

DIRECTOR OF THE DEPARTMENT OF LABOR & INDUSTRIES  
STATE OF WASHINGTON

In re:

KATHLEEN BELOCURA dba  
BELOCURA CONSTRUCTION,

APPELLANT,

Citation and Notice of Assessment No. W-  
561-20

OAH Docket No. 10-2020-LI-01526

2021-006-WPA

DIRECTOR'S ORDER

RCW 49.48.084(4); RCW 34.05

Joel Sacks, Director of the Washington State Department of Labor & Industries, having considered the Order Dismissing Appeal (Order) served on October 23, 2020, having considered the petition for review filed by Kathleen Belocura dba Belocura Construction with the Director's Office, and briefing submitted to the Director's Office, and having reviewed the record, issues this Director's Order.

The Director makes the following Findings of Fact, Conclusions of Law, and Order.

**I. FINDINGS OF FACT**

1. The Department issued a Citation and Notice of Assessment to the Appellant. The Appellant appealed and the matter was referred to the Office of Administrative Hearings.
2. On October 15, 2020, the Office of Administrative Hearings sent notice of a pre-hearing conference scheduled for October 22, 2020 at 3:00 pm.

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3. On October 22, 2020, the Appellant failed to appear.
4. The Office of Administrative Hearings issued and served the order dismissing the appeal on October 23, 2020.
5. The Director received a timely filed petition for administrative review from Appellant.
6. Kathleen Belocura's husband has indicated that she was unable to appear because of medical reasons related to her pregnancy, but did not provide any information about her medical condition on October 22, 2020 and why she was unable to appear that day.

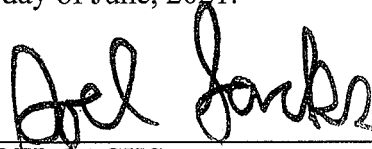
## **II. CONCLUSIONS OF LAW**

1. Based on the Appellant's timely filed petition for review, there is authority to review and decide this matter under RCW 49.48.084 and RCW 34.05.
2. RCW 34.05.440(2) provides: "If a party fails to attend or participate in a hearing or other stage of an adjudicative proceeding . . . , the presiding officer may serve upon all parties a default or other dispositive order, which shall include a statement of the grounds for the order."
3. The Director requires a party to show good cause for missing a prehearing conference. *See Graves v. Dep't of Emp't Sec.*, 144 Wn. App. 302, 311, 182 P.3d 1004 (2008).
4. Medical reasons may provide good cause to miss a pre-hearing conference. But there is insufficient evidence about the day in question and why Appellant was unable to attend the pre-hearing conference on that day, and the Director is unable to make a decision on this record.

## **III. DECISION AND ORDER**

This case is remanded to Office of Administrative Hearings to examine the Appellant's circumstances on October 22, 2020, and whether there was good cause to miss the pre-hearing conference on that day. If the default order is sustained, the Appellant may appeal to the Director. If the default order is vacated because it is an interlocutory order, there is no appeal right and the case shall progress in the ordinary course of litigation.

DATED at Tumwater, Washington this 15 day of June, 2021.

Handwritten signature of Joel Sacks in black ink, written over a horizontal line.

JOEL SACKS  
Director

## **SERVICE**

This Order was served on you the day it was deposited in the United States mail. RCW 34.05.010(19).

## **APPEAL RIGHTS**

**Reconsideration.** Any party may file a petition for reconsideration. RCW 34.05.470. Any petition for reconsideration must be filed within 10 days of service of this Order and must state the specific grounds on which relief is requested. No matter will be reconsidered unless it clearly appears from the petition for reconsideration that (a) there is material clerical error in the order **or** (b) there is specific material error of fact or law. A petition for reconsideration, together with any argument in support thereof, should be filed by emailing it to [directorappeal@lni.wa.gov](mailto:directorappeal@lni.wa.gov) or by mailing or delivering it directly to Joel Sacks, Director of the Department of Labor and Industries, P. O. Box 44001 Olympia, Washington 98504-4001, with a copy to all other parties of record and their representatives. Filing means actual receipt of the document at the Director's Office. RCW 34.05.010(6).

**NOTE: A petition for reconsideration is not required before seeking judicial review.** If a petition for reconsideration is filed, however, the 30-day period will begin to run upon the resolution of that petition. A timely filed petition for reconsideration is deemed to be denied if, within twenty (20) days from the date the petition is filed, the Director does not (a) dispose of the petition **or** (b) serve the parties with a written notice specifying the date by which it will act on the petition. RCW 34.05.470(3).

**DECLARATION OF MAILING**

I, Lisa Deck, hereby declare under penalty of perjury under the laws of the State of Washington, that the DIRECTOR'S ORDER was mailed on the 15 day of June 2021, to the following via U.S. Mail, postage prepaid, and e-mail, to the following:

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DATED this 15 day of June, 2021, at Tumwater, Washington.

  
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Lisa Deck