U.S. Department of Labor

Office of Administrative Law Judges
St. Tammany Courthouse Annex
428 E. Boston Street, 1st Floor
Covington, LA 70433-2846

(985) 809-5173
(985) 893-7351 (FAX)

Issue Date: 13 October 2006

CASE NO.: 2006-SOX-117

IN THE MATTER OF

KEITH BULLS

Complainant

v.

CHEVRON/TEXACO, INC. ET AL

Respondents

RECOMMENDED DECISION AND ORDER GRANTING MOTION FOR SUMMARY DECISION

This proceeding arises under the Sarbanes-Oxley Act of 2002, technically known as the Corporate and Criminal Fraud Accountability Act, P.L. 107-204 at 18 U.S.C. § 1514A et seq., (herein SOX or the Act), and the regulations promulgated thereunder at 29 C.F.R. Part 1980, which are employee protective provisions.

On August 23, 2006, Respondents Chevron/Texaco filed a Motion for Summary Decision seeking dismissal of Complainant's complaint against them in this case arguing that: (1) Complainant's claim was initially filed on February 10, 2006, seventeen months after his employment was terminated on August 27, 2004, and is barred under the SOX Act; (2) Complainant's post-termination participation in Respondent's internal dispute resolution process (hereinafter, "STEPS") does not toll the filing limitations period; and (3) Complainant is not entitled to equitable tolling of the filing limitations period. Respondents contend that September 2005 was the first time Complainant raised SOX issues. Therefore, if the complaint was raised in the wrong forum, it was nonetheless untimely.

On September 1, 2006, an Order issued to Complainant to show cause by September 18, 2006, why Respondents' motion should not be granted.

On September 18, 2006, Complainant filed a response to Respondent's motion, and a response to Respondent's reply was filed on September 30, 2006. Complainant does not dispute the timing of the filings. However, Complainant contends that: (1) The job action did not become "final" until he was "released" by Respondent from the requirement to complete the STEPS process, at which time the statutory period began to run; (2) The statutory period was tolled by verbal agreement between Complainant's attorney and counsel for Respondents; (3) Statements in documentation of the STEPS process that Complainant did not give up any legal rights by participation in STEPS constitutes a contractual agreement to toll the statute, or alternatively, constitutes active misleading of Complainant by Respondents so as to warrant equitable tolling; (4) The statute was equitably tolled because the combination of verbal representations by Respondent to Complainant's Counsel, delays in the process, and assurances in STEPS documentation constitute exceptional circumstances which prevented Complainant from filing timely; and (5) The statutory period was equitably tolled because these exact issues were raised in the wrong forum of STEPS.

On September 26, 2006, Respondents filed a reply to Complainant's response urging that (1) the statutory period began to run upon Complainant's termination on August 27, 2004, and (2) equitable tolling is not justified because no evidence exists to support Complainant's contention that he timely raised these precise issues in STEPS or any other forum, nor does evidence exist that any statement regarding tolling was made to Complainant's counsel.

On October 11, 2006, Respondents filed two replies to Claimant's response filed on September 30, 2006. Respondents argue for striking certain portions of Claimant's response for reasons of hearsay and insufficiency of evidentiary support. Respondents also rebut Claimant's argument for timeliness of filing based on "equitable estoppel."

Background

Complainant was terminated from Respondents' employ on August 27, 2004, after having been on a Performance Improvement Plan (PIP) since April 2004. Complainant retained counsel in

September 2004, and began negotiations with Respondent under their STEPS process in October 2004.

On June 27, 2005, during the ongoing STEPS process, Complainant filed a "Charge of Discrimination" with the Equal Employment Opportunity Commission (EEOC). The complaints listed discrimination based on gender, age, religion, and retaliation for asserting rights under federal anti-discrimination statutes. The statement accompanying the charges does not mention SOX protected activity. The timing of when SOX related issues were first raised is disputed. The earliest evidence in the record of SOX issues being raised is August 2005 in correspondence between Complainant's attorney and Respondents' counsel concerning arbitration.

EEOC dismissed Complainant's complaint on August 19, 2005, stating the reason as an "administrative decision." Complainant and Respondents then continued in STEPS through mediation, which proved unsuccessful.

On February 10, 2006, Complainant filed a complaint with the Occupational Safety and Health Administration (OSHA) alleging SOX violations. Complainant also filed suit in state court under various theories for wrongful termination.

OSHA dismissed the complaint on June 23, 2006, which finding has now been appealed to the Office of Administrative Law Judges.

DISCUSSION

A. Summary Decision

The standard for granting summary decision is set forth at 29 C.F.R. § 18.40(d)(2001). See, e.g. Stauffer v. Wal Mart Stores, Inc., Case No. 99-STA-21 (ARB Nov. 30, 1999)(under the Act and pursuant to 29 C.F.R. § 18 and Federal Rule of Civil Procedure 56, in ruling on a motion for summary decision, the judge does not weigh the evidence or determine the truth of the matter asserted, but only determines whether there is a genuine issue for trial); Webb v. Carolina Power & Light Co., Case No. 93-ERA-42 @ 4-6 (Sec'y July 17, 1995). This section, which is derived from Fed. R. Civ. P. 56, permits an administrative law judge to recommend decision for either party where "there is no genuine issue as to any material fact and . . . a party is entitled to summary decision." 29 C.F.R. § 18.40(d). Thus, in order for Respondent's motion to be granted, there must be no

disputed material facts upon a review of the evidence in the light most favorable to the non-moving party (i.e., Complainant), and Respondents must be entitled to prevail as a matter of law. Gillilan v. Tennessee Valley Authority, Case Nos. 91-ERA-31 and 91-ERA-34 @ 3 (Sec'y August 28, 1995); Stauffer, supra.

The non-moving party must present **affirmative evidence** in order to defeat a properly supported motion for summary decision. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 247 (1986); Celotex Corp. v. Catrett, 477 U.S. 317, 324 (1986). It is enough that the evidence consists of the party's own affidavit, or sworn deposition testimony and a declaration in opposition to the motion for summary decision. However, such evidence must consist of more than the mere pleadings themselves. Id. at 324. Affidavits must be made on personal knowledge, set forth such facts as would be **admissible** in evidence, and show affirmatively that the affiant is competent to testify to the matters stated therein. F.R.C.P. 56 (e).

A nonmoving party who relies on conclusory allegations which are unsupported by factual data or sworn affidavit . . . cannot thereby create an issue of material fact. See Hansen v. United States, 7 F.3d 137, 138 (9th Cir. 1993); Rockefeller v. U.S. Department of Energy, Case No. 98-CAA-10 (Sept. 28, 1998); Lawrence v. City of Andalusia Waste Water Treatment Facility, Case No. 95-WPC-6 (Dec. 13, 1995). Consequently, Complainant may not oppose Respondent's Motion for Summary Decision on mere allegations. Such responses must set forth specific facts showing that there is a genuine issue of fact for a hearing. 29 C.F.R. 18.40(c).

The determination of whether a genuine issue of material fact exists must be made by viewing all evidence and factual inferences in the light most favorable to Complainant. Trieber v. Tennessee Valley Authority, Case No. 87-ERA-25 (Sec'y Sept. 9, 1993).

The purpose of a summary decision is to pierce the pleadings and assess the proof, in order to determine whether there is a genuine need for a trial. Matsushita Elec. Indus. Co., Ltd. v. Zenith Radio Corp., 475 U.S. 574, 587 (1986). Where the record taken as a whole could not lead a trier of fact to find for the non-moving party, there is no genuine issue for trial. Id. at 587.

Accordingly, in order to withstand Respondents' Motion, it is not necessary for Complainant to prove his allegations. Instead, he must only allege the material elements of his **prima facie** case. Bassett v. Niagara Mohawk Power Co., Case No. 86-ERA-2, 4 (Sec'y. July 9, 1986). Timely filing or meeting requirements to toll the statutory time limit is an essential requirement.

B. Timeliness / Equitable Tolling / Equitable Estoppel

1. The Filing Period

The applicable statutory period in which an employee alleging retaliation in violation of SOX must file a complaint is **ninety days** after the alleged violation occurred and was communicated to Complainant.[1]

The time period for administrative filings begins on the date that the employee is given final and unequivocal notice of the respondent's employment decision. The United States Supreme Court has held that the proper focus is on the time of the discriminatory act, not on the point at which the consequences of the act became painful. Chardon v. Fernandez, 454 U.S. 6, 9, 102 S. Ct. 28 (1981); Delaware State College v. Ricks, 449 U.S. 250, 258, 101 S.Ct. 498 (1980). Subsequent entertaining of a grievance by respondent does not suggest that the earlier decision was in any respect tentative, even if respondent expresses willingness to change its prior decision if the grievance is found to be meritorious. Id. at 261.

In the instant matter, it is undisputed that Complainant received notice of his termination on August 27, 2004. Complainant filed complaints with EEOC on June 27, 2005, and OSHA on February 10, 2006, and filed suit in state court on February 13, 2006. All of these filings were well outside of the ninety day statutory period which tolled on November 25, 2004.

[1] "An action under paragraph (1) shall be commenced not later than 90 days after the date on which the violation occurs." 18 U.S.C.A. § 1514A(b)(2)(D).

"Time for filing. Within 90 days after an alleged violation of the Act occurs (i.e., when the discriminatory decision has been both made and communicated to the complainant). . ." 29 C.F. R. § 1980.103 (d).

Complainant asserts that the notice of termination does not constitute "final and unequivocal notice" because he reasonably believed the dispute resolution process would result in a reversal of the termination or other remedy. In support of his argument, Complainant points to the definition of "unequivocal notice" as free of misleading possibilities as stated in Larry v. Detroit Edison Co., Case No. 1986-ERA-32 (ALJ October 17, 1986).

However, the law is settled in this regard. The fact of subsequent negotiation "does not suggest that the earlier decision was in any respect tentative." Ricks, 449 U.S. at 261. Therefore, the possibility of a later reversal of Respondents' decision to terminate Complainant does not negate the finality of the adverse job action itself. Accordingly, I find that Complainant was given final and unequivocal notice of Respondent's employment decision on August 27, 2004, which constituted the commencement of Complainant's filing period. Consequently, I find and conclude that Complainant failed to file his complaint with the Department of Labor in a timely manner.

2. Equitable Tolling

Courts have held that time limitation provisions in like statutes are not jurisdictional, in the sense that a failure to file a complaint within the prescribed period is an absolute bar to administrative action, but rather analogous to statutes of limitation and thus may be tolled by equitable consideration. Donovan v. Hakner, Foreman & Harness, Inc., 736 F.2d 1421 (10th Cir. 1984); School District of Allentown v. Marshall, 657 F.2d 16 (3rd Cir. 1981); Coke v. General Adjustment Bureau, Inc., 654 F.2d 584 (5th Cir. 1981). The Allentown court warns, however, that the restrictions on equitable tolling must be **scrupulously observed**; the tolling exception is not an open invitation to the court to disregard limitation periods simply because they bar what may be an otherwise meritorious cause. Rose v. Dole, 945 F.2d 1331, 1336 (6th Cir. 1991).

In Allentown, the court, relying on Smith v. American President Lines, Ltd., 571 F.2d 102 (2nd Cir. 1978), which interpreted Supreme Court precedent, observed that tolling might be appropriate (1) where a respondent actively misled the complainant respecting the cause of action; (2) where the complainant has in some extraordinary way been prevented from asserting his rights; or (3) where a complainant has raised the precise statutory claim in issue but has mistakenly done so in

the wrong forum. Allentown, 657 F.2d at 19-20; see also Prybys v. Seminole Tribe of Florida, Case No. 95-CAA-15 (ARB November 27, 1996); see also Halpern v. XL Capital, Ltd., Case No. 2004-SOX-54 (ARB August 31, 2005).

Complainant cites three circumstances which he contends support an equitable tolling of the ninety-day time limit: (1) Respondents actively misled Complainant by reason of language in the documentation of the STEPS program which led him to reasonably believed that he was required to exhaust that process prior to filing legal action; (2) Respondents actively misled Complainant by representations to Complainant's attorney that they agreed to tolling, which may also constitute contractual agreement; and (3) his pursuit of dispute resolution via the STEPS program constitutes timely filing of his complaint in the wrong forum. Complainant contends that these same factors constitute extraordinary circumstances which prevented him from timely filing.

a. Did Respondent Mislead Complainant?

STEPS Process Documentation

Complainant first contends that the documentation of Respondents' STEPS programs actively misled Complainant to believe that he was bound to complete the STEPS process prior to proceeding to litigation, and that by so doing, he was not in danger of giving up any legal right. Specifically, Complainant points to documentation language which reads: "Employees do not give up any rights to seek other legal remedies if they are unable to resolve disputes using the STEPS process. The company, however, requires that employees do use STEPS before proceeding to litigation." The documentation further describes wrongful discharge and related claims as "Covered Disputes," and in the section dealing with Step 4 arbitration states: "If not satisfied with the arbitrator's decision, the employee is free at that time to pursue the matter through other legal opinions, including litigation."

Also included in the record is correspondence from Complainant's attorney to OSHA dated May 26, 2006, arguing that Complainant "was prevented from taking legal action, including filing suit or filing an OSHA complaint until satisfaction of the obligations in the Chevron/Texaco plan." Complainant's attorney further noted that the OSHA filing was within ninety days of agreement "that the parties would no longer proceed under the STEPS procedure."

I find that this language, standing alone, does not constitute a contractual waiver by Respondents of their right to assert the issue of timeliness. There is no express waiver of any right or statute of limitations included in the documentation. These statements, at most, may amount to a guarantee that the company will not rely upon the fact of an employee's participation in STEPS as evidence of tacit relinquishment of a right by the employee. I find nothing in this language that could be construed as a contractual waiver of rights by Respondents. STEPS documentation further indicates the reservation by Respondents of their rights by stating: "Nothing in this policy alters, modifies, or changes the at-will relationship between the company and its employees."

In analyzing whether or not Respondents "actively misled" Complainant, the proper focus is on the actions of the Respondents and not solely on an interpretation of those actions by Complainant. This is both a subjective and objective inquiry. Thus, to meet this standard for equitable tolling, Respondents must have acted or communicated in such a way as to be objectively misleading. Additionally, Complainant must have subjectively held a reasonable belief, based on the misleading conduct by Respondents, and have acted upon that belief.

While the STEPS documentation includes the above statements, it also states: "An employee's continued employment at Chevron will mean they agree to use STEPS." This clearly is not meant to include former employees since there is no "continued employment" at stake.

Also, a conclusion that use of STEPS is binding on a former employee is not reasonable. Although Respondents offer incentives to use their STEPS plan, such as payment of attorneys fees, Respondent had no power, actual nor apparent, to prevent Complainant from filing suit timely. Since Complainant had already been terminated when he participated in the STEPS process, Respondents were not then in a position to impose job actions or other retaliatory measures against Complainant for opting to pursue litigation. The fact that Complainant filed an EEOC complaint while engaged in the STEPS process also brings into question Complainant's perception of being "prevented from taking legal action."

Whether or not Complainant's counsel erroneously concluded that Complainant was bound to complete STEPS prior to proceeding to litigation is not relevant. The U. S. Supreme Court has held

that a client is bound by the actions of his attorney stating: "Petitioner voluntarily chose this attorney as his representative in the action, and he cannot now avoid the consequences of the acts or omissions of this freely selected agent."[2] Also, Respondents were under no affirmative duty to correct Complainant's counsel's erroneous interpretation of the STEPS documentation, if they were aware such an erroneous belief existed.

Accordingly, I find that the above referenced statements in documentation of the STEPS program do not constitute active misleading of Complainant by Respondents for purposes of equitable tolling.

Representations to Complainant's Counsel

Next, Complainant contends that Respondents represented to his attorney that the issue of timeliness would not be raised, thereby giving rise to a contractual agreement to toll the statute of limitations, and/or actively misleading Complainant to refrain from filing until after the statutory period had tolled. In support, Complainant submitted a copy of a letter from his former attorney to outside counsel for Respondents dated November 4, 2005, stating in part "Since [Complainant] cannot now file suit, statutes of limitations would appear to be tolled. In order, however, to insure that limitations do not become an issue, I would appreciate your considering an agreement to this affect."

Complainant also states in his response dated September 30, 2006, that he spoke with his former attorney who assured him that "attorneys for both parties at all times . . . had an ongoing clear and unambiguous understanding regarding the absolute requirement to satisfy the dictates of STEPS process before any litigation could be filed."

Parties are free to contract to toll the statute of limitations for federal causes of action.[3] Therefore, such an

---

[2] Pioneer Investment Services Co., v. Brunswick Assocs Ltd. P'ship, 507 U.S. 380, 397 (1993).

[3] U.S. v. Harris Trust and Savings Bank, 390 F.2d 285, 288 (7th Cir. 1968)(holding that tolling agreement suspended running of statute of limitations in federal estate tax action); Hughes Aircraft Co. v. National Semiconductor Corp., 850 F.Supp. 828, 832 (N.D. Cal. 1994)(holding that the limitations period of the Patent Act may be tolled by parties' agreement); Xerox Financial Services Life Insurance Co. v. Salomon Bros., Inc., 1992 WL 151923 at *5 (N.D. Ill. 1992)(recognizing tolling agreement between parties in action for violations of Securities Act and Securities Exchange Act); Doe

agreement between the parties to toll the statutory period would bring into question a material question of fact. Alternatively, if such discussions lacked an essential element of a contract, such may give rise to misleading conduct. However, such agreement must be supported by **admissible** evidence.

The Order To Show Cause included information to Complainant as a pro se party that he was entitled to file a response opposing Respondents' motion for summary judgment. The pro se party's version of the facts must be supported by affidavit or sworn statement signed under penalty of perjury.

Complainant's response dated September 18, 2006, includes one sworn affidavit signed by Complainant. No other affidavits or sworn statements were entered into the record. Complainant alleges that during communications between his attorney and Respondents or their representatives, the parties agreed to toll the statutory filing period. The supposed events which could bring into question a material fact were communications of which Complainant does not claim to have personal knowledge, but rather he attests to personal knowledge of his attorney's recount of these events to him. To be considered admissible evidence, and not mere allegation, an affidavit based on personal knowledge of the actual communication is necessary. An affidavit supporting personal knowledge of a later recounting of the events in question is not sufficient to bring it into question as a material fact. Therefore, this unsupported allegation is insufficient to defeat a motion for summary decision.

Assuming **arguendo**, that the statements by Complainant's former attorney were supported by affidavit, neither that statement nor the comments included in the November 4, 2005 letter present sufficient evidence to support a finding of active misleading. The November 4, 2005 letter does not reference an agreement, but rather appears to assume that the statute is tolled. Similarly, the comments as recounted by Complainant lack reference to any specific person, time, conversation, or other concrete basis for the "understanding" to which counsel refers. Neither statement is conclusive that any agreement existed between the parties regarding tolling. As stated earlier, Respondents were not under a duty to correct Complainant's counsel's erroneous belief of tolling. Silence in this case does not constitute active misleading.

---

v. Blue Cross & Blue Shield United of Wisconsin, 112 F.3d 869, 875 (7th Cir. 1997)(recognized the validity of tolling agreements).

Complainant has therefore offered insufficient proof in support of his argument that he was actively misled by Respondent. Consequently, I find and conclude that Complainant was not actively misled and therefore, equitable tolling of his complaint is not warranted under this requirement.

b. Wrong Forum

Finally, Complainant alleges that he invoked the wrong forum by proceeding under the STEPS program. In his response dated September 30, 2006, Complainant points out that mediation and arbitration, as contemplated by the STEPS process are external processes as opposed to those internally administered by an employer. Based on this distinction, Complainant contends that the instant case is factually distinguished from Delaware State College v. Ricks, 449 U.S. 250, 101 S.Ct. 498 (1980), and that the STEPS process should be held to be a "wrong forum" in which Complainant timely filed his complaint.

It has consistently been held that alternative dispute resolution does not toll a statute of limitations. The U. S. Supreme Court in Ricks stated "Nor does the pendency of a grievance, or some other method of collateral review of an employment decision, toll the running of the limitations periods." Delaware State College v. Ricks, 449 U.S. 250, 251, 101 S.Ct. 498, 501 (1980). Regulations regarding administration of analogous whistleblower statutes have recognized the pendency of grievance-arbitration proceedings or filings with another agency as examples of circumstances which do not justify a tolling. 29 C. F. R. § 1978.102 (d) (3).

Consequently, I find that Respondent's STEPS process does not constitute a "forum" for purposes of a finding for equitable tolling based upon filing in the wrong forum.

The equitable tolling exception of filing in the wrong forum requires timely filing of the precise claim later alleged. There is no evidence in the record that SOX concerns were raised in the STEPS process within the ninety day statutory period other than unsubstantiated allegations. The first evidence of SOX issues included in the record was in a letter from Claimant's attorney in August 2005 which was well after the period tolled.

Significantly, Complainant does not contend that he **mistakenly** filed his complaint in the wrong forum, nor did he

offer any evidence in support of such an allegation. Thus, because Complainant's argument is unsupported by proof, I find and conclude that Complainant is precluded from having his claim tolled. See e.g., International Union of Electrical, Radio & Machine Workers v. Robbins & Myers, Inc., 429 U.S. 229, 236-238 (1976); Prybys, supra (pursuit of alternative remedies does not toll the statute of limitations); Cox v. Radiology Consulting Associates, Inc., Case No. 86-ERA-17 (November 6, 1986) (relief sought through other measures does not justify the application of equitable tolling).

Complainant has alleged no circumstances to support a contention that he filed in the wrong forum. Thus, I find and conclude that Complainant did not mistakenly file in the wrong forum and therefore, equitable tolling of his complaint is not warranted under this requirement.

3. Equitable Estoppel

Under the doctrine of equitable estoppel, also denominated fraudulent concealment, a late filing may be accepted as timely if an employer has engaged in “affirmative misconduct” to mislead the complainant regarding an operative fact forming the basis for a cause of action, the duration of the filing period, or the necessity for filing. Equitable estoppel presupposes that the complainant has discovered or should have discovered that he has been injured by a defendant, and denotes efforts by the defendant, beyond the wrongdoing upon which the claim is grounded, to prevent the complainant from timely filing a complaint. Halpern, supra; see also Overall v. Tennessee Valley Authority, Case No. 97-ERA-53 (ARB April 30, 2001).

In the instant case, Complainant asserts that late filing should be allowed based on the doctrine of equitable estoppel and the facts stated above which support a finding of misconduct on the part of Respondent. Because of reasons stated above, I find that Complainant has offered insufficient proof in support of his argument that Respondent engaged in affirmative misconduct to prevent Complainant from timely filing a complaint. Consequently, I find and conclude that allowing late filing under the doctrine of equitable estoppel is not warranted.

In light of the evidence presented and based on the foregoing jurisprudence, I find that the circumstances which Complainant cites as bases for equitable tolling and equitable estoppel are not persuasive. Consequently, I conclude that

Complainant is not entitled to equitable tolling and it is recommended that Respondent's Motion for Summary Decision be **GRANTED.**

Accordingly,

IT IS HEREBY RECOMMENDED that Respondents' Motion for Summary Decision be, and it is, **GRANTED.**

IT IS FURTHER ORDERED, in view of the foregoing, that the formal hearing scheduled for November 6, 2006, in Houston, Texas is hereby cancelled.

ORDERED this 13th day of October, 2006, at Covington, Louisiana.

A

LEE J. ROMERO, JR.
Administrative Law Judge

NOTICE OF APPEAL RIGHTS: To appeal, you must file a Petition for Review ("Petition") with the Administrative Review Board ("Board") within ten (10) business days of the date of the administrative law judge's decision. *See* 29 C.F.R. § 1980.110(a). The Board's address is: Administrative Review Board, U.S. Department of Labor, Room S-4309, 200 Constitution Avenue, NW, Washington, DC 20210. Your Petition is considered filed on the date of its postmark, facsimile transmittal, or e-mail communication; 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(c). Your Petition must specifically identify the findings, conclusions or orders to which you object. Generally, you waive any objections you do not raise specifically. *See* 29 C.F.R. § 1980.110(a).

At the time 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. The Petition must also be served on the Assistant Secretary, Occupational Safety and Health Administration and the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, Washington, DC 20210.

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(c). Even if you do file a Petition, 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 after the Petition is filed notifying the parties that it has accepted the case for review. *See* 29 C.F.R. §§ 1980.109(c) and 1980.110(a) and (b).