

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 04 August 2006

In the Matter of

WILLIAM STEPHENSON
Complainant

v.

YELLOW TRANSPORTATION
Respondent

Case No. 2004-STA-00058

William Stephenson, *pro se*

Anderson B. Scott, Esq.
Jenna S. Barresi, Esq.
Atlanta, GA
For the Respondent

Before: JEFFREY TURECK
Administrative Law Judge

RECOMMENDED DECISION AND ORDER

This case arises under the Surface Transportation Assistance Act of 1982, 49 U.S.C. 31105 (1984) (hereafter "STAA" or "the Act"), and the applicable regulations at 29 C.F.R. Part 1978. William Stephenson ("complainant") filed a complaint with the Occupational Safety and Health Administration ("OSHA") of the United States Department of Labor on November 18, 2003 contending that he was terminated by his employer, Yellow Transportation, in retaliation for refusing to operate his vehicle while he was too ill and/or not having enough hours to finish a round trip from Memphis, Tennessee to San Bernardino, California. A formal hearing was held in Memphis on July 20 and 21, 2005.

FINDINGS OF FACT AND CONCLUSIONS OF LAW¹

a. Background

¹ Citations to the record of this proceeding will be abbreviated as follows: CX – Complainant's Exhibit; RX – Respondent's Exhibit; TR – Hearing Transcript.

The complainant was 48 years old at the time of the hearing, and had been a truck driver for 25 years (TR 21). During that time he worked for many different companies. Some of his work was doing local deliveries, and some was over-the-road (TR 23-24). All but about seven years of his work was as a casual driver, a part-time worker called on an as-needed basis (TR 22-24).² Complainant was first employed by Yellow as a casual driver based in Texas from 1981 until 1989 (TR 22, 189). He worked about 30 days a year for Yellow during this period (TR 23-24). Complainant started working for Yellow as a casual driver at the Memphis terminal on May 31, 2003 (TR 26). Complainant worked there until September 21, 2003, averaging one to two runs per week (TR 27). At the same time, he was also working for other trucking companies. He worked for Snico on a part-time basis until July 2003, at which time he began working for Browning Transport (TR 83-84). His work for Browning also was part-time, about one and a half to two days per week (*id.*). Complainant realized jobs at Yellow were slowing down and he anticipated the end of his employment at Yellow even before the Kingman, Arizona incident which is the centerpiece of this case (TR 68-71, 141-42). Complainant began working for Browning full time shortly after he returned from the San Bernardino run for respondent, and continues to work there full-time (TR 84). Complainant's average pay was \$3,000 a month at Yellow, which is about what he currently makes at Browning (TR 85). Accordingly, he is not seeking back wages.

Complainant's employment at Yellow was problematic from the beginning. Complainant believed Jeff Cain, a Yellow dispatcher, hid the card used to track his availability (called a "T-card"). After making this accusation to Gene Berg, the line haul manager who has the ultimate responsibility for hiring and disciplining drivers, Berg checked and the T-card was "on the board" where it belonged (TR 27-29, 341). Complainant also had an incident with a paycheck. He claimed he lost it, but when Yellow stopped payment on the check and issued a replacement, he complained to Yellow for stopping payment on the first check (TR 341-42). Berg believed he wanted to cash both checks (TR 342). Complainant also frequently called the dispatchers and supervisors to check on possible assignments, refusing to use the automated phone message system that gives drivers that information (TR 247-48, 283-84, 339-40). This annoyed the dispatchers, who are busy coordinating the schedules of over 300 drivers and do not have time to address a driver's questions on future runs (*id.*). Berg succinctly stated that complainant "did not appear to be happy working for Yellow Transportation" (TR 350).

Based on these incidents and the dispatchers' complaints regarding the complainant's annoying behavior, Berg had decided as early as July or August of 2003 to drop complainant. However, he decided not to drop complainant immediately, but to wait until the busy summer season ended to discontinue his services as a casual driver (TR 340, 342-43). However, after the San Bernardino run, Berg changed his mind and dropped the complainant immediately (TR 351, 356-57).

²Employer's Exhibit 10, a list of complainant's union driving jobs, shows that he worked as a casual driver for all but the period from 1998 through 2002, when he was employed full time by Consolidated Freight. But this list does not reflect any employment from 1992 through 1996, and therefore is not inconsistent with complainant's testimony that he worked full time for KSM from early 1992 through late 1995 (TR 24).

b. Trip to San Bernardino

The incident in question began on September 18, 2003 when Yellow dispatched complainant and Nealso Miller as co-drivers on a round trip from Memphis to San Bernardino, California. They were part of a sleeper team in which two drivers take turns driving and resting in the sleeper berth of the truck (TR 108-10). This permits freight to be moved at a quicker pace than with a single driver as there is no need to stop while a driver gets his mandatory rest. Each rests while the other drives. Miller is African-American, and complainant, who is Caucasian, believes that “pairing blacks and whites in sleeper runs goes against nature.” (TR 183). In line with his racist beliefs, when complainant heard he was going to be paired with Miller he thought “I got a problem” (TR 35). Nevertheless, the trip from Memphis to San Bernardino went smoothly. But the complainant testified that Miller knew he was low on hours,³ and “he was deliberately trying to run me out of hours” by making complainant gas up the truck (TR 46-47). In Ludlow, California, on the way to San Bernardino, he stated that he believed he was running out of hours and would not have enough hours left to make the return trip. He states that he called the Memphis terminal and spoke first to Dale Cloud, a dispatcher, and then to Pat Fleming, a shift operations supervisor (TR 49-50). He told Fleming that he did not have enough hours to complete the round trip, and also that he was not feeling well (TR 50). Since he had enough hours to get to San Bernardino, he said Fleming told him to go there and then get a hotel room for the night (TR 50). By staying in a hotel, he would recover the hours he used on September 10th and perhaps on September 13th as well, which would give him enough hours to complete the trip. But according to Miller, complainant never mentioned being short of hours or indicated that he was ill during the trip from Memphis to San Bernardino (TR 314). Further, they were not instructed to go to a hotel until they got to San Bernardino, and the reason for going to a hotel was that freight for their run back to Memphis had not yet arrived in San Bernardino for the return trip to Memphis (TR 315). But the hotel they usually stay in San Bernardino was full, so they were told to get back to the terminal (*id.*). By the time they got back to the terminal, a load of freight bound for Memphis had arrived, and they were told to leave for Memphis (TR 315-16).

Although complainant contends that he told Fleming before they got to San Bernardino that he was feeling “a little bit under the weather” (TR 50), he said he first had diarrhea and flu symptoms just before they left San Bernardino on September 19th (TR 53). Complainant testified that somewhere between San Bernardino and Needles, California at about 8:00 p.m.,⁴ while Miller was driving, he threw up many times (TR 54). Miller testified that in Needles, while they were in the process of switching drivers (complainant was going to take over the driving), complainant spit up something on the floor of the cab which he did not believe was vomit which they then cleaned up (TR 320-21). In fact, from Miller’s testimony at the hearing, it is apparent that he believes there was nothing wrong with the complainant, that he was forcing himself to cough something up (TR 321). Miller stated that the complainant did not look ill, and

³ Among other restrictions, truck drivers may not work more than 70 hours in any eight-day period (TR 123).

⁴ Yellow’s drivers out of Memphis use Central Time wherever they are for the sake of uniformity (TR 147). Similarly, all times stated in this decision refer to Central Daylight Time.

complainant took over the driving after they cleaned up the cab (TR 322). Miller denies complainant's testimony that Miller suggested they get a motel in Needles because complainant was ill (TR 54-57, 322). Further, despite the fact that complainant stated he was so sick that he could hardly stand up, he did not call Yellow to let them know that he was ill (TR 144). Complainant testified that was far too sick to look for a pay phone to call Yellow (TR 144); but complainant knew Miller had a cell phone (TR 144).

Complainant testified that from Needles, he drove to Lake Havasu City, Arizona where he stopped at a truck stop to pick up some over-the-counter medication (TR 58-59). But this stop is not reflected in claimant's log (TR 59; CX 2); and Miller denies that they stopped in Lake Havasu City, stating that the next place they stopped was in Kingman, Arizona (TR 322). Needles and Kingman, Arizona are both adjacent to I-40, whereas Lake Havasu City is 21 miles from I-40.⁵ Thus, going to Lake Havasu City would have been a 42 mile detour. Complainant says he did not log this stop because he claims the regulations did not require him to log a stop under 15 minutes. But going 42 miles out of the way just to get an over-the-counter medication that is available everywhere would have been ludicrous, particularly since complainant states he thought he was running short of hours, and I do not believe complainant's testimony that they went to Lake Havasu City.

They did stop in Kingman, Arizona, at 10:00 p.m. Complainant says he was feeling worse and his arms were shaking as he drove (TR 60). According to him, after stopping at the Flying J rest stop, he stayed in the truck for half an hour. Miller disappeared during this time, but came back to accompany complainant across the highway to the motel (TR 61). Although complainant stated he did not contact Yellow because he thought Miller called them, he did not take any steps to verify this or follow it up (TR 61, 152-53). The complainant and Miller made it to the motel and complainant needed to rest in the motel lobby, which he states did not have a telephone (TR 61). While complainant allegedly was recovering from the walk across the street, Miller's cell phone rang. Complainant testified that Miller answered the phone with a big grin and said "Hello, Jeff [Cain, the Memphis dispatcher]" (TR 61). It was at this point that complainant knew he had been "set up" (TR 62). It is unclear exactly how the complainant was set up since he initiated the stop in Kingman.

Claimant testified that after resting in the lobby, he managed to check himself into a room, although he barely made it since he almost collapsed upon entering the room (TR 62). While pondering what his next steps should be, he received a call from Miller instructing him to call Jeff Cain in dispatch (TR 62). Complainant obliged. During the 11:20 p.m. conversation, Cain asked if complainant was out of hours (TR 62, 149-51). Complainant replied that he was out of hours and he was sick (TR 62). Complainant describes the conversation as tense. The two

⁵ I take judicial notice of the *Rand McNally Road Atlas of the United States, Canada and Mexico*, 2003 edition. I-40 runs right into Memphis. Since I-40 runs through or adjacent to all of the places the complainant and Miller mentioned stopping at or driving through (other than Lake Havasu City), e.g., Ludlow, CA; Tucumcari, NM; Muldrow and Sayre, OK; it would appear that virtually the entire trip between Memphis and San Bernardino – from Memphis until I-40 ends in Barstow, CA - would have been on I-40.

allegedly argued whether you could be sick *and* out of hours — Cain insisted he could not and complainant got defensive (TR 62-63).⁶

Complainant says he started to feel better and decided to call dispatch again to get Miller's room number (TR 63). While on the phone, the dispatcher asked for complainant's room number and informed him he would be contacted by someone (TR 64). That person was shift operations manager Bill Lindsley, and complainant received a call from Lindsley at 12:15 a.m. According to complainant, Lindsley yelled at him questioning his character and veracity (TR 64). Complainant attempted to defend himself by telling Lindsley to call someone who knew him well (TR 64). He promised Lindsley he would not stop again and that he would leave at 8:00 a.m. (TR 64).

Just as complainant had predicted, he was feeling better and was ready to leave by the following morning. He and Miller met at the truck (TR 328-29). They left Kingman at 8:00 a.m., with complainant driving (TR 64-65, 156, 162). Complainant borrowed Miller's cell phone to inform Yellow of their departure (TR 65). Complainant attributes his illness to dehydration. By drinking water all night he was able to regain his strength (TR 162). They stopped in Williams, Arizona at 10:00 a.m. to eat breakfast (TR 65; CX 1). Complainant drove about 9 hours before switching with Miller (TR 65). Apparently, the rest of the run back to Memphis was uneventful.

Complainant's melodramatic account of the stopover in Kingman is contradicted at virtually every step by Miller, Cain and Lindsley.

According to Miller, when they arrived in Kingman, complainant parked the truck at a Flying J truck stop and got out of the truck without uttering a single word to Miller (TR 323). Miller put on his shoes, climbed out of the bunk, locked the truck, and went across the street to motel (TR 323-24). Complainant had checked in by the time Miller got to the motel (TR 324). Miller states that there was a phone in the lobby and that he used it at 10:20 to call Jeff Cain at Memphis dispatch to find out what he should do (TR 325). After explaining what happened, Cain requested to speak to the desk clerk at the motel (TR 325-26). Cain asked the clerk for the motel's phone number and complainant's room number (TR 252, 279-80). Cain then talked to Miller again and told him to wait while he found out what he should do (TR 326). Miller went back to the truck and waited 30 minutes (TR 326).

After telling Miller to wait, Cain talked to the complainant, who told him he was out of hours (TR 352). Cain checked the T-cards for complainant and Miller and both showed they had hours remaining (TR 252-53). Complainant then changed his story, saying he was sick (TR 254). Cain asked him what was wrong and complainant responded that he had lost body fluids (TR 254). Further inquiry failed to clarify what complainant meant (TR 254).

Unsure of how to proceed, Cain called Bill Lindsley, the shift manager and Cain's immediate supervisor (TR 254-55). Lindsley said he was at home when he received this call and

⁶ Logically, there seems to be no reason why a driver who is out of hours could not also be sick, and *vice versa*. But since this point has no bearing on the case, it will not be addressed further.

it was around 11:00 p.m. (TR 285). Cain testified that it is not normal for a driver to just stop without calling, so he sought advice from his supervisor (TR 258). After describing the events of the evening to Lindsley, Lindsley requested to speak with the complainant (TR 255). Cain put him through to the complainant, who informed Lindsley he was ill (TR 255, 286-87). Lindsley asked if complainant needed medical attention, but complainant responded negatively and stated it was merely food poisoning and he would be ready to go in eight hours (TR 288). Lindsley questioned complainant's self-diagnosis, but complainant explained that he had food poisoning before and that is how he knew it would only last eight hours (TR 288). Lindsley denied questioning the complainant's integrity or calling him a liar (TR 293, 296).

Lindsley called Cain back with instructions for Miller. He said the only thing that could be done at that time was to secure the load, put Miller up in the hotel, and continue the trip in the morning (TR 289). Lindsley testified that he had never had a driver stop in the middle of a run without informing the company (TR 292-93).

Miller went back to the motel and the clerk told him Yellow was trying to contact him (TR 326). Miller called Cain and was informed he would be reimbursed by Yellow for the cost of the motel since it would not be fair for him to sleep in the truck while complainant slept in the motel (TR 328). While Miller was checking in, complainant came down to the lobby to tell the clerk not to disturb him until the morning. Miller called Cain to tell him about complainant's request (TR 328).

Miller did not see complainant again until the following morning (TR 328). Miller was the first one at the truck (TR 329). Complainant showed up and the two left Kingman at 8:00 a.m. with complainant at the wheel (TR 329). Complainant did not mention anything about the events of the previous evening, and Miller did not ask for fear of creating tension between them for the remainder of the ride (TR 330). It appears that the rest of the run back to Memphis was uneventful.

c. Back in Memphis

Gene Berg, the line haul operations manager in Memphis at the time of the Kingman incident, was informed by Cain and Lindsley about the events of September 19th when he returned to work (TR 337; 347). Berg talked to Miller within a week of the incident and complainant a few weeks later (TR 348). Complainant presented a plethora of excuses – he was too sick, he did inform dispatch, he did not have enough hours (TR 348). Miller and complainant gave conflicting accounts, therefore requiring Berg to decide who to believe. Berg believed Miller, as his story conformed to the accounts of Cain and Lindsley (TR 348-49). In determining complainant's creditability, Berg took several events into consideration – complainant's false accusations of a stolen T-card, the cancelled check he tried to cash after reporting it missing, and the problems the dispatchers had with him (TR 349-50). Berg concluded that complainant failed to contact Yellow to explain the delay, which was his responsibility, not the co-driver's (TR 350-51). Berg decided he would immediately stop using the complainant as a driver, and complainant was not called again after the San Bernardino run (TR 71). Shortly thereafter, complainant went to work for Browning on a full-time basis.

Finally, to the extent that complainant may have alleged that he was fired in retaliation for stopping because he was out of hours, there is no truth to this allegation (TR 127-29). For, as complainant has acknowledged, between complainant and Miller, they had over 40 available hours at the time complainant stopped driving on September 19th (TR 129). Complainant had 11.5 hours remaining and Miller had 30 (TR 128-29). Further, on September 21st complainant would pick up the 5.25 hours he used on September 13th. Since the entire run from San Bernardino to Memphis should take between 32 and 38 hours (*e.g.*, TR 250), and they had already completed several hours of the run by the time they reached Kingman, Arizona, there is a good chance they had enough hours between them to complete the trip back to Memphis. Even if they did not, they could have gotten close to Memphis; and since respondent has numerous terminals across the country, in all likelihood they could have driven to another terminal where a fresh driver could have been dispatched to finish the trip. *See* TR 228-29, 355.

d. Discussion

In passing the STAA, Congress intended to “combat the increasing number of deaths, injuries, and property damage resulting from vehicle accidents in the interstate trucking industry.” *Yellow Freight Systems, Inc. v. Reich*, 38 F.2d 76, 81 (2d Cir. 1984) (quoting 128 Cong. Rec 32509, 32510 (1982)). Congress also sought “‘to assure that employees are not forced to drive unsafe vehicles or commit unsafe acts,’ and to ‘provide protection for those employees who are discharged or discriminated against for exercising their rights and responsibilities’” *Id.* (quoting 128 Cong. Rec. 29192 (1982)).

Section 31105(a) of the Act states in pertinent part that:

- (a) Prohibitions. (1) A person may not discharge an employee, or discipline or discriminate against an employee regarding pay, terms, or privileges of employment, because
 - ...
 - (B) the employee refuses to operate a vehicle because
 - (i) the operation violates a regulation, standard, or order of the United States related to commercial motor vehicle safety or health; or
 - (ii) the employee has a reasonable apprehension of serious injury to the employee or the public because of the vehicle’s unsafe condition
- (2) Under paragraph (1)(B)(ii) of this subsection, an employee’s apprehension of serious injury is reasonable only if a reasonable individual in the circumstances then confronting the employee would conclude that the unsafe condition establishes a real danger of accident, injury or serious impairment to health. To qualify for protection, the employee must have sought from the employer, and been unable to obtain, correction of the unsafe condition.

49 U.S.C. § 31105(a)(1997).

Complainant’s burden under the Act, as under similar statutes protecting whistleblowers, is to prove by a preponderance of the evidence that: (1) he engaged in conduct protected by the Act; (2) respondent took adverse employment action against him; and (3) the adverse

employment action was caused all or in part by the protected activity. *BSP Trans, Inc. v. U.S. Department of Labor*, 160 F.3d 38, 46 (1st Cir. 1998); *Yellow Freight System, Inc. v. Reich*, 27 F.3d 1133, 1138 (6th Cir. 1994) (hereafter "*Smith*"). This case proceeded to a full hearing on the merits. Accordingly, examining whether or not complainant has established a *prima facie* case is no longer particularly useful. *Boytin v. Pennsylvania Power & Light Co.*, 94-ERA-32 (Sec'y Oct. 20, 1995). The relevant inquiry is whether, viewing of the evidence as a whole, complainant has shown that he was terminated for engaging in a protected activity. See *Boudrie v. Commonwealth Edison Co.*, 95-ERA-15 (ARB Apr. 22, 1997); *Boytin*, 1994-ERA-32; *Marien v. Northeast Nuclear Energy Co.*, 1993-ERA-49, 50 (Sec'y Sept. 18, 1995). To meet this burden, complainant must prove that Respondents' stated reasons for terminating him are pretextual, that they were not the true reasons for the adverse action. *Scott v. Roadway Express*, 98-STA-8 (ARB July 28, 1999); *Leveille v. New York Air Nat'l Guard*, 1994-TSC-3, 4 at 4 (Sec'y Dec. 11, 1995).

e. Complainant's credibility

The key issue in this case is the complainant's credibility regarding his alleged illness, since he had not exhausted his driving hours and there is no medical evidence to support his claim that he was too ill to continue driving. I find that the complainant is utterly lacking in credibility.

Most important, complainant's complaints have been self-contradictory from the beginning, and his testimony likewise is inconsistent. In a statement prepared for the OSHA investigation of his complaint, complainant stated: "I believe I was terminated or discontinued as a casual driver on or about September 21, 2003 because I complained about not having enough hours to make an assigned trip." (EX 7, at 1). Later in the same statement he said that he was told he was terminated because he got into an argument with Bill Lindsley (*id.* at 5). Then, at the hearing, complainant testified that "I think Yellow actually terminated me because I defended my honor when Mr. Lindsley referred to me as a lying troublemaker with no integrity. . . . I think that was the real reason." (TR 168). He also implied in the OSHA statement that he was terminated because he stopped in Kingman because he got sick (*id.* at 4). He filed a complaint with the Equal Employment Opportunity Commission contending respondent terminated him because he is white (which is a bit strange since everyone in a supervisory position who testified at the hearing, including Cain, Lindsley and Berg, are also white) (TR 169-70, 184, 197-98). He also indicated respondent may have terminated him was because Jeff Cain did not like him, or because respondent favored women and older people (TR 197). His testimony and statements are rife with such inconsistencies and contradictions. His inconsistency is a sufficient reason, by itself, to reject his allegations.

Second, complainant was very evasive during his testimony, even about inconsequential matters (*e.g.*, TR 108-10, 117-18, 199-20). Third, he uses the phrases "to be honest" or "to be honest with you" so often that one begins to wonder whether he is ever being honest (*e.g.*, TR 46, 52, 56, 58, 67, 77, 85, 138, 221, 229, 231). Fourth, complainant does not appear to have a high regard for the truth. He admitted during his testimony at the hearing that his logs were not filled out truthfully (TR 131-32, 140-41). Further, he did not inform respondent that he drove for Browning on September 9 and 10, 2003, and therefore had a reduced number of hours available for the trip to San Bernardino (TR 137-38). Also, his testimony that he did not call respondent to

let them know he was sick because he did not see a telephone would be ludicrous even if Miller did not have a cell phone with him. Fifth, complainant is a racist, and was very upset at having to take a cross-country trip with a black man. He was also upset at the respondent for designating a black man, Miller, as the number one driver on the trip over a white man (*e.g.*, TR 39-40). It is possible that by stopping in Kingman he was trying to get back at the respondent for making him endure these perceived indignities; or, perhaps, he believed that Miller would get into trouble if the shipment was delayed. In any event, it is clear his nose was out of joint because he had to go on this run with Miller.

Moreover, I credit the testimony of Miller, Cain and Lindsley. For one thing, their testimony is consistent in their descriptions of the events that took place on the night of September 19-20. Further, there is no reason to believe that Cain and Lindsley concocted a false version of the events in question. For there would have been nothing to gain by doing so. Since complainant was a casual employee, respondent was under no obligation to use his services, and his services could have been discontinued at any time. Moreover, respondent's need for the services of any casual employees had about run its course for the time being.

The only thing which in any way is consistent with complainant's position that he was ill and had to stop and rest is that there is no obvious motive for the complainant to have desired to spend the night in Kingman. But just because there is no obvious motive does not mean that he had no reason for wanting to spend the night there. Complainant's testimony is self-contradictory and, in places, nonsensical or inexplicable; and to the extent it clashes with the testimony of other witnesses, or is unsupported, I give it no weight.

Accordingly, I find that complainant's unsubstantiated allegation that he was retaliated against because he was too sick to drive is not credible. He is not a truthful witness, and his testimony has no support. His co-driver states that complainant was not ill, and even complainant's own account of his sickness is not credible on its face.

f. Protected activity

Complainant argues that his refusal to drive on the night of September 19th was a protected activity under the Act. Had he actually been ill or out of hours, then his contention that his refusal to drive was protected because he had a reasonable apprehension of serious injury to himself or the public would be credible. But complainant has not proven that he stopped driving in Kingman, Arizona due to either of these factors. He admits he still had driving hours available at that time (TR 127-29); and I do not believe his testimony that he had to stop driving because he was ill. Accordingly, I find that the complainant did not engage in activity protected by the Act on September 19th and 20th.

Since complainant did not engage in protected activity, his claim must be dismissed.

RECOMMENDED ORDER

IT IS ORDERED that the claim of William Stephenson under the Surface Transportation Assistance Act be dismissed in its entirety.

A

JEFFREY TURECK
Administrative Law Judge

NOTICE OF REVIEW: The *Recommended Decision and Order*, along with the Administrative File, will be automatically forwarded for review to the Administrative Review Board, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, DC 20210. *See* 29 C.F.R. §1978.109(a); Secretary's Order 1-2002, ¶4.C. (35), 67 Fed. Reg. 64272 (2002).

Within 30 days of the date of issuance of the *Recommended Decision and Order*, the parties may file briefs with the Board in support of, or in opposition to the decision unless the Board, upon notice to the parties, establishes a different briefing schedule. *See* 29 C.F.R. §1978.109(c)(2). All further inquires and correspondence in this matter should be directed to the