



Issue Date: 30 March 2015

CASE NO.: 2014-SOX-00046

In the Matter of:

MARY BETH MORRISSEY,

Complainant,

v.

FREDDIE MAC,

Respondents.

**ORDER GRANTING RESPONDENT'S
MOTION FOR SUMMARY DECISION**

This case arises out of a complaint of discrimination filed pursuant to the employee protection provisions of Section 806 of the Corporate and Criminal Fraud Accountability Act of 2002, Title VIII of the Sarbanes-Oxley Act of 2002, 18 USC § 1514A. The Complainant, Ms. Marybeth Morrissey, filed this complaint against the Respondent, the Federal Home Loan Mortgage Corporation, commonly known as Freddie Mac.

Freddie Mac is a government sponsored enterprise, created by Congress with a statutory mission of promoting a stable secondary mortgage market for residential mortgages. It was placed under conservatorship during the financial crisis of 2008 and is regulated by the Federal Housing Finance Agency (FHFA). Its stock is publicly traded and it is a covered employer under the whistleblower provisions of Sarbanes-Oxley.

Ms. Morrissey worked at Freddie Mac in its loss mitigation department. She was not employed directly by Freddie Mac, but worked for a contractor. In 2012, Freddie Mac set up a department to manage a class of securities known as T-Deals. She was assigned to that department.

In September of 2012 Freddie Mac requested that her employer terminate her engagement at Freddie Mac. On September 14, 2012, her employer sent her an email informing her that her position at Freddie Mac was terminated. She applied for a position in a different department within Freddie Mac and was offered a position but was told on November 8, 2012 that she was not eligible for employment at Freddie Mac. She contends that these actions were in retaliation for whistleblowing activity. The Respondent contends that they resulted from poor performance and poor people skills.

On March 3, 2015 the Respondent filed a motion to dismiss the complaint. On March 4, 2015 the Respondent moved for a protective order to hold discovery in abeyance pending the resolution of its motion to dismiss. On March 18, 2015, Ms. Morrissey filed her response to the motion.

Freddie Mac's motion argues various bases for dismissing the complaint. It contends that her appeal of the OSHA decision is untimely under the Act. In addition, it argues that she cannot show protected activity as defined by the Act.¹ The latter ground relates to the merits of the complaint, and I have considered it under the standards for summary decision.

SUMMARY DECISION STANDARD

Summary decision may be granted where it is shown that the non-moving party cannot prove an essential element of his claim, so that there is no genuine issue of fact to be determined at trial. 29 C.F.R. §18.41. A genuine issue of material fact is presented when the record, taken as a whole, could lead a rational trier-of-fact to find for the non-moving party. *Celotex Corp. v. Catrett*, 477 U.S. 317 (1986).

The moving party has the burden of production to prove that the non-moving party cannot make a showing sufficient to establish an essential element of her case. Once the moving party has met its burden of production, the non-moving party must show by evidence beyond the pleadings themselves that there is a genuine issue of material fact. *Celotex* at 324.

The court should grant the motion for summary decision when the record (i.e., pleadings, affidavits and declarations offered with the motion and evidence developed in discovery) demonstrates that there are no genuine issues of material fact, and that the moving party is entitled to disposition as a matter of law. 29 C.F.R. § §18.40(d), 18.41(a); Fed. R. Civ. P. 56 (c). In determining whether there is a triable dispute of material fact, a court must review all of the evidence and construe all inferences in the light most favorable to the non-moving party. *See Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986); *Adickes v. S.H. Kress & Co.*, 398 U.S. 144 (1970). However, a court should not make credibility determinations or weigh the evidence. *Reeves v. Sanderson Plumbing Prod., Inc.*, 530 U.S. 133, 150 (2000). The party who brings the motion for summary decision bears the burden of production to prove that the non-moving party cannot make a showing sufficient to establish an essential element of the case.

TIMELINESS OF THE APPEAL

Ms. Morrissey's employment at Freddie Mac was terminated on September 14, 2012. She filed her complaint with OSHA on November 16, 2012.

In March of 2013, she was notified that OSHA was going to issue a decision dismissing the complaint. On March 21, 2013 she sent an email to a Department of Labor official, in which

¹ The Respondent originally contended that Ms. Morrissey was not covered by the Act because she was a contract employee. The OSHA determination found that she was covered. After the OSHA determination in this case, the U.S. Supreme Court held in *Lawson v. FMR LLC*, 571 U.S. ____ (2014) that contractor employees are covered under Section 806 of the Act.

she stated, "I intend to appeal the DOL decision against me however, I did not receive a letter. When can I expect it? Can you please resend?" She followed this up with another email on March 24, 2013 stating, "I did not receive the DOL response to my complaint against Freddie Mac." and reiterated that she wished to appeal the decision if it denied her complaint.

The OSHA written determination was completed on May 13, 2013, and sent to the address that OSHA had on file. Ms. Morrissey no longer lived at that address. The determination was returned to OSHA as unable to forward. She provided a copy of the envelope that the Postal Service returned to OSHA, verifying that the OSHA finding was neither delivered nor forwarded.

After several months she sent emails to OSHA to check on the status and the mailing address error was discovered. She received the report in August of 2014, and filed her appeal to OALJ on August 25, 2014.

The implementing regulations regarding processing a complaint after the OSHA determination provide that:

(c) The findings and any preliminary order will be effective 30 days after receipt by the respondent (or the respondent's legal counsel if the respondent is represented by counsel), or on the compliance date set forth in the preliminary order, whichever is later, unless an objection and/or a request for hearing has been timely filed as provided at §1980.106. . .

29 C.F.R. §1980.105(c)

(a) Any party who desires review, including judicial review, of the findings and preliminary order, or a respondent alleging that the complaint was frivolous or brought in bad faith who seeks an award of attorney fees under the Act, must file any objections and/or a request for a hearing on the record within 30 days of receipt of the findings and preliminary order pursuant to §1980.105(b). . .

29 C.F.R. §1980.106(a)

Under Section 106(a), the time for a party to request a hearing begins to run upon the party's receipt of the findings and preliminary order. The Respondent's motion contains a detailed chronology of contacts between Ms. Morrissey and OSHA and other government agencies during the period during 2013 and 2014. It argues that the extent of these contacts makes the claim that she did not receive the findings until August of 2014 implausible.

In 2013, Ms. Morrissey filed complaints with the Equal Employment Opportunity Commission (EEOC) and FHFA Office of Inspector General (FHFA-OIG). On June 25, 2013, the EEOC issued a dismissal and notice of rights to file suit, noting its determination that it was "unable to conclude that the information obtained establishes violations of the statutes." FHFA closed her complaint on May 3, 2013.

In an email to FHFA on March 12, 2013, Ms. Morrissey wrote that “DOL dismissed this complaint—and I have not had a substantive response as to why.” It is clear from this email that she was aware at that time of OSHA’s intention to dismiss the Sarbanes-Oxley complaint. However, the regulations cited above refer to receipt of the written decision, rather than mere awareness of the decision. The written decision was not completed until two months after her email to FHFA, and the available evidence indicates that she did not receive it in the mail when it was originally sent.

Freddie Mac argues that Ms. Morrissey’s claim not to have received the findings and order before August of 2014 is not credible. This argument might prevail in a determination in a contested hearing. However, “at the summary judgment stage of proceedings we must accept [the non-moving party’s] version of when she received the OSHA letter.” *Reddy v. Medquist, Inc.* ARB No. 04-123, ALJ No. 2004-SOX-00035 (ARB September 30, 2005), p. 6. Accordingly, summary decision on the basis of timeliness is inappropriate.

STATUTORY PROVISION AND BURDEN OF PROOF

Section 806 of Sarbanes-Oxley provides that no company covered by the provision “may discharge, demote, suspend, threaten, harass, or in any other manner discriminate against an employee in the terms and conditions of employment because of any lawful act done by the employee-

(1) to provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct which the employee reasonably believes constitutes a violation of section 1341 [mail fraud], 1343 [wire fraud], 1344 [bank fraud], or 1348 [securities fraud], any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders, when the information or assistance is provided to or the investigation is conducted by-

- (A) a Federal regulatory or law enforcement agency;
- (B) any Member of Congress or any committee of Congress; or
- (C) a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct); or

(2) to file, cause to be filed, testify, participate in, or otherwise assist in a proceeding filed or about to be filed (with any knowledge of the employer) relating to an alleged violation of section 1341, 1343, 1344, or 1348, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders.

18 USC § 1514A(a).

There has been no allegation of a violation of either sub-sections (1)(B) or (2), which relate to communications with Congress and participation in regulatory proceedings. The allegation of protected activity must fall under either subsection (1)(A) or (1)(C). Those subsections involve providing information concerning a violation either to a regulatory or law enforcement agency or to a person with supervisory authority over the employee.

To prevail in a Section 1514A action a complainant:

must prove that: (1) she engaged in a protected activity; (2) [the employer] knew that she engaged in the protected activity; (3) she suffered an unfavorable personnel action; and (4) the protected activity was a contributing factor in the unfavorable action. Therefore, whether [a complainant] engaged in protected activity is an essential, material fact which she must show if challenged to do so on a motion for summary judgment. As previously noted, the SOX protects employees who provide information to a covered employer or a Federal agency or Congress relating to alleged violations of the federal mail, wire/radio/TV, bank, and securities fraud statutes (18 U.S.C.A. §§ 1341, 1343, 1344, and 1348), or any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders.

Reddy, p. 7.

PROTECTED ACTIVITY

Complainant's allegations of fraudulent activity

In her complaint Ms. Morrissey alleges several actions that she characterizes as fraudulent:

1. A service contract with a company called Digital Risk (DR). She notes that no DR employees appeared on site, and asserts that the company did no work. She infers that the contract was an illegal kickback.
2. Overbilling of maintenance fees on Freddie Mac owned properties.
3. Short sales of residential properties in which bank servicers did not follow Freddie Mac short sale criteria.
4. Freddie Mac's adopting a short sale procedure "which apparently constitutes a kickback scheme with Freddie Mac affiliated foreclosure attorneys."
5. Employment of workers of Chinese and Indian descent who she contends were unqualified.

The first four of these assertions allege financial improprieties. Freddie Mac disputes each of these and has offered documents in support of its position. For example, Freddie Mac contends that its contract with Digital Risk did not require DR personnel to work at its facilities.

It further contends that DR did the work by remote access to its computer systems. The contract proposal says “the approved staff will be brought into Freddie Mac as contingent workers. Workers will have access to Freddie Mac systems and files.” The dispute thus appears to hinge on whether the phrase “brought into Freddie Mac” should be construed as requiring the workers’ physical presence in the company’s office space.

Similarly, Freddie Mac contests the allegations concerning maintenance fee and short sales. At the summary decision stage it is not necessary to consider these matters in detail, because of the requirement to construe all evidence in the light most favorable to the non-moving party.

March 2012 complaint

In her appeal to OALJ Ms. Morrissey wrote that “Shortly after starting at Freddie, around March 2012, I filed a complaint regarding the illegal employment practices that I observed. I felt guilty that many skilled people I had worked with were out of work and suffering—while so many visa workers who had little mortgage knowledge or experience were in high paying jobs at Freddie and Fannie [Fannie Mae, the Federal National Mortgage Association].”

July 25, 2012 email to Wagner

On July 25, 2012, Ms. Morrissey sent an email to Christopher Wagner, Director of T-Deal Management. It opened:

Several months ago I identified an issue I was seeing for REOs and short sales where there were large amounts being paid for relocate fees on Chase loans. I brought this to Monica [Gregory]’s attention and she located an executive at Chase who agreed to arrange a refund of the overpayments. The total of these fees at this point is \$755,000. This issue was not previously identified or addressed. Each instance was checked against the available loan documents.

Complainant’s Request for Appeal, Exhibit 6.

The remainder of this email described a meeting at which John Kim, another manager in the T-Deal department, had criticized her work. The email concluded by comparing the treatment that she received with that of a co-worker of Chinese ancestry who she stated had made more serious errors than those that Mr. Kim had criticized her for.

September 12, 2012 email to Kim and Wagner

On September 12, 2012, Ms. Morrissey sent an email to Mr. Kim and Mr. Wagner. This email stated:

For shorts in July 2012, I have identified unapproved short sales where the Freddie instructions were not followed. The potential recoveries on these transactions for July 2012 only is \$240,559.41

.....

Other months could be higher or lower, but if we look back a year, based on July 2012 it's likely there are about \$2-3 million in such losses. Losses could be prevented on short sales and REO sales by providing the servicers with clear criteria for deciding sales.

I also identified about \$500K in discrepancies in Chase sales of Wells Fargo Trustee properties. Not sure what the recoverable amounts are in this scenario. The \$1.4 million in relocate fees were identified by my review of the closing statements.

Complainant's Request for Appeal, Exhibit 5.

On the same day Mr. Wagner replied:

We do not have a remedy process in place that would allow us to have specific recourse against the servicer for these loans. Remedies are being drafted as part of our Contract Harmonization initiative, but they are not yet in place, and it is very unclear whether we would have the right under the Pooling and Servicing Agreements to apply those remedies to the T-Deals. . .

.....

There are a lot of things going on that you aren't aware of that may play into this as well. Delegation of certain short sale authority to the servicers in [sic] about to be rolled out in October. In addition, we are currently working on recoveries worth over \$100 million dollars, and that effort takes precedence over most other efforts. If you have other questions regarding this, please come see me. Otherwise, let this go. Thanks.

Respondent's motion to dismiss, Exhibit F.

September 13, 2012 email to CFPB

In her appeal to OALJ Ms. Morrissey wrote:

The fact is my termination occurred the day after I sent an email complaint to the CFPB [Consumer Financial Protection Board]. The CFPB told me they hadn't even opened my email. It is quite possible my email was hacked. Shortly after starting at Freddie, around March 2012, I filed a complaint regarding the illegal employment practices that I observed. I felt guilty that

many skilled people I had worked with were out of work and suffering—while so many visa workers who had little mortgage knowledge or experience were in high paying jobs at Freddie and Fannie—with a few American contractors like me thrown in—evidently to train and assist the visa workers and then to be dismissed. My former email address has been hacked and is now not accessible to me, but the records of my emailed complaints are verifiable via the agencies and via other contacts that were copied on these complaints.

Complainant's Request for Appeal, Exhibit 2, p. 2.

Since Ms. Morrissey does not have access to this email, I can only rely on her paraphrase of it. Under the rules for summary decision, I accept her summary as an accurate reflection of what her email to the CFPB said. The only complaint against Freddie Mac that she describes as having been included in the email is her complaint against the practice of hiring visa workers.

September 16, 2012 email to Wagner

On September 16, 2012, Ms. Morrissey sent an email to Mr. Wagner in which she wrote that “Freddie executives—after playing a part in crashing the US economy and decimating the US job market—have chosen to further betray American workers by bringing in hordes of unqualified visa workers.” She stated that she had “reported this illegal hiring practice several times.”

In the same email she wrote:

Right now I am either going to have to go to the EEOC and the CFPB to get the complaints followed up on and report my “whistleblower” status to try to get reinstated. Or is it possible that Freddie would consider re-instating me without further publicity?

Complainant's Request for Appeal, Exhibit 12.

In this email, written two days after she was terminated, the only company activity that she claimed to have reported before her termination was the hiring of workers of Asian descent. She did not specify other practices that she believed to be illegal. She merely implied that she would take her complaints to the EEOC and CFPB if she were not reinstated.

DISCUSSION

The complaints that Ms. Morrissey describes focused primarily or exclusively on the hiring of foreign visa workers. Her March 2012 complaint, her July 25, 2012 email to Mr. Wagner, her September 13, 2012 email to the CFPB all address this issue, as does the September 16, 2012 post-termination email to Mr. Wagner. The allegations of financial fraud in her complaint to OSHA received less, and in some cases no, attention in the pre-termination correspondence that she has submitted.

The Digital Risk contract

The allegation that Digital Risk did no work and received fraudulent payment does not appear in any of the pre-termination materials that she has submitted. She does not allege having reported this either to a federal agency or to a supervisor within the company until after she was terminated. There is no record in the material submitted of her having raised this issue until her November 16, 2012 complaint to OSHA, after the rejection of her attempt at re-employment.

An adverse action cannot have been taken in retaliation for a complaint that was not made until after the adverse action occurred. Assuming for the sake of argument that Ms. Morrissey is correct about Digital Risk's contract having been an illegal kickback, a financial regulation agency might be in a position to take action. However, the Department of Labor's jurisdiction under Sarbanes-Oxley is limited to whistleblower retaliation.

A complaint that was raised after the adverse action cannot, by definition, have caused retaliation. The Administrative Review Board has held that in determining whether a complainant engaged in protected activity, the relevant inquiry is not what she alleged in her OSHA complaint, but what she actually communicated to her employer or to government authorities prior to the termination or other adverse action. *Platone v. FLYi, Inc.*, ARB No. 04-154, ALJ No. 2003-SOX-00027 (September 29, 2006), p. 17.

Short sales and maintenance fees

The other financial misconduct in Ms. Morrissey's complaint involved maintenance fees and short sales. These were addressed in some of the submitted correspondence.

In the July 25, 2012, email to Mr. Wagner quoted above, Ms. Morrissey described "an issue I was seeing for REOs and short sales where there were large amounts being paid for relocate fees on Chase loans. I brought this to Monica's attention and she located an executive at Chase who agreed to arrange a refund of the overpayments." On its face this email involved her report of payments due to the employer, and resolution of the issue. No one reading this email could reasonably infer that she was complaining of fraudulent activity by Freddie Mac, and there is no reason to believe either that she intended it or Mr. Wagner read it as such.

The September 12, 2012 email to Mr. Wagner and Mr. Kim addressed short sales in which she had identified potential recoveries. From a single month's figures she extrapolated a possible range of losses for the year. She proposed that "[l]osses could be prevented on short sales and REO sales by providing the servicers with clear criteria for deciding sales."

Mr. Wagner replied, describing steps that were being taken to address the issues that she had raised. These included contract remedies that were being drafted but were not yet in place and "[d]elegation of certain short sale authority to the servicers" that was scheduled to be implemented the next month.

In the course of her duties reviewing T-Deal transactions Ms. Morrissey reported findings to her manager, who responded with the status of actions being taken to address those issues. It is clear from his reply email that he regarded other recovery actions as being higher priorities than those she brought up. Nothing in her email implied that the unrecovered payments that she was identifying involved fraud by Freddie Mac, much less fraud on stockholders and investors in the company. It was clear that her priorities in the area of recoveries differed from his, but he could not reasonably have inferred that she was attempting to report fraudulent activity.

Hiring practices

The issue that she has most explicitly and consistently alleged to constitute fraud by Freddie Mac is the hiring of Asian workers who she considers unqualified. This is the complaint to which she devoted the most space in her documentation both before and after her termination. She argues that U.S. taxpayers are de facto shareholders in Freddie Mac, and the hiring of immigrants causes a loss of employment opportunities for U.S. citizens. In her complaint to the EEOC she alleged that as a U.S. citizen she had been discriminated against on the basis of national origin.

In an email to an OSHA investigator on November 26, 2012 she summarized her contentions as follows:

There are thousands of contractors that work at Freddie and Fannie. At least 75% of them are Indian and Chinese. The foreign workers I have worked with and the ones that other contacts have told me about throughout the company have no degrees, no knowledge of mortgage issues, little or no relevant work experience. Many are transported by vans from local hotels since they have recently arrived from India. Contract agencies recruit them from India. What I have learned from my discussions with them is that they pay two thirds of their wages to the hiring contractor agency. They are billed to the companies at \$70-\$75 per hour. I have seen many of these work orders. This is extremely offensive during a period of high unemployment—particularly given that Fannie and Freddie were started with government money and were bailed out with government money. . . The very rude Chinese manager recruited unqualified Chinese from her Chinese church in 7 Corners, VA. Qualified Americans have a hard time getting jobs at Freddie and Fannie. It took me years to get in. Friends with excellent qualifications cannot get hired. But the Indians and Chinese workers seem to have an easy revolving door between Fannie and Freddie when their contracts expire.

Respondent's motion to dismiss, Exhibit A.

CONCLUSION

As noted above, Ms. Morrissey has not alleged having brought her allegations concerning the Digital Risk contract to the attention of either company management or government officials until after her termination and refusal of re-employment. Even assuming that her allegations are correct, those actions cannot, by definition, be actionable retaliation for a complaint that had not yet been made.

The allegations concerning maintenance fees and short sales reflect disputes over internal company policy. Ms. Morrissey and her manager disagreed over the priority to be given to different collection procedures. Like the complainant in *Platone*, she “expressed concern on how this might affect [the company’s] ability to collect a debt, but nothing approximating fraud against shareholders.” *Platone*, p. 18.

Ms. Morrissey has vehemently and consistently complained about the company’s hiring practices. This is another example of a disagreement over internal policies. The employment of workers of Asian descent does not constitute a violation of any of the statutes or regulations listed in 18 USC § 1514A(a).

The complaint and additional documents submitted by the Complainant, viewed in the light most favorable to her as the non-moving party, do not indicate any protected activity that resulted in adverse employment action. Accordingly, summary decision is appropriate.

ORDER

The Respondent’s motion to dismiss on the grounds of untimely filing of the appeal is **DENIED**. The Respondent’s motion for summary decision on the ground of lack of protected activity is **GRANTED**.

KENNETH A. KRANTZ
Administrative Law Judge

KAK/mrc

NOTICE OF APPEAL RIGHTS: To appeal, you must file a Petition for Review ("Petition") with the Administrative Review Board ("Board") within fourteen (14) business days of the date of issuance of the administrative law judge's decision. The Board's address is: Administrative Review Board, U.S. Department of Labor, Suite S-5220, 200 Constitution Avenue, NW, Washington DC 20210, for traditional paper filing. Alternatively, the Board offers an

Electronic File and Service Request (EFSR) system. The EFSR for electronic filing (eFile) permits the submission of forms and documents to the Board through the Internet instead of using postal mail and fax. The EFSR portal allows parties to file new appeals electronically, receive electronic service of Board issuances, file briefs and motions electronically, and check the status of existing appeals via a web-based interface accessible 24 hours every day. No paper copies need be filed.

An e-Filer must register as a user, by filing an online registration form. To register, the e-Filer must have a valid e-mail address. The Board must validate the e-Filer before he or she may file any e-Filed document. After the Board has accepted an e-Filing, it is handled just as it would be had it been filed in a more traditional manner. e-Filers will also have access to electronic service (eService), which is simply a way to receive documents, issued by the Board, through the internet instead of mailing paper notices/documents.

Information regarding registration for access to the EFSR system, as well as a step by step user guide and FAQs can be found at: **<https://dol-appeals.entellitrak.com>**. If you have any questions or comments, please contact: Boards-EFSR-Help@dol.gov

Your Petition is considered filed on the date of its postmark, facsimile transmittal, or e-filing; but if you file it in person, by hand-delivery or other means, it is filed when the Board receives it. *See* 29 C.F.R. § 1980.110(a). Your Petition should identify the legal conclusions or orders to which you object. You may be found to have waived any objections you do not raise specifically. *See* 29 C.F.R. § 1980.110(a).

When you file the Petition with the Board, you must serve it on all parties as well as the Chief Administrative Law Judge, U.S. Department of Labor, Office of Administrative Law Judges, 800 K Street, NW, Suite 400-North, Washington, DC 20001-8002. You must also serve the Assistant Secretary, Occupational Safety and Health Administration and on the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor. *See* 29 C.F.R. § 1980.110(a).

If filing paper copies, you must file an original and four copies of the petition for review with the Board, together with one copy of this decision. In addition, within 30 calendar days of filing the petition for review you must file with the Board an original and four copies of a supporting legal brief of points and authorities, not to exceed thirty double-spaced typed pages, and you may file an appendix (one copy only) consisting of relevant excerpts of the record of the proceedings from which the appeal is taken, upon which you rely in support of your petition for review. If you e-File your petition and opening brief, only one copy need be uploaded.

Any response in opposition to a petition for review must be filed with the Board within 30 calendar days from the date of filing of the petitioning party's supporting legal brief of points and authorities. The response in opposition to the petition for review must include an original and four copies of the responding party's legal brief of points and authorities in opposition to the petition, not to exceed thirty double-spaced typed pages, and may include an appendix (one

copy only) consisting of relevant excerpts of the record of the proceedings from which appeal has been taken, upon which the responding party relies. If you e-File your responsive brief, only one copy need be uploaded.

Upon receipt of a legal brief filed in opposition to a petition for review, the petitioning party may file a reply brief (original and four copies), not to exceed ten double-spaced typed pages, within such time period as may be ordered by the Board. If you e-File your reply brief, only one copy need be uploaded.

If no Petition is timely filed, the administrative law judge's decision becomes the final order of the Secretary of Labor pursuant to 29 C.F.R. §§ 1980.109(e) and 1980.110(b). Even if a Petition is timely filed, the administrative law judge's decision becomes the final order of the Secretary of Labor unless the Board issues an order within thirty (30) days of the date the Petition is filed notifying the parties that it has accepted the case for review. *See* 29 C.F.R. § 1980.110(b).