

**U.S. Department of Labor**

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



**IN THE MATTER OF:**

**PHILIP BORRIS,**

**ARB CASE NO. 2024-0051**

**COMPLAINANT,**

**ALJ CASE NO. 2024-ERA-00006**

**ALJ JERRY R. DeMAIO**

**v.**

**DATE: September 16, 2025**

**UNITED STATES DEPARTMENT OF  
ENERGY,**

**RESPONDENT.**

**Before JOHNSON, Chief Administrative Appeals Judge, and BURRELL,  
Administrative Appeals Judge**

**ORDER OF DISMISSAL**

This case arises under the employee protection provisions of the Energy Reorganization Act (ERA) and its implementing regulations.<sup>1</sup> On June 21, 2024, Complainant Philip Borris filed a Petition for Review with the Administrative Review Board (Board) requesting review of the June 12, 2024 Order of Dismissal issued by a Department of Labor Administrative Law Judge.

On August 6, 2025, Complainant filed a Notice of Intent to File De Novo Action in District Court. On September 9, 2025, Complainant filed a Second Amended Complaint file-stamped August 22, 2025 with the Board, which indicated that he filed an original action with the United States District Court for the Southern District of Ohio pursuant to 42 U.S.C. § 5851(b)(4).

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<sup>1</sup> 42 U.S.C. § 5851; 29 C.F.R. Part 24 (2024).

Since Complainant timely filed with the Board notice of his intention to file a complaint initiating an original action in district court and promptly filed a copy of the district court complaint with the Board, the Department of Labor no longer has jurisdiction over his case.<sup>2</sup> Accordingly, we **DISMISS** this appeal.<sup>3</sup>

**SO ORDERED.**

**RANDEL K. JOHNSON**  
**Chief Administrative Appeals Judge**

**THOMAS H. BURRELL**  
**Administrative Appeals Judge**

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<sup>2</sup> See 42 U.S.C. § 5851(b)(4) (“If the Secretary has not issued a final decision within 1 year after the filing of a complaint . . . and there is no showing that such delay is due to the bad faith of the person seeking relief under this paragraph, such person may bring an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action . . . .”); *see also* 29 C.F.R. § 24.114(a). “Fifteen days in advance of filing a complaint in Federal court, a complainant must file with the Assistant Secretary, the ALJ, or the ARB, depending upon where the proceeding is pending, a notice of his or her intention to file such complaint . . . The complainant shall file and serve a copy of the district court complaint on the above as soon as possible after the district court complaint has been filed with the court.” 29 C.F.R. § 24.114(b).

<sup>3</sup> We note that the Board’s September 9, 2025 Notice (noting that at that juncture Complainant had yet to file a copy of his district court complaint with the Board and informing Complainant of its intent to dismiss Complainant’s appeal within fourteen days in the absence of a notice from Complainant of his intention to proceed with an appeal before the Board) is now rendered moot.