

U.S. Department of Labor

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



IN THE MATTER OF:

GENEVIEVE LARSON,

ARB CASE NO. 2026-0045

COMPLAINANT,

ALJ CASE NO. 2025-SOX-00010

ALJ STEWART F. ALFORD

v.

DATE: July 17, 2026

FAMILY DOLLAR,

RESPONDENT.

Appearances:

For the Complainant:

Genevieve R. Larson; *Pro Se*; Tonopah, Nevada

For the Respondent:

Chrisanne Gultz, Esq. and Melissa L. Shingles, Esq.; *Littler Mendelson*; Phoenix, Arizona

Before KAPLAN and BURRELL Administrative Appeals Judges

DECISION AND ORDER DENYING INTERLOCUTORY APPEAL

This case arises under the employee protection provisions of Section 806 of the Corporate and Criminal Fraud Accountability Act of 2002, Title VIII of the Sarbanes-Oxley Act (SOX), as amended, and its implementing regulations.¹ Complainant Genevieve Larson filed a petition for interlocutory review requesting that the Administrative Review Board (Board) review two orders issued by an Administrative Law Judge's (ALJ). For the following reasons, we deny Complainant's petition for interlocutory review.

¹ 18 U.S.C. § 1514A; 29 C.F.R. Part 1980 (2026).

BACKGROUND

Complainant filed a complaint with the United States Department of Labor's Occupational Safety and Health Administration (OSHA) on November 9, 2024, alleging that Respondent Family Dollar violated the SOX. On December 18, 2024, OSHA dismissed the complaint. Complainant requested a hearing before an ALJ with the Office of Administrative Law Judges (OALJ).

On December 4, 2025, Howard Friesner filed a Non-Attorney Representative Notice of Appearance on behalf of Complainant. Respondent opposed allowing Friesner to appear as a non-attorney representative, and asserted that Friesner sent at least 84 emails, totaling more than 500 pages, to Respondent's counsel's office, some of which contained hostile language. Respondent contended that this correspondence demonstrated a pattern of abusive conduct rendering him unfit to serve as a non-attorney representative in this matter.

On January 22, 2026, the ALJ issued an Order to Show Cause Regarding Non-Attorney Representation, ordering Complainant to show cause as to why he should not deny the request. The ALJ cautioned Complainant that the failure to respond would result in denying her request. Neither Complainant nor Friesner responded. On February 5, 2026, the ALJ issued an Order Denying Non-Attorney Representation.² The ALJ found that Friesner had not conducted himself in a manner that warranted allowing him to serve as a non-attorney representative in this matter and that his correspondence demonstrated a pattern of communication that was inappropriate and would not be tolerated.

On February 23, 2026, OALJ docketed a Response to the Motion to Remove Pro Se Representative, which was dated January 23, 2026.³ Complainant stated that she was preparing to represent herself and that the representation of Friesner

² A non-attorney representative may represent a party upon an Administrative Law Judge's approval. 29 C.F.R. § 18.22(b)(2). The ALJ may require the representative to establish that they are subject to the laws of the United States and possess the "communication skills, knowledge, character, thoroughness and preparation reasonably necessary to render appropriate assistance." *Id.* The ALJ may also "inquire as to the qualification or ability of a non-attorney representative to render assistance." *Id.* The ALJ may deny the request after providing the party with notice and an opportunity to be heard. *Id.*

³ Second Order Denying Non-Attorney Representation at 1.

was “essentially complete.”⁴ That same day, the ALJ issued a Second Order Denying Non-Attorney Representation, which stated that there was no reason to amend or alter the February 5, 2026 order and that the totality of the record still demonstrated that Friesner had not conducted himself in a manner that warranted permitting him to serve as Complainant’s non-attorney representative.⁵

On June 10, 2026, the ALJ issued an Order Addressing Pending Motions, which addressed the following motions: (1) Complainant’s Motion for Tax Neutralization/Gross-Up; (2) Respondent’s Motion to Continue Hearing; (3) Complainant’s Motion for Summary Decision; (4) Respondent’s Motion to Continue Remaining Deadlines; and (5) Respondent’s Motion for Protective Order.⁶

Complainant had submitted a request for an award of \$1,543,815.38 in damages.⁷ The ALJ found that the motion was premature, that any damages would be based on evidence submitted by both parties after a hearing if Complainant prevailed, and that Complainant could address such issues at the hearing.⁸ Thus, the ALJ denied Complainant’s motion without prejudice.⁹

Respondent sought entry of a protective order that would allow the parties to disclose confidential information without the risk of third-party disclosure.¹⁰ The ALJ granted Respondent’s request.¹¹

Respondent also sought to continue the hearing and remaining deadlines.¹² Complainant opposed the motion and contended that it would impose an undue hardship on her, and requested expedited relief and a referral to the Department of Justice (DOJ) for criminal charges.¹³ The ALJ determined that a continuance was

⁴ *Id.*

⁵ *Id.* at 1-2.

⁶ Order Addressing Pending Motions at 1.

⁷ *Id.* at 1-2.

⁸ *Id.* at 2.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.* at 2-3.

warranted to allow Respondent to complete discovery, and continued the hearing to February 1, 2027.¹⁴ The ALJ also determined that expedited relief was not warranted, and that he did not have the authority to address Complainant's request for a referral to the DOJ for criminal charges.¹⁵ Thus, the ALJ denied Complainant's request.¹⁶

Lastly, Complainant filed a motion for summary decision.¹⁷ The ALJ denied the motion because Complainant had not set forth any argument or basis for granting summary decision.¹⁸

On June 15, 2026, Complainant filed a Petition for Review with the Board seeking review of the ALJ's Second Order Denying Non-Attorney Representation and the June 10, 2026 Order Addressing Pending Motions. On June 18, 2026, the Board issued an Order to Show Cause, which explained that, because the ALJ had not yet issued a decision fully disposing of all claims in Complainant's complaint, the petition was for interlocutory review. The Board ordered Complainant to file a brief within ten calendar days explaining why the Board should not dismiss the interlocutory appeal and demonstrate why this matter satisfied the three elements of the collateral order exception identified in the order. On June 27, 2026, Complainant filed a response.

JURISDICTION AND STANDARD OF REVIEW

The Board's delegated authority includes the consideration and disposition of interlocutory appeals "in exceptional circumstances, provided such review is not prohibited by statute."¹⁹ This authority includes the discretion to consider interlocutory appeals "in exceptional circumstances"²⁰

¹⁴ *Id.* at 3.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Secretary's Order No. 01-2020 (Delegation of Authority and Assignment of Responsibility to the Administrative Review Board), 85 Fed. Reg. 13186 (Mar. 6, 2020)).

²⁰ *Id.*

DISCUSSION

1. Complainant’s Petition for Interlocutory Review of the ALJ’s Second Order Denying Non-Attorney Representation is Untimely

Complainant contends that the ALJ’s order denying her non-attorney representation satisfies the collateral order test.²¹ However, Complainant’s petition for interlocutory review of the ALJ’s denial of her non-attorney representative is untimely. Under the SOX, a party has fourteen days from the date of an ALJ’s decision to file a petition for review with the Board.²² This deadline also applies to collateral order interlocutory appeals.²³ Here, the ALJ issued the Second Order Denying Non-Attorney Representation on February 23, 2026. Complainant did not file her request for interlocutory review of this order until June 15, 2026, well past the fourteen-day deadline. Thus, Complainant’s interlocutory appeal of the ALJ’s denial of non-attorney representation is untimely.²⁴

2. Complainant’s Petition for Interlocutory Review of the ALJ’s Order Addressing Pending Motions Does Not Satisfy the Collateral Order Doctrine

We decline to accept Complainant’s interlocutory appeal on the remaining issues, though timely filed, because they do not satisfy the collateral order exception. As stated above, the Secretary of Labor’s delegation of authority to the Board provides that interlocutory appeals should only be considered in “exceptional circumstances.” The Board takes the Secretary’s dictate seriously and has emphasized repeatedly that interlocutory appeals are generally disfavored and that there is a strong policy against piecemeal appeals.²⁵

²¹ Complainant’s Brief in Response to Order to Show Cause at 1-3.

²² 29 C.F.R. § 1980.110(a).

²³ *Gulden v. Exxon Mobil Corp.*, ARB No. 2023-0050, ALJ Nos. 2023-SOX-00021, -00022, slip op. at 5 (ARB Feb. 29, 2024) (citing *Priddle v. United Airlines, Inc.*, ARB No. 2021-0064, ALJ No. 2020-AIR-00013, slip op. at 6 (ARB Jan. 26, 2022)).

²⁴ Even if Complainant had filed a timely appeal of the ALJ’s Second Order Denying Non-Attorney Representation, orders disqualifying counsel in civil cases “are not sufficiently separable from the merits to qualify for interlocutory appeal.” *Richardson-Merrell, Inc. v. Koller*, 472 U.S. 424, 440 (1985).

²⁵ *Gadbury v. Park Aerospace Corp.*, ARB No. 2026-0024, ALJ No. 2025-SOX-00022, slip op. at 3 (ARB Apr. 17, 2026) (citation omitted).

When a party seeks interlocutory review of an ALJ’s non-final order, the Board has elected to look to the interlocutory review procedures used by federal courts, including requesting the trial court certify issues involving a controlling question of law for immediate appeal in accordance with 28 U.S.C. § 1292(b).²⁶ It does not appear that Complainant received ALJ certification under 28 U.S.C. § 1292(b) in this case.

If a party has failed to obtain ALJ certification, the Board may still consider reviewing an interlocutory order that meets the “collateral order” exception.²⁷ The collateral order exception applies if the appealed decision belongs to that “small class [of decisions] which finally determine claims of right separable from, and collateral to, rights asserted in the action, too important to be denied review and too independent of the cause itself to require that appellate consideration be deferred until the whole case is adjudicated.”²⁸

To fall within the “collateral order” exception, the order appealed must: (1) conclusively determine the disputed question; (2) resolve an important issue completely separate from the merits of the action; and (3) be effectively unreviewable on appeal from a final judgment.²⁹

Complainant contends that the ALJ’s June 10, 2026 rulings declining to address an evidentiary issue, granting Respondent’s request for a protective order, and rescheduling the hearing for February 1, 2027, all conclusively determine the disputed questions.³⁰ Complainant also contends that each of these issues are completely separate from the merits of her SOX whistleblower complaint because evidentiary rulings concern the integrity of the adjudication process, rescheduling the hearing relates to statutory timeliness requirements, and the protective order implicates constitutional and public policy concerns.³¹ Lastly, Complainant contends that these issues are all effectively unreviewable after a final judgment

²⁶ *Id.* at 4 (citation omitted).

²⁷ *Id.*

²⁸ *Id.* (citing *Cohen v. Beneficial Indus. Loan Corp.*, 337 U.S. 541, 546 (1949)).

²⁹ *Id.* (citation omitted).

³⁰ Complainant’s Brief in Response to Order to Show Cause at 1.

³¹ *Id.* at 2-3.

because missing evidence cannot be later cured, the delay leads to lost time and evidence, and the protective order imposes irreversible harm.³²

Setting aside the first and second prongs of the collateral order test, Complainant’s appeal does not satisfy the third prong. To be “effectively unreviewable,” the right sought to be vindicated must “be, for all practical and legal purposes, destroyed if it were not vindicated prior to final judgment.”³³ As long as the rights at issue “can be adequately vindicated by other means, the chance that the litigation at hand might be speeded, or a particular injustice averted, does not provide a basis for” immediate appellate review of an interlocutory order.³⁴

Complainant has not provided any support for her allegations. Moreover, Complainant’s appeal concerns procedural rulings and an order imposed to control the conduct of the proceedings below. The Board has repeatedly declined to interfere with an ALJ’s procedural orders in interlocutory appeals because they are readily subject to review on appeal from a final judgment.³⁵ Complainant can appeal the

³² *Id.* at 3.

³³ *Lattimore v. Alaska Airlines, Inc.*, ARB No. 2025-0089, ALJ No. 2025-AIR-00038, slip op. at 5 (ARB Mar. 9, 2026) (citation omitted).

³⁴ *Mohawk Indus., Inc. v. Carpenter*, 558 U.S. 100, 107 (internal quotations and citation omitted); *see also Digital Equip. Corp. v. Desktop Direct, Inc.*, 511 U.S. 863, 872 (1994) (“A fully litigated case can no more be untried than the law’s proverbial bell can be unrung, and almost every pretrial or trial order might be called ‘effectively unreviewable’ in the sense that relief from error can never extend to rewriting history. Thus, erroneous [orders] may burden litigants in ways that are only imperfectly reparable by appellate reversal of a final district court judgment But if immediate appellate review were available every such time, Congress’s final decision rule would end up a pretty puny one”); *see generally* CHARLES A. WRIGHT ET AL., FEDERAL PRACTICE AND PROCEDURE § 3911.4 (3d ed. Sept. 2025 update) (internal citations omitted) (“The mere burden of submitting to trial proceedings that will be wasted if the appellant’s position is correct does not support collateral order appeal. Nor is it enough to show that a wrong order may cause tactical disadvantages that cannot be undone even by a second trial. The final judgment rule rests on a determination that ordinarily these costs be borne to support the greater benefits that generally flow [from] denying interlocutory appeal.”).

³⁵ *Ashcraft v. First Citizens Bank*, ARB Nos. 2026-0008, -0017, ALJ No. 2025-SOX-00035, slip op. at 10-11 (ARB Jan. 30, 2026) (citing *Lewis v. Deepwell Energy Servs., LLC*, ARB Nos. 2025-0037, -0039, -0051, ALJ No. 2024-STA-00042, slip op. at 7-8 (ARB Apr. 23, 2025) (denying interlocutory appeals of ALJ orders prohibiting complainant from filing, denying reconsideration, denying motion for recusal, and denying request to certify for interlocutory appeal); *Mawhinney v. Transp. Workers Union*, ARB No. 2015-0013, ALJ No. 2012-AIR-00014, slip op. at 3 (ARB Feb. 3, 2015) (declining interlocutory review concerning ALJ orders denying amendments to arguments about individual liability and concerning

ALJ's decision, including this procedural order and the restrictions it placed on her, at the conclusion of the ALJ proceedings. If the Board agrees with Complainant at that time that the ALJ erred, and that the error was not harmless, the Board can order necessary relief. Thus, we find that Complainant has not satisfied the collateral order exception.

CONCLUSION

For the foregoing reasons, we **DENY** Complainant's interlocutory appeal.

SO ORDERED.

ELLIOT M. KAPLAN
Administrative Appeals Judge

THOMAS H. BURRELL
Administrative Appeals Judge

alleged ex parte communications; "the Board may fully consider and dispose of both issues he has presented, upon appeal of the ALJ's final order in this case, should that be necessary"); *Pragasam v. Wellness Home Health Care, Inc.*, ARB No. 2011-0017, ALJ No. 2010-LCA-00018, slip op. at 6 (ARB Apr. 12, 2011) ("[T]here is no viable argument that the procedural and discovery dispute issues presented here are subject to the collateral order exception The ARB can most certainly review the procedural issues Pragasam has raised regarding default judgment, joinder of parties, and audio CD transcription upon appeal of the ALJ's final decision in this case.")).