

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Michael Alarcon and Happyfaceseats LLC d/b/a/ Wicked Café,
Petitioner

Docket No. LB-26-0036

v.

Office of the Attorney General, Fair Labor Division,
Respondent

ORDER OF DISMISSAL

Petitioners Michael Alarcon and Happyfaceseats LLC d/b/a Wicked Café appealed from the issuance of a citation and imposition of civil penalties by the Office of the Attorney General (AGO), Fair Labor Division (FLD). At a status conference in March 2026, the FLD indicated its intention to file a motion to dismiss (which it filed timely on April 7, 2026) and Petitioners agreed to file their opposition by May 1, 2026. Petitioners twice requested and received additional time to file their opposition to the motion to dismiss, which became due on May 18, 2026, and then June 22, 2026. However, Petitioners did not file any opposition to the motion.

The FLD's motion to dismiss requested that I dismiss this case because Petitioners failed to file their appeal with the AGO as is required by statute. G.L. c. 149, § 27C(b)(4) ("[A]ny person aggrieved by any citation or order issued pursuant to this subsection may appeal said citation or order by filing a notice of appeal with the attorney general and the division of administrative law appeals within ten days of the receipt of the citation or order."). Consistent with this requirement, the Division of Administrative Law Appeals' (DALA) website, through which

Petitioners filed their appeal, twice warns petitioners appealing from FLD citations that they must also file their appeal with the AGO.

DALA has no authority to take any action unless a notice of appeal is filed with both DALA and the AGO as the filing is a jurisdictional requirement. *See, e.g., Resende v. Office of the Attorney General, Fair Labor Division*, LB-25-0508 (Dec. 17, 2025) (dismissing case for failure to file appeal with the FLD); *AV Seals Labor Group LLC and Charles Webber v. Office of the Attorney General, Fair Labor Division*, LB-23-0622 (Apr. 4, 2024) (same). In light of the foregoing, the FLD's motion to dismiss is granted.

Dated: July 8, 2026

/s/ Judi Goldberg

Judi Goldberg

Administrative Magistrate

DIVISION OF ADMINISTRATIVE LAW APPEALS

14 Summer Street, 4th floor

Malden, MA 02148

Tel: (781) 397-4700

www.mass.gov/dala