



IN THE MATTER OF:

SERGIO B. ROBLES,

ARB CASE NO. 2026-0009

COMPLAINANT,

ALJ CASE NO. 2025-STA-00038

ALJ DREW A. SWANK

v.

DATE: July 23, 2026

LAZER SPOT, INC.,

RESPONDENT.

Appearances:

For the Complainant:

Sergio B. Robles; *Pro Se*; Rockford, Illinois

For the Respondent:

**Benjamin Briggs, Esq.; Olivia Jenkins, Esq.; Mitchell Robinson, Esq.;
Seyfarth Shaw LLP; Atlanta, Georgia**

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

DECISION AND ORDER

This case arises from a complaint filed by Complainant Sergio Robles against his employer, Lazer Spot, Inc., alleging retaliation in violation of the whistleblower protections of the Surface Transportation Assistance Act of 1982 (STAA) and its implementing regulations.¹ Complainant appeals Administrative Law Judge (ALJ) Drew A. Swank's December 1, 2025 Order Dismissing Claim and Cancelling Hearing, which dismissed his complaint with prejudice due to Complainant's noncompliance with discovery orders. As the ALJ did not abuse his discretion, we affirm the dismissal.

¹ 49 U.S.C. § 31105(a); 29 C.F.R. Part 1978 (2026).

BACKGROUND

On or about May 29, 2024, Complainant filed a complaint with Occupational Safety and Health Administration (OSHA) alleging Respondent disciplined him and terminated his employment in retaliation for his safety complaints.² On January 8, 2025, OSHA denied the complaint after finding Respondent fired Complainant for unsafe driving, refusal to leave a customer site, and violations of company policies.³ Complainant requested a hearing before an ALJ on January 9, 2025.⁴

In an April 15, 2025 Notice of Hearing and Pre-Hearing Order, the ALJ informed the parties that discovery would begin immediately.⁵ The ALJ also directed the parties to exchange, within thirty-three days, simple pre-hearing statements of the issues to be decided, a list of potential witnesses, documents to be offered into evidence, and an approximation of the number of days required for a hearing.⁶ Respondent served its discovery requests and interrogatories on Complainant on May 9, 2025.⁷ Two days later, Complainant, representing himself, filed a motion alleging judicial bias and Respondent's "persistent harassment" of him.⁸ Complainant attached exhibits to his motion.⁹ He failed to file a pre-hearing statement by the deadline as ordered.¹⁰

² Notice of Docketing at 1; January 8, 2025 OSHA Determination Letter at 1.

³ *Id.*

⁴ Complainant's January 9, 2025 "Petition for Reconsideration."

⁵ April 15, 2025 Notice of Hearing and Pre-Hearing Order at 2.

⁶ *Id.* at 2-3. The Order stated the parties were responsible for complying with the Rules of Practice and Procedure for Administrative Hearings before the Office of Administrative Law Judges at 29 C.F.R. Part 18, Subpart A. *Id.* at 2.

⁷ Respondent's Motion to Compel Production of Documents, Interrogatory Responses, and Participation in Discovery (Resp. Motion to Compel) at 1.

⁸ Motion for Relief and Preservation of Rights and Objection to Procedural Irregularities at 4.

⁹ *Id.* at 9-11; CX-1A–CX-6A. The exhibits included photographs and images of text messages purporting to relate to Complainant's safety complaints and retaliation he experienced for lodging those complaints. *Id.*

¹⁰ Resp. Motion to Compel at 2.

The ALJ issued an Order to Show Cause on June 11, 2025, requiring Complainant to explain his failure.¹¹ Complainant responded to the Order to Show Cause on June 15, 2025, and insisted that his prior filings had “satisfied the pre-hearing statement requirements.”¹² After finding Complainant’s filings had not done so, the ALJ issued an Order Cancelling Hearing and Staying All Proceedings on June 24, 2025.¹³ In the June 24 Order Cancelling Hearing, the ALJ repeated the simple obligations required of Complainant: to provide a simple statement of facts supporting his claim, a list of potential witnesses if any, and an estimate of the time he believed necessary for him to provide his presentation of evidence.¹⁴ Complainant filed a pre-hearing statement as ordered five days later, the ALJ resumed proceedings via a Notice of Rescheduled Hearing and Pre-Hearing Order on July 11, 2025.¹⁵

The July 11, 2025 pre-hearing order laid out a schedule for the disclosure of expert witnesses, the exchange and submission of hearing exhibits, the filing of motions, and any requests for subpoenas.¹⁶ It informed the parties that they were “responsible for complying with the requirements of 29 C.F.R. Part 18, Subpart A, including those requirements not specifically addressed herein”¹⁷ The order warned at its conclusion that failure to comply with its terms could result in sanctions, including the exclusion of evidence, dismissal of Complainant’s claim, the entry of default judgment, or removal of an offending representative, and cited to the regulations covering these sanctions.¹⁸

¹¹ June 11, 2025 Order to Show Cause. The order warned that “[f]ailure to timely comply with this order may result in the exclusion of the testimony of witnesses not identified, the exclusion of documents not served, or other appropriate sanctions.” *Id.*

¹² Complainant’s Response to Order to Show Cause and Reference to Submitted Pre-Hearing Statements at 8.

¹³ Order Cancelling Hearing and Staying All Proceedings.

¹⁴ *Id.* at 2.

¹⁵ July 11, 2025 Notice of Rescheduled Hearing and Pre-Hearing Order.

¹⁶ *Id.* at 2-4.

¹⁷ *Id.* at 2.

¹⁸ *Id.* at 4. The ALJ’s order cited 29 C.F.R. §§ 18.12(b) (powers of the ALJ in conducting proceedings, including termination of proceedings through dismissal, taking appropriate action authorized by the Federal Rules of Civil Procedure), 18.35(c) (sanctions for party submissions not made in good faith, for improper purpose, or lacking reasonable basis in law and fact), 18.57 (sanctions including dismissal or default judgment for failure to fully cooperate in discovery), and 18.87 (exclusion of representative for misconduct).

In a July 13, 2025 letter response to an email from Respondent’s counsel again requesting Complainant’s discovery responses, Complainant wrote that it was his “intention to solely rely on already submitted evidence and statements, that implies that the claims presented, supported by the facts and evidence I’ve already provided”¹⁹ As Complainant had still failed to respond to Respondent’s discovery requests and answer its interrogatories, Respondent filed a Motion to Compel Production of Documents, Interrogatory Responses, and Participation in Discovery on August 20, 2025.²⁰

Agreeing with Respondent’s request, the ALJ issued an August 25, 2025 Discovery Order for Complainant to “comply with Respondent’s discovery requests by producing all requested documents, answering all interrogatory responses, and fully participating in discovery.”²¹ The Discovery Order stated Respondent was to notify the ALJ if Complainant disobeyed the order and request sanctions, which could include dismissal of Complainant’s claim.²²

Complainant then filed a Response to the ALJ’s Discovery Order on September 2, 2025, which (i) repeated his claim that he does not need to comply with Respondent’s discovery requests because his prior submissions satisfy those requests, (ii) argued that sanctions would be “disproportionate to procedural oversight,” and (iii) alleged both his “good faith effort to avoid this process,” as well as his entitlement to “latitude to prioritize the substance of the complaint over strict adherence to procedural form.”²³ Complainant then provided a list of exhibits he had attached to motions and briefs already submitted before the ALJ’s first show cause order to file a pre-hearing statement.²⁴ He did not explain why he had failed to respond to Respondent’s interrogatories or discovery requests outstanding since

¹⁹ Complainant’s July 13, 2025 Formal Response to Respondent’s Discovery Request and Notice of Ethical Violations at 2.

²⁰ Respondent’s Motion to Compel Production of Documents, Interrogatory Responses, and Participation in Discovery at 1. Respondent’s interrogatories sought information that included recordings of conversations with current or former employees; the amount and basis of the damages claimed; and documents or communications concerning the defects Complainant had allegedly observed in its vehicles. *Id.* at 4.

²¹ Discovery Order.

²² *Id.*

²³ Complainant’s Response to Discovery Order at 4, 15, 19.

²⁴ *Id.* at 16-18.

May 9, 2025, and “demand[ed] that this case be decided based on the substantial evidence already provided”²⁵

Respondent then moved for discovery sanctions on November 7, 2025, as it still had not received *any* answers to its interrogatories and discovery requests following the ALJ’s August 25 Discovery Order ordering Complainant to comply with Respondent’s discovery requests by producing all requested documents, answering all interrogatories, and fully participating in discovery.²⁶ The ALJ issued a second Order to Show Cause on November 18, 2025, in which he instructed Complainant to explain his noncompliance and warned him that failure to show cause could lead to the dismissal of his claim.²⁷ In his November 21, 2025 response to the Order to Show Cause, Complainant yet again contended his prior filings substantially complied with the Discovery Order and argued his filings showed lack of prejudice to Respondent.²⁸ He claimed he was entitled to latitude as an unrepresented party, and blamed Respondent for delays in the discovery process.²⁹

The ALJ issued an Order Dismissing Claim and Cancelling Hearing on December 1, 2025, finding Complainant had not complied with discovery nor shown cause for this failure.³⁰ The ALJ concluded that Complainant’s continual noncompliance with his orders and “repeated unresponsiveness” to Respondent’s discovery requests “dating back to” Complainant’s earlier failure to file a pre-hearing statement warranted the sanction of dismissal.³¹

JURISDICTION AND STANDARD OF REVIEW

The Secretary of Labor has delegated authority to the ARB to hear appeals from ALJ decisions and issue agency decisions in cases arising under the STAA.³²

²⁵ *Id.* at 20.

²⁶ Respondent’s Motion for Sanctions for Claimant’s Failure to Comply with the Court’s Discovery Order.

²⁷ November 18, 2025 Order to Show Cause at 1-2.

²⁸ Complainant’s Response to Order to Show Cause Regarding Discovery at 4-10.

²⁹ *Id.* at 6-7.

³⁰ Order Dismissing Claim and Cancelling Hearing at 2.

³¹ *Id.* at 2.

³² 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).

The Board reviews ALJ determinations on procedural issues, evidentiary rulings, and sanctions under an abuse of discretion standard.³³ An ALJ abuses his discretion if he: (1) bases the decision on an error of law or uses the wrong legal standard; (2) bases his decision on a clearly erroneous factual finding; or (3) reaches a conclusion that, though not necessarily the product of a legal error or of a clearly erroneous finding, cannot be located within the range of permissible decisions.³⁴

Complainant now argues that the ALJ erred in dismissing his claim on the basis that dismissal under 29 C.F.R. § 18.57(b)(1)(v) can only occur where there is “willful, prejudicial noncompliance” and “only when discovery requests adhere to proportionality and good-faith standards.”³⁵ Respondent counters that the ALJ acted within his discretion to dismiss the complaint pursuant to the standard established by the Board in *Keller v. Pittsburgh Baptist Church*.³⁶

DISCUSSION

As explained in *Keller v. Pittsburgh Baptist Church*, there must be willfulness, bad faith, or fault when a case-ending sanction is issued for noncompliance with discovery orders.³⁷ We conclude both that the ALJ did not err in finding Complainant failed to comply with his discovery order and that the record amply demonstrates that Complainant’s failure was willful. Complainant patently ignored Respondent’s interrogatories and discovery requests throughout this proceeding and chose instead to point to his prior filings with the ALJ as his answers.

Complainant asserts his “substantial compliance” with discovery rendered the ALJ’s grant of Respondent’s motion for dismissal error.³⁸ We disagree.

³³ *Butler v. Anadarko Petroleum Corp.*, ARB No. 2012-0041, ALJ No. 2009-SOX-00001, slip op. at 2 (ARB June 15, 2012) (the Board reviews an ALJ’s imposition of discovery sanctions on an abuse of discretion standard) (citations omitted).

³⁴ *Xia v. Lina T. Ramey & Assoc., Inc.*, ARB No. 2023-0046, ALJ No. 2022-LCA-00013, slip op. at 7-8 (ARB Oct. 7, 2024) (citation omitted).

³⁵ Complainant’s Brief (Comp. Br.) at 20.

³⁶ Respondent’s Brief at 6-9; *Keller v. Pittsburgh Baptist Church*, ARB No. 2025-0008, ALJ No. 2023-TAX-00012, slip op. at 8-9 (ARB July 30, 2025).

³⁷ *Id.* at 10 (citing *Nat’l Hockey League v. Metro. Hockey Club, Inc.*, 427 U.S. 639, 640 (1976)) (remaining citations omitted).

³⁸ Complainant’s Brief (Comp. Br.) at 13-14.

First, ALJ's possess an inherent power, independent of any rule or statute, to conduct and dispose of proceedings in an orderly and expeditious manner.³⁹ This power encompasses appropriately sanctioning conduct which abuses the judicial process via dismissal or default judgment.⁴⁰

Second, ALJs may sanction parties for their non-compliance with discovery orders by ordering dismissal of the complaint or a default judgment under the OALJ Rules of Practice and Procedure. The regulations governing discovery are clear: parties may obtain discovery regarding any non-privileged matter that is relevant to a claim or defense.⁴¹ An "evasive or incomplete disclosure, answer, or response must be treated as a failure to disclose, answer, or respond."⁴² An ALJ may, on motion, order sanctions including dismissal or default judgment for a party's failure to answer interrogatories or otherwise respond to discovery,⁴³ unless the party objecting to the discovery obtained or has a pending motion for a protective order.⁴⁴ The ALJ was correct to sanction Complainant for continued noncompliance. While the statement accompanying Complainant's May 29, 2024 complaint provided a narrative summary of his alleged protected activity, it does not supply, nor do the exhibits supply, the relevant and unprivileged information sought by Respondent in its interrogatories.⁴⁵ Complainant's insistence on leaving the interrogatories

³⁹ *Keller*, ARB 2025-0008, slip op. at 7-8.

⁴⁰ *Id.*; see also *Newport v. Fla. Power & Light Co.*, ARB No. 2006-0110, ALJ No. 2005-ERA-00024, slip op. at 4 (ARB Feb. 29, 2008) ("[S]ince dismissal is perhaps the severest sanction and because it sounds the death knell of the lawsuit, [the ALJ] must reserve such strong medicine for instances where . . . misconduct is correspondingly egregious.") (citation and internal quotation marks omitted).

⁴¹ 29 C.F.R. § 18.51(a).

⁴² *Id.* § 18.57(a)(3).

⁴³ *Id.* § 18.57(d)(1)(i).

⁴⁴ *Id.* §§ 18.57(d)(2), 18.52(a).

⁴⁵ May 29, 2024 Online Complaint Summary; June 4, 2024 Complainant Statement. For instance: Interrogatory #2 asked Complainant to identify anyone believed to have knowledge of the claims or damages alleged in his complaint and what knowledge they had; Interrogatory #3 asked whether any conversations with current or former employees of Respondent were recorded, the participants in the conversations, and the locations of such recordings; Interrogatory #6 sought the precise amount and basis for each category of damages claimed; Interrogatory #13 sought all facts supporting complainant's allegations; and, Interrogatory #14 asked Complainant to describe *in detail* each alleged protected act supporting the retaliation claim by identifying the date, participants, statements made, and

unanswered and his demand that the ALJ adjudicate the matter on the record alone in his responses to the ALJ's Discovery Order and the Order to Show Cause prejudiced Respondent's ability to formulate its defenses and demonstrated the intransigence of Complainant's noncompliance.⁴⁶

The ALJ's dismissal is additionally supported by his consideration of Complainant's earlier failure to file a pre-hearing statement, which necessitated the ALJ's order cancelling the hearing and staying all proceedings.⁴⁷ Even though Complainant's response to that order may have contained a pre-hearing statement, it did not satisfy his obligation to comply with all pre-hearing requirements, contrary to Complainant's current contention.⁴⁸

Moreover, throughout this entire process, Complainant repeated the same justification—that his prior submissions satisfy all requests and orders—for defying the ALJ's discovery orders. Complainant had previously attempted to use this excuse for his failure to file a pre-hearing statement even though the ALJ had already found those reasons insufficient when he cancelled the hearing and suspended proceedings for the first failure.⁴⁹ Based on this pattern of conduct, it appears a less drastic sanction would have been ineffective in securing Complainant's compliance with the ALJ's discovery orders. The ALJ was thus well within his authority to sanction Complainant by dismissing the complaint.

Additionally, we find that Complainant's failure to fully participate in discovery in this matter and to answer all of Respondent's interrogatory requests, particularly those seeking specific facts underlying the protected activity and retaliation alleged in the complaint, prejudiced Respondent's ability to formulate its defense.⁵⁰ It also interfered with the judicial process and delayed disposition from

any related documents. Respondent's First Set of Interrogatories to Complainant at 2-3, 5-6 (emphasis added).

⁴⁶ Complainant's Response to the Administrative Law Judge's Discovery Order at 19; Complainant's Response to Order to Show Cause Regarding Discovery at 4-5, 10.

⁴⁷ Order Dismissing Claim and Cancelling Hearing at 2.

⁴⁸ Complainant's Brief (Comp. Br.) at 7, 15.

⁴⁹ *See supra* pp. 3-5.

⁵⁰ *See supra* note 45 (on basic interrogatories left unanswered despite Complainant's exhibits).

the filing of Respondent’s motion to compel discovery on August 20, 2025, through the dismissal on December 1, 2025.⁵¹

We note that the ALJ’s dismissal order expressly considered only one of the factors relevant to the instant matter and outlined in *Keller*—Complainant’s noncompliance with his discovery order.⁵² As discussed earlier, willfulness is a required factor. However, because the facts bear out Complainant’s willfulness here, the ALJ’s lack of an express finding as to that factor was harmless error.⁵³

Keller also outlined other principles for an ALJ to normally consider in dismissal cases.⁵⁴ The Board has recognized that these principles are “non-exclusive”⁵⁵ and they do not constitute a straitjacket of requirements because ALJs need reasonable discretion to manage their dockets. We have reviewed the other relevant *Keller* factors and conclude that they also supported the ALJ’s dismissal here—the ALJ’s repeated warnings about the possibility of dismissal, the prejudice to Respondent, the inefficacy of a lesser sanction, and the interference with the judicial process. The ALJ therefore did not abuse his discretion in dismissing this case for Complainant’s discovery violations.

For the foregoing reasons, we **AFFIRM** the ALJ’s dismissal of the complaint.

SO ORDERED.

RANDEL K. JOHNSON
Chief Administrative Appeals Judge

THOMAS H. BURRELL
Administrative Appeals Judge

⁵¹ Respondent’s Motion to Compel Production of Documents, Interrogatory Responses, and Participation in Discovery at 2; Order Dismissing Claim and Cancelling Hearing.

⁵² Order Dismissing Claim and Cancelling Hearing; *see Keller*, ARB No. 2025-0008, slip op. at 8-9.

⁵³ *See id.*, slip op. at 10 (citations omitted).

⁵⁴ *Id.*, slip op. at 8-9.

⁵⁵ *Id.*, slip op. at 8 n.46.