

Benefits Review Board  
200 Constitution Ave. NW  
Washington, DC 20210-0001



REBECCA DOMINGUEZ  
(Successor of Decedent MARY ELLEN  
RUBI, Widow of JOHN F. RUBI)

## Claimant-Petitioner

V.

# BETHLEHEM STEEL CORPORATION

Employer

DIRECTOR, OFFICE OF WORKERS'  
COMPENSATION PROGRAMS, UNITED  
STATES DEPARTMENT OF LABOR

Respondent

NASER ZABID

### Claimant-Petitioner

V.

VHB GLOBAL, INCORPORATED,  
Subcontractor to VALLIANT  
GOVERNMENT SERVICES, LLC,

and

BRB No. 24-0222  
Case No. 2015-LHCA-0071  
OWCP No. 13-106632

**PUBLISHED**

DATE ISSUED: 09/25/2025

BRB No. 24-0201  
Case Nos. 2021-LDA-00992  
and 2021-LDA-02761  
OWCP Nos. 18-408170  
and 18-430950

INSURANCE COMPANY OF THE STATE )  
OF PENNSYLVANIA )

Employer/Carrier- )  
Respondents )

DIRECTOR, OFFICE OF WORKERS' )  
COMPENSATION PROGRAMS, UNITED )  
STATES DEPARTMENT OF LABOR )

Party-In-Interest )

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CONRAD LESTER )

Claimant-Respondent )

v. )

BLACKHAWK MINING, LLC )

and )

ROCKWOOD CASUALTY INSURANCE )  
COMPANY )

Employer/Carrier- )  
Petitioners )

DIRECTOR, OFFICE OF WORKERS' )  
COMPENSATION PROGRAMS, UNITED )  
STATES DEPARTMENT OF LABOR )

Party-In-Interest )

BRB No. 24-0390 BLA  
Case No. 2021-BLA-05624  
OWCP No. 22ZGS-2020226

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ORDER

By Order dated January 21, 2025, the Benefits Review Board acknowledged the appeals in BRB Nos. 24-0222, 24-0201, and 24-0390 BLA and consolidated them for briefing related to the holding in *Harrow v. Department of Defense*, 601 U.S. 480 (2024), and its implications regarding the time specified for filing an appeal with the Board

pursuant to 33 U.S.C. §921(a).<sup>1</sup> See *Dominguez v. Bethlehem Steel Corp. et al.*, BRB Nos. 24-0222, 24-0201, and 24-0390 BLA (Jan. 21, 2025) (Order). The Board also invited the filing of simultaneous *amicus curiae* briefs. *Id.*

The Acting Director, Office of Workers' Compensation Programs (the Director), Claimants Dominguez and Lester, and Blackhawk Mining, LLC (Blackhawk Mining) responded, contending Section 21(a) is a claim-processing rule and, therefore, subject to ordinary rules of waiver and forfeiture.<sup>2</sup> Director's Brief at 3-8, 10; Dominguez's Brief at 2-6, 8-9; Lester's Brief at 1-3; Blackhawk Mining's Brief at 2-5 (unpaginated). The Director further contends the application, if any, of the doctrine of equitable tolling to Section 21(a) is an open question and should be resolved in a case where the issue is "squarely presented and fully briefed," but it is not necessary to decide it for any of these cases. Director's Brief at 9. Dominguez asserts "nonjurisdictional [timing rules] are presumptively subject to equitable tolling," and the presumption has not been rebutted for purposes of the Section 21(a) time limit. Dominguez's Reply at 4-8 (quoting *Harrow*, 601 U.S. at 489). Lester and Blackhawk Mining assert if a respondent properly raises timeliness, the appealing party should have the opportunity to present a defense, which could include equitable relief. Lester's Brief at 3; Blackhawk Mining's Brief at 4-5 (unpaginated).

In contrast, VHB Global, Incorporated (VHB Global), Signal Mutual Indemnity Association, Limited (Signal Mutual), and American International South Insurance Company (American International)<sup>3</sup> contend Section 21(a) is jurisdictional and not subject

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<sup>1</sup> **Effectiveness and finality of orders**

A compensation order shall become effective when filed in the office of the deputy commissioner as provided in section 919 of this title, and, unless proceedings for the suspension or setting aside of such order are instituted as provided in subsection (b) of this section, *shall become final at the expiration of the thirtieth day thereafter.*

33 U.S.C. §921(a) (emphasis added).

<sup>2</sup> Claimant Zabid focuses on 20 C.F.R. §802.206 – the section of the Board's regulations which is relevant to the effect of a motion for reconsideration before an administrative law judge (ALJ) on the time for filing an appeal before the Board. Zabid's Brief at 5-8.

<sup>3</sup> Signal Mutual and American International filed *amicus curiae* briefs.

to the doctrines of waiver, forfeiture, or other equitable relief.<sup>4</sup> VHB Global’s Brief at 1-5, 7; Signal Mutual’s Brief at 3-7; American International’s Brief at 4-12. Dominguez, Lester, and VHB Global filed reply briefs reiterating their positions.

As noted above, Section 21(a) provides in relevant part: “unless proceedings for the suspension or setting aside of such [a compensation] order are instituted as provided in subsection (b) of this section, [that order] *shall become final at the expiration of the thirtieth day thereafter.*” 33 U.S.C. §921(a) (emphasis added). Our question is whether the time specified for filing an appeal with the Board in Section 21(a) is a jurisdictional requirement or a claim-processing rule.

To answer the question, we first consider if the statute “mention[s]” “jurisdiction, whether generally or over untimely claims.” *Harrow*, 601 U.S. at 484-486; *see also Riley v. Bondi*, 145 S. Ct. 2190, 2202 (2025) (“Courts should treat a statutory limitation as jurisdictional only if Congress clearly states that the provision has jurisdictional consequences. And . . . our cases have almost uniformly found that the provisions at issue failed to meet this very demanding test.”) (citation modified). Nothing in the statutory text of the Longshore Act or its structure suggests the Section 21(a) timeline is “jurisdictional;” rather the text speaks only to the “effective[ness]” and “final[ity]” of orders and how parties can obtain review of an order by the Board. 33 U.S.C. §921(a); *see, e.g., Nelson v. Sec. & Exch. Comm’n*, 138 F.4th 514, 522 (D.C. Cir. 2025) (“Nor does anything else in the statutory text [of Section 21F(f) of the Securities Exchange Act of 1934] or its structure suggest the timeline is jurisdictional.”); *Sloan v. Drummond Co.*, 102 F.4th 1169, 1175 (11th Cir. 2024) (Section 21(c) is jurisdictional because the text “refers to the jurisdiction of the courts of appeals” and the caption frames the requirement as jurisdictional) (citation modified); *but see Villegas v. Noem*, 149 F.4th 554, 568 (5th Cir. 2025) (rejecting tripartite test in *Sloan*, in which court “looked for references to jurisdiction”). Additionally, like the statute the Supreme Court of the United States addressed in *Harrow*, which did not impose a jurisdictional deadline, Section 21(a) requires that litigants – not the Board – initiate proceedings within the statutory timeline, and it lacks any language “demarcate[ing] [the Board’s] power.” *Harrow*, 601 U.S. at 484-485. As Congress did not “clearly state[]” any jurisdictional consequences in Section 21(a), we hold the 30-day filing deadline is a mandatory claim-processing rule.<sup>5</sup> *See Harrow*, 601 U.S. at 484; *Riley*, 145 S. Ct. at 2202.

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<sup>4</sup> Assuming Section 21(a) is not jurisdictional, American International contends waiver, forfeiture, and equitable relief are applicable if properly raised. American International’s Brief at 7-12.

<sup>5</sup> Contrary to American International’s and Signal Mutual’s contentions, the regulation at 20 C.F.R. §802.205 does not – and indeed cannot – create a statutory

Next, we address whether Section 21(a) is subject to waiver, forfeiture, and equitable tolling. The Supreme Court has held that mandatory claim-processing rules, unlike jurisdictional limits, “are subject to waiver and forfeiture by a litigant.” *McIntosh v. United States*, 601 U.S. 330, 337 (2024) (citing *Dolan v. United States*, 560 U.S. 605, 610 (2010)). In *Harrow*, the Supreme Court explained that “a court will not enforce a procedural rule against a non-complying party if his opponent has forfeited or waived an objection.” *Harrow*, 601 U.S. at 483-484; *see also Fort Bend Cnty. v. Davis*, 587 U.S. 541, 549 (2019); *Dolan*, 560 U.S. at 610 (“Unless a party points out . . . that another litigant has missed such a [claim-processing rule] deadline, the party forfeits the deadline’s protection.”).

As we have held that the 30-day filing deadline in Section 21(a) is a claim-processing rule, it is, therefore, subject to waiver and forfeiture, and the respondent bears the burden of raising the untimeliness of a notice of appeal to the Board.<sup>6</sup> If a respondent does not timely object to an untimely filed notice of appeal, the argument is forfeited, and the Board will proceed to the merits of the claim as if the claim were timely filed. *See, e.g., Eberhart v. United States*, 546 U.S. 12, 19 (2005) (“Here, where the Government failed to raise a defense of untimeliness until after the District Court had reached the merits, it forfeited that defense. The Court of Appeals should therefore have proceeded to the merits.”).

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jurisdictional boundary, requirement, or consequence that satisfies *Harrow*. American International’s Brief at 4-7; Signal Mutual’s Brief at 3-5. The Supreme Court’s rationale in *Harrow* turns on Congress “clearly stat[ing]” a statute is jurisdictional, not on an agency’s interpretation of the governing statute. *Harrow*, 601 U.S. at 484; *see also Villegas*, 149 F.4th at 567 (“[W]e must search for ‘a clear tie between the deadline and the jurisdictional grant.’”) (citation omitted). Moreover, Signal Mutual’s and VHB Global’s reliance on *Sloan* is misplaced. Signal Mutual’s Brief at 4-5; VHB Global’s Brief at 1. As discussed above, the United States Court of Appeals for the Eleventh Circuit provided a specific rationale for finding Section 21(c) is a jurisdictional rule, and those reasons are not applicable to Section 21(a). *Sloan*, 102 F.4th at 1172. Further, VHB Global’s reading of subsection (a) in light of subsection (b) is inconsistent with the “clear[] state[ment]” standard. *See Harrow*, 601 U.S. at 484; *Riley*, 145 S. Ct. at 2202; *Villegas*, 149 F.4th at 567-568; VHB Global’s Brief at 2-3; VHB Global’s Reply Brief at 2.

<sup>6</sup> The Director has standing to appeal or respond to an appeal, which includes raising timeliness, before the Board as a party-in-interest. *See* 20 C.F.R. §§801.2(a)(10), 802.201(a), 802.212; *see also Ahl v. Maxon Marine, Inc.*, 29 BRBS 125 (1995) (order).

With respect to equitable tolling, the Supreme Court has repeatedly explained that it does “‘not understand Congress to alter’ age-old procedural doctrines lightly” and, therefore, “nonjurisdictional [timing rules] are *presumptively subject to equitable tolling*.” *Harrow*, 601 U.S. at 489 (quoting *Boechler, P.C. v. Comm’r of Internal Revenue*, 596 U.S. 199, 209 (2022)) (emphasis added). Nevertheless, we agree with the Director’s argument that whether the doctrine of equitable tolling applies to excuse a late Section 21(a) appeal should be resolved in a case where the issue is “squarely presented and fully briefed.” Director’s Brief at 9. For the reasons discussed below, none of the captioned cases squarely raise or fully brief the issue, so we need not address it to conclusively resolve the timeliness of the appeals in these cases. Thus, we leave for another case the question of whether Section 21(a) permits equitable tolling.

Accordingly, we address below the specific timeliness issues in each of the captioned cases.

**Lester v. Blackhawk Mining, LLC, BRB No. 24-0390 BLA**

ALJ Patricia J. Daum issued a Decision and Order Awarding Benefits on June 20, 2024, but never served the Employer, Blackhawk Mining, or its legal representative. Blackhawk Mining did not receive the ALJ’s decision until June 26, 2024, when an unaffiliated attorney who incorrectly received the decision forwarded it to Blackhawk Mining. Blackhawk Mining’s Brief at 2, 5-6, Exhibit A (unpaginated); Director’s Brief at 22. Both Blackhawk Mining and the Director argue that because Blackhawk Mining filed its Notice of Appeal within thirty days of receipt of the ALJ’s decision, it was timely per the requirements of 20 C.F.R. §725.479(d). Blackhawk Mining’s Brief at 5-6; Director’s Brief at 23-24. Claimant did not address the issue of timeliness before the Board until after its January 21, 2025 Order, and he does not contest the effectiveness of service to Blackhawk Mining. *See* Lester’s Brief at 1-3.<sup>7</sup>

Black lung decisions must be served by registered or certified mail. 33 U.S.C. §919(e) (merits decisions “shall be sent by registered mail or by certified mail to the claimant and to the employer at the last known address of each”); 20 C.F.R. §725.478 (“On the date of issuance of a decision and order . . . , the [ALJ] shall serve the decision and order on all parties to the claim by certified mail.”); *see Jewell Smokeless Coal Corp. v. Looney*, 892 F.2d 366, 369 (4th Cir. 1989). The regulations also state that when there is a “defect in service, *actual receipt* of the decision is sufficient to commence the 30-day

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<sup>7</sup> The Board will apply the law of the United States Court of Appeals for the Fourth Circuit because Lester performed his last coal mine employment in West Virginia. *See Shupe v. Director, OWCP*, 12 BLR 1-200, 1-202 (1989) (en banc).

period for requesting reconsideration or appealing the decision.” 20 C.F.R. §725.479(d) (emphasis added).

The ALJ’s decision in *Lester* was not served on the date of its issuance for the purposes of 33 U.S.C. §§919(e), 921(a), and the deadline to file a notice of appeal began running only when Blackhawk Mining “actual[ly]” received the decision. 20 C.F.R. §725.479(d). Consequently, the thirty-day appeal period began on June 26, 2024, and Blackhawk Mining’s Notice of Appeal filed twenty-eight days later, on July 24, 2024, is timely.

**Zabid v. VHB Global, Incorporated, BRB No. 24-0201**

ALJ Susan Hoffman issued a Decision and Order Denying Benefits on December 15, 2023.<sup>8</sup> Zabid filed a Petition for Reconsideration with ALJ Hoffman on December 27, 2023, and VHB Global responded, asserting the Petition for Reconsideration was untimely. The ALJ found the timeliness issue moot and denied reconsideration on the merits in her February 6, 2024 Order Denying Motion for Reconsideration. On March 4, 2024, Zabid appealed ALJ Hoffman’s Decision and Order Denying Benefits and Order Denying Motion for Reconsideration.<sup>9</sup>

VHB Global moved to dismiss Zabid’s appeal and requested oral argument, asserting the Board lacks appellate jurisdiction to consider the appeal. VHB Global’s Motion to Dismiss at 4-7; VHB Global’s Brief at 3-8. It contends the regulations permit only a *timely* motion for reconsideration filed with the ALJ to toll the thirty-day limit for filing an appeal with the Board and asserts the ALJ had no authority to address an untimely motion for reconsideration. VHB Global’s Motion to Dismiss at 4-7; VHB Global’s Brief at 3-7; VHB Global’s Reply Brief at 1; *see* 20 C.F.R. §802.206(a) (“timely motion for reconsideration” suspends the running of the time for filing a notice of appeal). Thus, VHB Global argues the time limit for filing an appeal with the Board was thirty days from the day the ALJ’s Decision and Order was filed, and Zabid missed that deadline. Zabid

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<sup>8</sup> ALJ Hoffman’s Decision and Order is dated Friday, December 15, 2023, but the parties acknowledge she did not file it with the office of the district director until Saturday, December 16, 2023, which was not a regular business day.

<sup>9</sup> This case arises within the jurisdiction of the United States Court of Appeals for the Ninth Circuit because the office of the district director who filed the ALJ’s decision is in California. 33 U.S.C. §921(c); *Glob. Linguist Sols., L.L.C. v. Abdelmeged*, 913 F.3d 921 (9th Cir. 2019); *McDonald v. Aecom Tech. Corp.*, 45 BRBS 45 (2011).

opposes VHB Global's Motion to Dismiss, and he filed a brief in response to the Board's January 21, 2025 Order.

The Director agrees with VHB Global that an untimely filed motion for reconsideration before an ALJ does not suspend the time to appeal the ALJ's initial decision. Director's Brief at 21. But the Director argues 20 C.F.R. §802.206(a) is silent as to the consequences of an ALJ "ruling on a motion for reconsideration – timely or not[.]" and the regulations "make clear" the time to file an appeal runs from the filing of an order denying reconsideration. *Id.* (citing 20 C.F.R. §802.206(e)). The Director asserts Zabid's appeal is timely because he filed a notice of appeal less than thirty days after ALJ Hoffman filed her Order Denying Reconsideration. *Id.* We agree.

If an ALJ denies a motion for reconsideration, "the full time for filing an appeal [with the Board] commences on the date the order denying reconsideration is filed as provided in § 802.205." 20 C.F.R. §802.206(e). Because ALJ Hoffman found the timeliness issue moot and denied reconsideration *on the merits*, "the full time for filing an appeal commence[d] on" February 6, 2024, when the order was filed. 20 C.F.R. §§802.205(a), 802.206(e); *see, e.g., Shah v. WorldWide Language Res., Inc.*, 703 F. App'x 624, 625 (9th Cir. 2017) (unpub.) (because the ALJ "entertained or considered" the untimely motion for reconsideration on the merits, the time for filing an appeal was tolled until the date the ALJ's order denying reconsideration was filed with the district director).<sup>10</sup> Consequently, the thirty-day appeal period began on February 6, 2024, and Zabid's Notice of Appeal filed twenty-seven days later, on March 4, 2024, is timely. 20 C.F.R. §802.206(e).

Accordingly, we deny VHB Global's Motion to Dismiss and its request for oral argument. 20 C.F.R. §§802.219, 802.303, 802.306.

**Dominguez v. Bethlehem Steel Corporation, BRB No. 24-0222**

On February 20, 2024, the district director issued an Order Awarding Attorney Fee to Dominguez's attorney, John R. Wallace. Previously, on September 9, 2020, Mr. Wallace had waived his right to service by registered or certified mail pursuant to 20 C.F.R.

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<sup>10</sup> *Shah* is an unpublished decision and, according to the Ninth Circuit's Rule 36-3, is "not precedent, except when relevant under the doctrine of law of the case or rules of claim preclusion or issue preclusion." 9th Cir. R. 36-3(a). While *Shah* is not precedential, we find it persuasive.



§702.349(b) by executing and filing the Department of Labor’s Form LS-802.<sup>11</sup> On the form, he consented to be served by email and provided two email addresses – one for himself and one for his administrative assistant. In attempting to serve the *Dominguez* fee order by email, the district director incorrectly transcribed one email address but correctly transcribed the other.<sup>12</sup> Director’s Motion to Dismiss at 3, Attachments A, D, E.

Mr. Wallace filed a Notice of Appeal on March 22, 2024, thirty-one days after the district director filed the fee order. As an explanation for the delay, he advised the Board of the problem with the district director’s email service. *Dominguez*’s Notice of Appeal. On April 12, 2024, the Director filed a motion to dismiss the appeal as untimely and to stay briefing pending the resolution of his motion. Director’s Motion to Dismiss at 3-4. The Director asserts that despite the lack of service to one email address, the district director properly served Mr. Wallace at the second email address he had authorized. *Id.* In response, Mr. Wallace opposed the Director’s Motion to Dismiss, contending the district director’s service was insufficient to begin the thirty-day appeal period and moved the Board to stay the briefing schedule. *Dominguez*’s Opposition to Director’s Motion to Dismiss (*Dominguez*’s Opposition) at 6-10.<sup>13</sup>

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<sup>11</sup> The applicable regulations establish the following rules on waiver of service of compensation orders:

All parties and their representatives are entitled to be served with compensation orders via registered or certified mail . . . . To waive service by registered or certified mail, . . . claimants and their representatives must file form LS-802 (Waiver of Service by Registered or Certified Mail for Claimants and/or Authorized Representatives). A signature on a waiver form represents a knowing and voluntary waiver of that party’s or representative’s right to receive compensation orders via registered or certified mail.

20 C.F.R. §702.349(b).

<sup>12</sup> This case arises within the jurisdiction of the Ninth Circuit because John F. Rubi, the deceased worker and husband of the initial Claimant, Mary Ellen Rubi, sustained an injury in California. 33 U.S.C. §921(c); *see Roberts v. Custom Ship Interiors*, 35 BRBS 65, 67 n.2 (2001), *aff’d*, 300 F.3d 510 (4th Cir. 2002), *cert. denied*, 537 U.S. 1188 (2003); 20 C.F.R. §702.201(a).

<sup>13</sup> To the extent it has not been addressed, we grant *Dominguez*’s Motion to Accept Out of Time Opposition to Director’s Motion to Dismiss.

We are not persuaded by Mr. Wallace’s contention that the district director’s service was “ineffective[.]”<sup>14</sup> Dominguez’s Brief at 6-8; Dominguez’s Reply Brief at 8-11; Dominguez’s Opposition at 9-10. The LS-802 Form for waiving service by certified mail requires parties and their representatives to submit “separate waiver form[s]” and allows each individual submitting a waiver to provide two email addresses.<sup>15</sup> 20 C.F.R. §702.349(b)(2); Director’s Motion to Dismiss at 3, Attachment D. While the regulations state the order “*will be sent* to the electronic address provided on the waiver form[.]” the regulations do not indicate that service to only one of the two provided email addresses renders the service ineffective. 20 C.F.R. §702.349(b)(4) (emphasis added). Further, as the Director points out, the LS-802 Form’s instructions do not require service on both email addresses; rather, they instruct the party to provide up to two email addresses where the party can be reached. Director’s Brief at 19. As Mr. Wallace does not contest that the district director properly emailed the fee order to one of the email addresses *he provided* on the LS-802 Form on February 20, 2024, *and he received it*, service by email was effective and in compliance with the regulations. 20 C.F.R. §702.349(b); Director’s Motion to Dismiss at 3, Attachments A, D, E. Because the district director properly filed and served the attorney fee order on February 20, 2024, and Mr. Wallace failed to appeal within the requisite thirty days, Mr. Wallace’s appeal is untimely.

As stated above, we need not address whether Section 21(a) is subject to equitable tolling in this case because no party has “squarely presented and fully briefed” it. Moreover, even if it were available, Mr. Wallace has not met his burden to establish it

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<sup>14</sup> Mr. Wallace alternatively contends the district director’s Order Awarding Attorney Fee is not a “compensation order” and, therefore, is not subject to the time for filing an appeal under Section 21(a). Dominguez’s Opposition at 9-10; Dominguez’s Reply Brief at 8-9. However, the regulations clarify that a “notice of appeal . . . must be filed within 30 days from the date upon which a *decision or order* has been filed in the Office of the Deputy Commissioner pursuant to section 19(e).” 20 C.F.R. §802.205(a) (emphasis added). The fee order is clearly an “order.”

<sup>15</sup> We reject Mr. Wallace’s contention that the expiration date of April 30, 2022, on the LS-802 Form assigned by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995 (PRA), relates to the validity of his properly executed waiver. Dominguez’s Opposition at 8-10; Dominguez’s Reply Brief at 10-12. Rather than affecting the validity of Mr. Wallace’s waiver, the expiration date is required to satisfy the PRA, 44 U.S.C. §§3501-3521, which requires OMB to reauthorize information collection forms by assigning each form a control number and an expiration date. 44 U.S.C. §3507. There is no question that the LS-802 Form was valid on September 9, 2020, when Mr. Wallace signed it.

applies. “Generally, a litigant seeking equitable tolling bears the burden of establishing two elements: (1) that he has been pursuing his rights diligently, and (2) that some extraordinary circumstance stood in his way.” *Pace v. DiGuglielmo*, 544 U.S. 408, 418 (2005) (citing *Irwin v. Dep’t of Veterans Affs.*, 498 U.S. 89, 96 (1990)). Mr. Wallace asserts the district director’s inadequate service caused the one-day delay in his filing of the Notice of Appeal. He also asserts he has not “sat on [his] rights or obligations” as to the appeal, despite the “[four] years taken [by the district director] to consider the appropriateness of the fees in question.” Dominguez’s Brief at 8-10; Dominguez’s Reply Brief at 9. But Mr. Wallace has not identified any “extraordinary circumstances” which would have prevented him from timely filing the appeal. Rather, he points only to an error in transcription, which we have already determined did not interfere with the effectiveness of the service. See *Pace*, 544 U.S. at 418; *Irwin*, 498 U.S. at 96. Therefore, there is no evidence establishing the appeal deadline should be equitably tolled in this case.

Accordingly, we grant the Director’s motion and dismiss Dominguez’s appeal of the district director’s Order Awarding Attorney Fee, BRB No. 24-0222.<sup>16</sup> 20 C.F.R. §802.219.

### **Briefing Schedule**

The Petitioners in the *Lester* and *Zabid* cases, Blackhawk Mining and Zabid, respectively,<sup>17</sup> must each file a Petition for Review and brief which conform to the requirements set out in 20 C.F.R. §§802.211 and 802.222 within thirty (30) days of receipt of this Order.<sup>18</sup> Response briefs, if any, may be filed within thirty (30) days from receipt of the Petitions for Review and briefs. 20 C.F.R. §802.212. Reply briefs, if any, may be filed within twenty (20) days of receipt of the response briefs. 20 C.F.R. §802.213.

The district director is requested to immediately forward the official records for the *Lester* and *Zabid* cases to the Board upon receipt of this notice. 20 C.F.R. §802.209.

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<sup>16</sup> Our conclusion renders the remaining motions to stay the briefing schedule in this case moot.

<sup>17</sup> The Board severs these cases, BRB Nos. 24-0201 and 24-0390 BLA, and will address them on the merits individually.

<sup>18</sup> Attorneys and lay representatives must file all pleadings, exhibits, and other documents through the Board’s electronic case management system (e-file). 20 C.F.R. §802.222(d). All e-filed documents must be in Portable Document Format (PDF) and should be text-searchable. Unless the Board requests paper copies, they are not required.

Accordingly, we dismiss the appeal in *Dominguez*, BRB No. 24-0222, and we set the briefing schedule for the appeals in *Lester*, BRB No. 24-0390 BLA, and *Zabid*, BRB No. 24-0201.

SO ORDERED.

DANIEL T. GRESH, Chief  
Administrative Appeals Judge

JONATHAN ROLFE  
Administrative Appeals Judge

MELISSA LIN JONES  
Administrative Appeals Judge