

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Pablo Mora and Earth Evolution, Inc.,
Petitioners

v.

Docket No. LB-26-0218

**Office of the Attorney General,
Fair Labor Division,**
Respondent

Appearance for Petitioners:

Pablo Mora, pro se

Appearance for Respondent:

Jessica S. Rahmoune, Esq.

Administrative Magistrate:

Kenneth J. Forton

RULING ON
RESPONDENT'S MOTION TO DISMISS FOR LACK OF JURISDICTION

Petitioners Pablo Mora and Earth Evolution, Inc. are attempting to appeal several citations issued by the Fair Labor Division (FLD) of the Massachusetts Attorney General's Office on May 12, 2026. The FLD has charged Petitioners with misclassification of employees as independent contractors, failure to allow employees to earn sick time, failure to furnish a suitable pay slip, failure to furnish true and accurate certified payroll records for work on public works projects, and failure to keep

true and accurate payroll records, all without specific intent. The FLD has assessed total civil penalties of \$153,000.00.

On May 16, 2026, Petitioners filed with the Division of Administrative Law Appeals (DALA) an appeal of all the citations. Petitioners did not file the appeal with the FLD. On May 20, 2026, DALA acknowledged the appeal and scheduled a pre-hearing conference for June 25, 2026. On June 11, 2026, the FLD moved DALA to dismiss the appeal for lack of jurisdiction because Petitioners failed to file their appeal with both DALA and the FLD, as required by G.L. c. 149, § 27C.

On June 12, 2026, I ordered Petitioners to file a response to the FLD's motion no later than June 26, 2026 and cancelled the pre-hearing conference. I notified Petitioners that if they did not respond timely to the motion to dismiss, it would be allowed and the appeal dismissed. Petitioners have failed to respond. The appeals are therefore dismissed, and the citations are affirmed as issued.

Moreover, the FLD's motion is meritorious. Where Petitioners appeal citations to DALA but fail to timely file the appeal with the FLD, the appeal must be dismissed for lack of jurisdiction. Petitioners may appeal civil citations only under G.L. c. 149, § 27C(b)(4), which provides:

[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.

(Emphasis added.)

Section 27C(b)(4) does not require simply that "notice be given" to the FLD. Rather, "[t]he statute is about appealing to two entities. It is not about appealing to

DALA and serving the appeal on OAG or notifying OAG about the appeal. It is significant that the statute mentions OAG first.” *Elias Delana, Jr. and Idea Painting Co., v. Office of the Attorney General-Fair Labor Div.*, LB-23-0327 and LB-23-0437 (Div. Admin. L. App. Oct. 30, 2023), *aff’d*, *Idea Painting, Inc. v. Office of the Atty. Gen.*, No. 2384CV02952 (Mass. Super. Ct. Sep. 3, 2024). DALA’s sending the FLD notice that an appeal was docketed does not satisfy the statute’s requirement that appeals must also be timely filed with OAG. *See id.* Missing an appeal deadline “is cause to dismiss a case for lack of jurisdiction. The result is the same if the procedural defect is that the appealing party did not properly file the appeal in the requisite places to file an appeal.” *Batista Contracting, LLC and Idael Batista v. Office of the Attorney General-Fair Labor Div.*, LB-23-0364 (Div. Admin. L. App. Feb. 8, 2024); *accord Richardson & Metrowest Realty Source v. Office of the Attorney General-Fair Labor Div.*, LB-25-0232 (Div. Admin. L. App. Jun. 25, 2025).

The analysis here is straightforward. The citations were issued on Tuesday, May 12, 2026, meaning Petitioners’ deadline to file their appeal with both DALA and the FLD was ten days thereafter: Friday, May 22, 2026. G.L. c. 149, § 27C. Petitioners timely appealed to DALA on May 16, 2026, but still have not filed appeals with the FLD. The FLD was made aware of Petitioners’ appeal on May 20, 2026, when DALA issued its Notice of Receipt of Appeal to the OAG, which is insufficient to preserve the appeal, as explained above. *See Idea Painting, Inc.*, *supra*. Because filing timely appeals with the FLD is a condition precedent to appellate review of the citations under section 27C(b)(4)

and Petitioners have filed no such appeals, Petitioners' appeals must be dismissed for lack of jurisdiction. The citations are therefore affirmed on that basis too.

SO ORDERED.

DIVISION OF ADMINISTRATIVE LAW APPEALS

/s/ Kenneth J. Forton

Kenneth J. Forton
Administrative Magistrate

Dated: July 1, 2026