of my order. He did so using email addresses he was specifically told not to use.

His actions resulted in a significant drain on resources that could have been better used in the service of other litigants with legitimate disputes, who did behave reasonably and in conformance with court orders. Thus, Complainant interfered significantly with the judicial process. Similarly, Complainant's conduct, perhaps intentionally, prejudiced Respondent by forcing it to spend time and money to respond to a frivolous claim and frivolous filings within that claim. Even allowing for Complainant's status as a self-represented litigant and the possibility that he is simply unable to understand the legal principles involved, the record is clear that he acted in bad faith in terms of intentionally filing documents contrary to my specific orders. Those orders were clear and required neither legal training nor extraordinary intellectual acumen to comprehend. Indeed, he clearly did comprehend them and elected to ignore them.

Every adjudicative authority he has attempted to invoke has instructed him that he is not entitled to any relief. Indeed, one court threatened him with sanctions if he returned with any claim related to the same employment issue. Consequently, the record allows no conclusion other than that he is acting in culpable bad faith. Although he may subjectively believe he was wronged and refuse to believe the law denies him justice, he appears to equally believe that his status as a victim relieves him of the obligation to comply with procedural rules and orders. His repeated complaints and threats demonstrate that he also fails to appreciate that his is not the only case pending within the Department of Labor.

If the district court decision threatening sanctions was not enough to put him on notice, I also specifically warned him on multiple occasions of the consequences of noncompliance. His conduct over the years of litigation of his multiple claims also clearly show that any lesser sanction short of dismissal would serve no useful purpose. Respondent's request for additional sanctions is not unreasonable, but beyond the authority provided in the statute and the applicable regulations. All of the relevant factors weigh in favor of dismissal.

[20] See n.14.

Therefore, the complaint is denied for both Complainant's failure to state a claim upon which relief can be granted and his flagrant and defiant actions.

ORDERED this day of 18 June 2020, at Covington, Louisiana.

PATRICK M. ROSENOW
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 issuance of the administrative law judge's decision. The Board's address is: Administrative Review Board, U.S. Department of Labor, Suite S-5220, 200 Constitution Avenue, NW, Washington DC 20210, for traditional paper filing. Alternatively, the Board offers an Electronic File and Service Request (EFSR) system. The EFSR for electronic filing (eFile) permits the submission of forms and documents to the Board through the Internet instead of using postal mail and fax. The EFSR portal allows parties to file new appeals electronically, receive electronic service of Board issuances, file briefs and motions electronically, and check the status of existing appeals via a web-based interface accessible 24 hours every day. No paper copies need be filed.

An e-Filer must register as a user, by filing an online registration form. To register, the e-Filer must have a valid e-mail address. The Board must validate the e-Filer before he or she may file any e-Filed document. After the Board has accepted an e-Filing, it is handled just as it would be had it been filed in a more traditional manner. e-Filers will also have access to electronic service (eService), which is simply a way to receive documents, issued by the Board, through the Internet instead of mailing paper notices/documents.

Information regarding registration for access to the EFSR system, as well as a step by step user guide and FAQs can be found at: https://dol-appeals.entellitrak.com. If you have any questions or comments, please contact: Boards-EFSR-Help@dol.gov

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, 800 K Street, NW, Washington, DC 20001-8002. You must also serve the Assistant Secretary, Occupational Safety and Health Administration and, in cases in which the Assistant Secretary is a party, on the Associate Solicitor for Occupational Safety and Health. *See* 29 C.F.R. § 1978.110(a).

If filing paper copies, you must file an original and four copies of the petition for review with the Board, together with one copy of this decision. In addition, within 30 calendar days of filing the petition for review you must file with the Board an original and four copies of a supporting legal brief of points and authorities, not to exceed thirty double-spaced typed pages, and you may file an appendix (one copy only) consisting of relevant excerpts of the record of the proceedings from which the appeal is taken, upon which you rely in support of your petition for review. If you e-File your petition and opening brief, only one copy need be uploaded.

Any response in opposition to a petition for review must be filed with the Board within 30 calendar days from the date of filing of the petitioning party's supporting legal brief of points and authorities. The response in opposition to the petition for review must include an original and four copies of the responding party's legal brief of points and authorities in opposition to the petition, not to exceed thirty double-spaced typed pages, and may include an appendix (one copy only) consisting of relevant excerpts of the record of the proceedings from which appeal has been taken, upon which the responding party relies. If you e-File your responsive brief, only one copy need be uploaded.

Upon receipt of a legal brief filed in opposition to a petition for review, the petitioning party may file a reply brief (original and four copies), not to exceed ten double-spaced typed pages, within such time period as may be ordered by the Board. If you e-File your reply brief, only one copy need be uploaded.

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).