

U.S. Department of Labor

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



IN THE MATTER OF:

GENEVIEVE FRIESNER,¹

**ARB CASE NOS. 2026-0045
2026-0059**

COMPLAINANT,

**ALJ CASE NO. 2025-SOX-00010
ALJ STEWART F. ALFORD**

v.

FAMILY DOLLAR,

DATE: August 20, 2026

RESPONDENT.

Appearances:

For the Complainant:

Genevieve Friesner; *Pro Se*; Tonopah, Nevada

For the Respondent:

Chrisanne Gultz, Esq., and Melissa L. Shingles, Esq.; *Little 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.² 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,

¹ Complainant was previously identified as Genevieve Larson. On August 5, 2026, the ALJ entered an order changing the case caption to reflect Complainant's current legal name, Genevieve Friesner. We have amended our caption as well.

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

OSHA dismissed the complaint. Complainant then requested a hearing before an Administrative Law Judge (ALJ). The case remains pending before the ALJ.

On June 15, 2026, Complainant filed a Petition for Review with the Administrative Review Board (ARB or Board) seeking review of orders issued by the ALJ on February 5, February 23, and June 10, 2026. On July 17, 2026, the Board issued a Decision and Order Denying Interlocutory Appeal (D. & O.), dismissing Complainant's appeal and closing the matter.

The next day, July 18, 2026, the ALJ issued an Order Denying Motion and Directing Claimant to Show Cause (Order Denying Motion), which, among other things, denied Complainant's request for default judgment in the amount of over \$1.8 million as a sanction for Respondent's alleged alteration or destruction of evidence. On July 20, 2026, Complainant filed an "Emergency Notice of District Court's July 18, 2025 Order^[3] Claiming Spoliation is out of their Jurisdiction" (Emergency Notice). In the Emergency Notice, Complainant appears to: (1) request reconsideration of the D. & O., and (2) appeal the ALJ's Order Denying Motion.

For the reasons that follow, we deny Complainant's request for reconsideration and deny Complainant's new interlocutory appeal.⁴

1. Request for Reconsideration

In her first appeal, Complainant asked the ARB to review: (1) orders denying Complainant's request to permit Howard Friesner, Complainant's spouse, to serve as her non-attorney representative; (2) the ALJ's alleged failure to address an evidence spoliation issue; (3) the ALJ continuing the hearing and extending pending deadlines; and (4) an order entering a protective order.

On July 17, 2026, we issued the D. & O. We explained that the petition was for interlocutory review because the ALJ had not yet issued a decision fully

³ Complainant's reference to "District Court" appears to be an error. The context of the Emergency Notice demonstrates that Complainant is referring instead to the ALJ's Order Denying Motion.

⁴ We assigned Complainant's first appeal ARB Case No. 2026-0045. Because the Emergency Notice, in part, appeals a new ALJ order issued after the first appeal was closed, we assign it a new ARB Case Number, ARB Case No. 2026-0059, and consolidate it with ARB Case No. 2026-0045 for judicial efficiency.

disposing of all claims in Complainant’s complaint. The Board’s delegated authority includes the consideration and disposition of interlocutory appeals “in exceptional circumstances, provided such review is not prohibited by statute.”⁵ The Board has emphasized repeatedly that interlocutory appeals are generally disfavored and that there is a strong policy against piecemeal appeals.⁶

We held that Complainant’s appeal as to the ALJ’s rejection of her non-attorney representative was untimely.⁷ On the remaining issues, we declined to accept Complainant’s interlocutory appeal.⁸ As we explained, if a party fails to obtain certification for immediate review from an ALJ under 28 U.S.C. § 1292(b), we may consider the interlocutory appeal if it meets the narrow “collateral order” exception.⁹ 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.¹⁰

We determined that Complainant’s appeal did not satisfy the third prong of the collateral order exception.¹¹ Complainant’s appeal concerned procedural rulings and an order controlling 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.¹²

In the Emergency Notice, Complainant appears to seek reconsideration of the D. & O. Complainant refers to the continuance of the hearing, the protective order, and the removal of Complainant’s non-attorney representative.¹³

⁵ 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).

⁶ *Gadbury v. Park Aerospace Corp.*, ARB No. 2026-0024, ALJ No. 2025-SOX-00022, slip op. at 3 (ARB Apr. 17, 2026) (citation omitted).

⁷ D. & O. at 5.

⁸ *Id.*

⁹ *Id.* at 6 (citation omitted).

¹⁰ *Id.* (citation omitted).

¹¹ *Id.* at 7-8.

¹² *Id.* at 7 (citations omitted).

¹³ Emergency Notice at 1.

The Board will reconsider a decision in certain circumstances, including where the movant has demonstrated: (1) material differences in fact or law from those presented to the Board of which the moving party could not have known through reasonable diligence; (2) new material facts that occurred after the Board's decision; (3) a change in the law after the Board's decision; or (4) failure to consider material facts presented to the Board before its decision.¹⁴ The foregoing circumstances are not exclusive and a complainant's inability to satisfy one is not necessarily fatal to reconsideration.¹⁵ However, the Board will not reconsider a decision where the movant merely repeats arguments that were raised in the original appeal.¹⁶

Here, Complainant rehashes the same arguments that she raised in her first appeal. For example, she insists again that the ALJ's continuance violates SOX's requirement that cases be resolved expeditiously,¹⁷ that the ALJ's handling of the case risks "further spoliation and witness degradation," and that the protective order is an improper "Speech Ban."¹⁸ These are the same arguments she made in her original appeal. Furthermore, even if we considered the arguments again, they would not alter our original analysis that Complainant's appeal does not satisfy the collateral order test because the issues are all readily subject to review on appeal from a final judgment.¹⁹

Accordingly, we deny Complainant's motion for reconsideration of our D. & O.

¹⁴ *Robles v. Mr. Bults, Inc.*, ARB No. 2025-0058, ALJ Nos. 2025-STA-00050, -00051, -00052, slip op. at 2-3 (ARB Mar. 5, 2026) (Order Denying Reconsideration) (citation omitted).

¹⁵ *Id.* at 3 (citation omitted).

¹⁶ *See id.* (citation omitted).

¹⁷ Complainant also states that she and her family are on welfare and food stamps and that additional delay "risks further debt, bankruptcy, and homelessness before any hearing occurs." Emergency Notice at 1. As unfortunate as these circumstances are, and as sympathetic as we are to them, these circumstances do not justify immediate appeal. *See Szmurlo v. ThyssenKrupp Elevator*, ARB Nos. 2026-0025, -0026, ALJ No. 2025-SOX-00034, slip op. at 13 (ARB June 23, 2026).

¹⁸ Emergency Notice at 1.

¹⁹ D. & O. at 7-8.

2. New Interlocutory Appeal

On July 8, 2026, Complainant filed with the ALJ a “Motion for Case-Terminating Sanctions and Default Judgment Pursuant to FRCP 37(e)(2) and 29 CFR 18.57 for Intentional Spoliation of SEC 10-K Material Evidence” (Sanctions Motion). In the Sanctions Motion, Complainant asserted that after her husband emailed Respondent about evidence she discovered in Respondent’s publicly-available 10-K report, Respondent took steps to have her husband removed as her representative and to alter or delete the 10-K.²⁰ Complainant argued that this conduct necessitated sanctions.²¹ She requested default judgment and damages of more than \$1.8 million, or, alternatively, other lesser sanctions.²²

The ALJ denied Complainant’s Sanctions Motion and rejected Complainant’s request for sanctions. The ALJ stated: “Complainant’s request for default judgment in the amount of over \$1.8 million and other remedies is well outside this Tribunal’s jurisdiction in the pending Motion”²³

Complainant argues that the ALJ erred in declining to enter default judgment, award sanctions, or otherwise act on her allegation of evidence spoliation.²⁴ She asks the ARB to (1) “[r]eopen the record to address spoliation and alteration of” evidence; (2) “[d]raw an adverse inference against Respondent for destruction and alteration of evidence;” and (3) “[i]nform the Court that retaliating against a whistleblower’s spouse constitutes unlawful third-party retaliation”²⁵

Like Complainant’s first appeal, Complainant’s new appeal is for interlocutory review because the ALJ had not yet issued a decision fully disposing of all claims in Complainant’s complaint. As explained above, the Board will only consider an interlocutory appeal under the collateral order exception²⁶ if the order appealed: (1) conclusively determines the disputed question; (2) resolves an

²⁰ Sanctions Motion at 2-3.

²¹ *Id.* at 3-6.

²² *Id.* at 5-6.

²³ Order Denying Motion at 2.

²⁴ Emergency Notice at 1-2.

²⁵ *Id.* at 2.

²⁶ Complainant did not request or receive certification under 28 U.S.C. § 1292(b).

important issue completely separate from the merits of the action; and (3) would be effectively unreviewable on appeal from a final judgment.²⁷

Complainant cannot show that the ALJ's Order Denying Motion would be effectively unreviewable on appeal from a final judgment. 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."²⁸ 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.²⁹

The ALJ's decision not to enter default judgment or issue other sanctions is effectively reviewable after final judgment.³⁰ The Board has repeatedly declined to interfere with an ALJ's procedural and discovery orders in interlocutory appeals because they are readily subject to review on appeal from a final judgment.³¹ If Complainant does not prevail in this action, she can appeal the ALJ's decision, including the ALJ's decision not to award sanctions or default judgment, at the conclusion of the proceedings. If we determine at that time that Respondent altered

²⁷ *Gadbury*, ARB No. 2026-0024, slip op. at 4 (citation omitted).

²⁸ *Lattimore v. Alaska Airlines, Inc.*, ARB No. 2025-0089, ALJ No. 2025-AIR-00038, slip op. at 5 (ARB Mar. 9, 2026) (citation omitted).

²⁹ *Id.* (citations omitted).

³⁰ *See Szmurlo*, ARB Nos. 2026-0025, -0026, slip op. at 12-13 (denying interlocutory appeal of ALJ decision not to impose sanctions and other evidentiary and discovery matters).

³¹ *E.g., Ashcraft v. First Citizens Bank*, ARB Nos. 2026-0008, -0017, ALJ No. 2025-SOX-00035, slip op. at 10-11 (ARB Jan. 30, 2026) (denying interlocutory appeals of ALJ orders staying discovery and prohibiting complainant from filing motions and notices); *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 an interlocutory appeal); *Adm'r, Wage & Hour Div., U.S. Dep't of Lab. v. Goldstar Amusements, Inc.*, ARB No. 2022-0027, ALJ Nos. 2021-TNE-00027, -00028, slip op. at 8 (ARB Sept. 30, 2022) ("Courts rarely grant interlocutory appeal of discovery orders.") (citations omitted); *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.").

or destroyed evidence, and that such actions had a material impact on the case or the ALJ's decision, we can order, or direct the ALJ to order on remand, appropriate relief, including adverse inferences, preclusion of the admission of evidence, dismissal, default judgment, or other sanctions.³² Thus, we find that Complainant has not satisfied the collateral order exception.

CONCLUSION

For the foregoing reasons, we **DENY** Complainant's request for reconsideration in ARB Case No. 2026-0045, and **DENY** Complainant's interlocutory appeal in ARB Case No. 2026-0059.

SO ORDERED.

ELLIOT M. KAPLAN
Administrative Appeals Judge

THOMAS H. BURRELL
Administrative Appeals Judge

³² See *Szmurlo*, ARB Nos. 2026-0025, -0026, slip op. at 13.