

**UNITED STATES DEPARTMENT OF LABOR**  
**OFFICE OF ADMINISTRATIVE LAW JUDGES**  
**Cincinnati, Ohio**

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**Issue Date: 22 December 2023**

**OALJ Case No.: 2022-STA-00068**

OSHA Case No.: 5-1470-21-034

In the Matter of:

**CLIFTON VOLLENDORF,**  
Complainant,

v.

**BLUE NORTHERN DISTRIBUTING,**  
Respondents.

**NOTICE REGARDING EMPLOYER’S REPLY BRIEF**

This proceeding arises under the employee protective provisions of the Surface Transportation Assistance Act (STAA) and its implementing regulations. 49 U.S.C. § 31105; 29 C.F.R. Part 1978.

Complainant filed a Complaint with the Occupational Safety and Health Administration (OSHA) on April 23, 2021. Complainant alleged that Respondent retaliated against them in violation of the STAA. OSHA dismissed the Complaint on August 1, 2022. On August 23, 2022, Complainant appealed the dismissal.

This matter proceeded to a de novo hearing on August 7 and 8, 2023. Tr.<sup>1</sup> at 1, 189. 29 C.F.R. § 1978.107(b). At the conclusion of the hearing, the parties discussed when briefs would be due. Tr. 317-319. The parties agreed that they would submit initial briefs and responsive briefs. *Id.* Deadlines were set for both. *Id.* Neither party asked for permission to submit a reply brief, and replies were not permitted. *Id.*; *see also* 29 C.F.R. §§ 19.91 (the parties “**may** grant a party time to file a post-hearing brief”) (emphasis added), 18.33(d) (noting that in the case of motions, replies are disfavored and will not be permitted “[u]nless the judge directs otherwise.”)

As neither party was permitted to file reply briefs, I did not consider Employer’s Reply Brief when deciding this case.

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<sup>1</sup> “Tr.” cites to the transcript of the hearing conducted August 7 and 8, 2023. The transcript is paginated sequentially. The last page of the August 7 transcript is numbered as 188 and the first page of the August 8 transcript is numbered as 189.

WILLOW EDEN FORT  
Administrative Law Judge