

U.S. Department of Labor

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



IN THE MATTER OF:

JON DeVOE,

ARB CASE NO. 2025-0056

COMPLAINANT,

ALJ CASE NO. 2024-STA-00090

ALJ WILLIAM P. FARLEY

v.

DATE: July 1, 2025

PREMIER TRUCKING LLC,

RESPONDENT.

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

**ORDER GRANTING RECONSIDERATION, VACATING ORDER OF
ADMINISTRATIVE CLOSURE, AND NOTICE OF APPEAL ACCEPTANCE
AND BRIEFING ORDER**

This case arises under the Surface Transportation Assistance Act of 1982 (STAA), as amended.¹ Complainant Jon DeVoe filed a complaint against Respondent Premier Trucking, LLC alleging Respondent violated the employee protection provisions of STAA. On April 24, 2025, a United States Department of Labor Administrative Law Judge (ALJ) issued a Decision and Order Denying Complaint (D. & O.). On May 5, 2025, Complainant filed a document, “Motion for more time to appeal” (Motion for Extension).

Any party seeking review of an ALJ decision “must file a written petition for review with the” Administrative Review Board (ARB or Board) “within 14 days of the date of the decision of the ALJ.”² Accordingly, Complainant had until May 8, 2025, to file a timely petition for review with the ARB. In his Motion for Extension,

¹ 49 U.S.C. § 31105(a), as implemented by the regulations at 29 C.F.R. Part 1978 (2024).

² 29 C.F.R. § 1978.110(a).

Complainant requested an extension of time of sixty days to file a petition for review of the D. & O., noting that he could only work on it on the weekends.³

On May 9, 2025, the ARB issued an Order Granting Complainant's Motion for Extension in Part (Extension Order), allowing Complainant until June 9, 2025 to file a petition for review. However, the ARB cautioned that "[n]o further requests for an extension of time will be granted, and that this matter may be administratively closed without further notice if Complainant does not file a Petition for Review by the deadline."⁴

Complainant did not file a petition for review by June 9, 2025, as required by the ARB's Extension Order. Given Complainant's failure to comply with the ARB's extension order and the requirement to file a petition for review under 29 C.F.R. § 1978.110(a), the Board administratively closed this matter on June 17, 2025.

On June 22, 2025, Complainant filed a motion for reconsideration and a petition for review. Complainant explained that he did not receive the ARB's Extension Order and believed that he had until June 23, 2025 to file his petition for review. He further explained that he needed sixty days because he does not have a computer and uses computers at a library, which he can only do on weekends due to his work schedule. He requests that the Board accept his petition for review and reconsider its decision dismissing his complaint.

The Board will reconsider a decision and order in certain circumstances. These circumstances include whether the movant has demonstrated: (i) material differences in fact or law from those presented to the Board of which the moving party could not have known through reasonable diligence, (ii) new material facts that occurred after the Board's decision, (iii) a change in the law after the Board's decision, or (iv) failure to consider material facts presented to the Board before its decision.⁵ However, the Board has repeatedly stated that these circumstances are not exclusive, and a complainant's inability to satisfy one is not necessarily fatal to a reconsideration motion.⁶

³ Motion for Extension at 1.

⁴ Extension Order at 1.

⁵ *Trivedi v. Gen. Elec.*, ARB No. 2022-0026, ALJ No. 2022-SOX-00005, slip op. at 2-3 (ARB Oct. 28, 2022) (Order Denying Reconsideration) (citing *Klein v. Bank of Am.*, ARB No. 2022-0016, ALJ No. 2020-SOX-00039, slip op. at 2-3) (ARB May 19, 2022) (Order Denying Reconsideration)).

⁶ *McDowell v. Eagle Intermodal, Inc.*, ARB No. 2022-0046, ALJ No. 2020-STA-00054, slip op. at 3 (ARB Feb. 14, 2023) (citing *Fernandez v. SAP Am. Inc.*, ARB No. 2022-0033, ALJ No. 2022-LCA-00005, slip op. at 2 (ARB July 5, 2022) (Order Denying Reconsideration)).

The particular circumstances presented in this case justify granting reconsideration. Although the Board's records indicate that Complainant was served with the Extension Order, the Board accepts Complainant's explanation and accepts his petition for review.

Accordingly, we **GRANT** Complainant's request for reconsideration, **VACATE** our Order of Administrative Closure, **ACCEPT** Complainant's petition for review, and establish the Briefing Order as set forth below. To ensure compliance with future deadlines and orders, Complainant is directed to familiarize himself with the ARB's Rules of Practice and Procedure, 29 C.F.R. Part 26, available at <https://www.dol.gov/agencies/arb/resources/rules>. Complainant's failure to comply with the Board's Rules in the future may result in sanctions, including dismissal of his appeal.

BRIEFING ORDER

Please read this document carefully and in its entirety. It contains important information about this appeal, including when and how to file with the Board, briefing requirements, and other important information. Failure to follow this Order may result in sanctions, including dismissal of this appeal.

1. **ACCEPTANCE OF APPEAL.** The Board has accepted this matter for review and assigned it the ARB Case Number noted above. All future filings related to this matter must include this case name and ARB Case Number.
2. **ARB RULES OF PRACTICE AND PROCEDURE.** All filers are required to comply with the Board's rules of practice and procedure found in 29 C.F.R. Part 26, which can be accessed at <https://www.ecfr.gov/current/title-29/subtitle-A/part-26>.
3. **ELECTRONIC FILING AND SERVICE**

A. Use of the EFS System

The Board's Electronic Filing and Service (EFS) system allows parties to initiate appeals electronically, file briefs and motions electronically, receive electronic service of Board issuances and documents filed by other parties, and check the status of appeals via an Internet-accessible interface. Use of the EFS system is free of charge to all users. To use the EFS system, go to <https://efile.dol.gov>.

- **Attorneys and Lay Representatives:** Use of the EFS system is **mandatory for all attorneys and lay representatives** for all filings and service related to cases filed with the Board, absent an

exemption granted in advance for good cause shown pursuant to 29 C.F.R. § 26.3(a)(1), (2).

- **Self-Represented Parties:** Use of the EFS system is **strongly encouraged for all self-represented parties** for all filings and service related to cases filed with the Board. The EFS system spares litigants service-related time and expense by completing all required service upon all other parties to the case (once all parties are registered users in the system).

Without the use of the EFS system, parties must file documents with the Board and take the additional step of serving duplicate paper copies of all filings on every other party.

Self-represented parties who choose not to use the EFS system must file all pleadings, including briefs, appendices, motions, and other supporting documentation, by mail or by personal or commercial delivery. Email filings will ***not*** be accepted, absent extraordinary circumstances. Filings sent via mail or delivery must be paper documents—no electronic disks or flash drives will be accepted. Mailings and other delivery should be directed to:

Administrative Review Board
Clerk of the Appellate Boards
U.S. Department of Labor
200 Constitution Avenue, N.W. Room S-5220
Washington, D.C. 20210

Please note that the Board's rules at 29 C.F.R. § 26.3(a)(4) specify that "[u]nless a different time is set by statute, regulation, executive order, or judge's order, a document is considered filed when received by the Clerk of the Appellate Boards." This means that unless otherwise set by law, under the Board's regulations, a mailed document is filed upon receipt of the document by the Clerk's office (not as of the mailing or postmark date).

In contrast, documents filed through the EFS system are received as of the date and time recorded by the system, and, per 29 C.F.R. § 26.2(b)(2)(i), are timely as long as they are received at or before 11:59:59 Eastern time on the due date (i.e., the last minute and second of the day it is due).

The filing party must also serve all other parties to the case by a method of service authorized under applicable law or rule.

- **Non-Party Participants:** Amici or other non-party participants in a case filed before the Board, if represented by counsel or a lay representative, are required to use the EFS system for all filing and service.

B. EFS Registration and Duty to Designate E-mail Address for Service

To use the Board's EFS system, a user must have a validated user account with Login.gov. To begin, go to <https://efile.dol.gov>, select the button to "Create Account," and proceed through the registration process. If the user already has an account, they may simply use the option to "Sign In." Once signed in, select "eFile & EServe with the Administrative Review Board (ARB)," and then select "Access Appeals."

In order for any other user (other than the EFS user who filed the appeal) to access the appeal, the user must first create an account following the steps above, then select "Request Access to Appeals," search for and select the appeal the user is requesting access to, answer the questions as prompted, and click the button "Submit to DOL."

Information regarding use of the EFS system, as well as a step-by-step User Guide, answers to frequently asked questions (FAQs), video tutorials, and contact information for login.gov and EFS support can be found under the "Support" tab at <https://efile.dol.gov>.

C. Effective Time of Filings

Any electronic filing transmitted to the Board through the EFS e-File system by **11:59:59 Eastern Time** shall be deemed to be filed on the date of transmission. A document filed by means other than EFS is considered filed when received by the Clerk of the Appellate Boards, unless a different time is set by statute, regulation, executive order, or judge's order. 29 C.F.R. § 26.3(a)(4).

D. Service of Filings

- **Service on Registered EFS Users:** Service upon registered EFS users is accomplished by the EFS system.
- **Service on Other Parties or Participants:** Service upon a party that is not a registered EFS user must be accomplished through any other method of service authorized under applicable rule or law.

E. Proof of Service

Every party is required to prepare and file a certificate of service with all filings. The certificate of service must identify what was served, upon whom it was served, and in what manner it was served.

- Service on EFS-registered parties: each EFS filing submitted and served on EFS-registered parties must include a certificate of service which indicates that service was accomplished via EFS with the date of service.
- **Non EFS-registered parties must be served using other means authorized by law or rule.**

4. BRIEFING REQUIREMENTS

A. Briefing Schedule

- **Opening Brief:** Within 28 calendar days of the date of this Order, the petitioner (the party who filed the appeal) must file with the Board a supporting legal brief of points and authorities. The Opening Brief may not exceed 30 double-spaced pages.
- **Response Brief:** Within 28 calendar days from the date of service of the petitioner's Opening Brief, the opposing party may file with the Board a Response Brief in opposition to the Opening Brief. The Response Brief may not exceed 30 double-spaced pages.
- **Reply Brief:** Within 14 calendar days from the date of service of a Response Brief, the petitioner may file with the Board a Reply Brief. The Reply Brief may not exceed 15 double-spaced pages.

No additional briefs may be filed without the prior written permission of the Board, issued by Order.

B. Motions and Responses

- **Motions:** All motions and other requests for action by the Board including, but not limited to, requests for extensions of time or to exceed page limitations, shall be in the form of a motion. Motions may not exceed 20 double-spaced pages.

Before filing any motion or other request for non-dispositive action or relief with the Board, including any request for an extension of time, the moving party must make a good faith effort to confer with all other parties to ascertain whether they consent to the action or

relief sought. The moving party must state in its motion whether the other parties' consent to the action or relief sought or, if no conference occurred, the efforts the moving party made to confer with the other parties. Any motion for non-dispositive action or relief that fails to include this information may be summarily denied.

- **Response to motions:** Any party may file a response to a motion. Responses to motions may be filed within 10 calendar days after service of the motion unless the Board shortens or extends the time. However, nothing in this order limits the Board from granting or denying a motion before the expiration of this time period. Responses may not exceed 20 double-spaced pages.
- **Replies to Responses:** Any movant may file a reply to a response. A reply must not present matters that do not relate to the response. Any reply to a response must be filed within 7 calendar days after service of the response. Responses may not exceed 10 double-spaced pages.

C. Settlements

Several of the Board's program regulations provide that settlements must be approved by the Board. Requests for Board approval of a settlement must be made by motion to the Board. For regulations requiring Board approval of settlements, parties must submit a fully executed and dated copy of the settlement agreement to the Board with its motion to dismiss based on settlement. Any motion that fails to comply with these requirements may be summarily denied.

D. Withdrawals

Several of the Board's program regulations provide for withdrawal of an appeal. Requests to withdraw an appeal must be made by motion to the Board. If you are requesting to withdraw an appeal under a program regulation requiring the Board to approve of settlement agreements, you must certify that the withdrawal is not based on a settlement. Any motion that fails to comply with these requirements may be summarily denied.

E. Appendix and Exhibit Filings From the Record⁷

To consider the appeal, the Board will obtain the entire record. **Parties may not file the entire record or large portions of the record** (such as transcripts) as an appendix or exhibit. Any filed appendix shall consist only of well-labeled excerpts from the record that are directly cited in the brief, motion, or other filing accompanying the appendix. The Board specifies that these excerpts should be pages directly cited in the brief, rather than entire documents and the brief should directly state where they are located in the record. Further, the appendix should be filed either 1) as an attachment in the same pdf document as the brief, or 2) in one pdf document with all of the exhibits together in one document. Appendices should be submitted at the same time a party files its accompanying filing.

F. New Evidence

The Board generally does not consider materials presented for the first time on appeal. Therefore, parties may not file, or include in an appendix, any evidence not already contained in the record, without prior written permission granted by Board order.

Parties seeking to file new evidence must file a motion with the Board with supporting argument. When considering whether to allow new evidence on appeal, the Board relies on the standard contained in the Office of Administrative Law Judges Rules at 29 C.F.R. § 18.90(b)(1): “[n]o additional evidence may be admitted unless the offering party shows that new and material evidence has become available that could not have been discovered with reasonable diligence before the record closed.” The Board grants such requests only in limited circumstances. To satisfy this standard, the moving party typically must show that (1) the evidence was discovered after trial; (2) due diligence was exercised to discover the evidence; (3) the evidence is material and not merely cumulative or impeaching; and (4) the evidence is such that a new trial would probably produce a different result.

The Board retains the authority to reject any appendix or exhibit filings that do not meet these requirements.

⁷ An appendix is a document or documents attached to the end of a filing, which can be made up of exhibits. Exhibits, in the context of filings with the Board, are documents attached to briefs, motions, or other filings.

G. Page Limitations

The page limitations set forth in this Order do not include cover pages, tables of contents, tables of citations, signature blocks, or certificates of service. A motion to exceed an identified page limitation must specify how many additional pages are being requested and why additional pages are required.

If a brief or motion is filed without approval that exceeds the stated page limitations, the Board may, with or without notice: (1) refuse to accept the filing; (2) strike the filing with leave to refile a compliant filing within a specified time; (3) disregard the pages of the filing that exceed the page limitation; or (4) issue any other appropriate order, including the issuance of sanctions.

H. Required Format: All pleadings, briefs, and motions must comply with the following requirements:

- 12-point, 10 character-per-inch type or larger font
- Double-spaced
- Minimum of one-inch margins
- Printable on 8.5- by 11-inch paper

- 5. INQUIRIES AND CORRESPONDENCE:** For efilings assistance, inquiries must be made while logged into the system by using the eFile and eServe Help Request Form at <https://efile.dol.gov/contact>. All other inquiries and correspondence related to filings should be directed to the Office of the Clerk of the Appellate Boards by email to ARB-Correspondence@dol.gov or by fax at 202-513-6832. If you still have questions after reviewing the above, inquiries or questions may be directed to the Board by telephone at (202) 693-6200 (please leave a voicemail message and every effort will be made to return your call as soon as feasible).

SO ORDERED.

RANDEL K. JOHNSON
Chief Administrative Appeals Judge

ANGELA W. THOMPSON
Administrative Appeals Judge