

**FILED**

JUL 20 2010

COURT OF APPEALS  
DIVISION III  
STATE OF WASHINGTON  
By \_\_\_\_\_

NO. 358933

**SPOKANE COUNTY SUPERIOR COURT  
COA, DIVISION III, STATE OF WASHINGTON**

---

OLGA KOZUBENKO,  
Plaintiff

vs.

DEPARTMENT OF LABOR & INDUSTRIES,  
Respondent

---

BRIEF OF APPELLANT

---

Olga Kozubenko, Pro Se  
1221 E.36th Avenue  
Spokane, WA 99203-3060  
Tel: (509) 624-1890

**Table of Content**

**I. ASSIGNMENT OF ERRORS .....6**

**II. STATEMENT OF ISSUES .....7**

**III. STATEMENT OF THE CASE .....8**

**IV. LEGAL AUTHORITY AND ARGUMENT ..... 10**

**Abuse of process**

**Board Denied Ms. Kozubenko an interpreter**

**Judge did mislead Pro Se about burden of proof.**

**Judge’s bias**

**Judge failed to follow Law**

**Summary Judgment of the case**

**Facts-in-evidence**

**Superior Court conduct**

**V. CONCLUSION .....25**

## Table of Authorities

### A. Washington Cases

Ames v. Department of Labor& Indus., 176 Wash. 509 30 P.2d 239 (1934)

Wendt v. Department of Labor & Industries, 18 Wn. App. 682-683, 571 P.2d 229, 235(1977).

Leland v. Frogge, 71 WN2d 197, 427, P.2d 724 (1967).

Bainbridge Citizens United v. Washington State dept. of Natural resources, 147 Wn.App 365, 198 P.3d 1033 (2008).

Hamilton v. Dept. of Labor & Industries, 111 Wn. 2d 569, 761 P. 2d 618 (1988)

Lamphiear v. Skagit Corp., 6 Wn.App. 350, 356, 493 P2d 2018 (1972).

Lightle v. dept. of Labor & Indus., 68 Wn.2d 507, 510, 413 P2d 814 (1966).

Rode v. Dept. of Labor & Indus., 47 Wn.2d 619, 621, 289 P.2d 354 (1955);

Chalmers v. Dept. of Labor & Indus.,72 Wn.2d 595, 601, 434 P.2d 720 (1967).

Hamilton v. Department of Labor & Industries., 111 Wn.2d 569, 761 P.2d 618 (1988).

Kuhnle, Id at 197, 120 P.2d at 1007. In Adams v. Department of Labor & Industries, 128 Wn.2d 224, 905 P.2d 1220 (1995)

Wendt v. Department of Labor & Industries, 18 Wn. App. 682-683, 571 P.2d 229, 235(1977).

Fochman, 7 Wn. App. at 294, 499 P.2d at 260.

Calvin Williams, Board Dckt., 04 12770 (2005);

Doretta Pratt, Dckt. No. 04 16655 (2006);

Chester Burns, Dckt. No. 08 11027 (2009).

Adeline I. King, Dckt. No. 92 2380 (1994)

Gladys G. Langen, Dckt. No. 68,404 (1986).

Fochtman v. Department of Labor and Industries, 7 Wn. App. 286, 295-296, 499 P.2d1003, 1004-1005 (1942) Wendt v. Department of Labor & Industries, 18 Wn. App. 682-683, 571 P.2d 229, 235(1977)

Mary Spencer, BIIA De., 90 0264 (1991)

Ritter v. Board of Commissioners, 96 Wn.2d 503, 515, 637 P.2d 940 (1981).

## **B. Statutes**

Article I, Section 3

51.32.095 p.8

RCW 51.52.115

RCW 51.52.102 p,14/ 7/16

RCW 4.12.040

RCW 4.12.050

RCW 2.43 p,11

WAC 263-12-045(2)(e),(f)

WAC 263-12-020(1)(d)

WAC 296-19A-030

WAC 263.12.045(2)(f)

**C. Regulations and Rules**

CR56 ..... 6, 11

Rule 3.2

## **I. ASSIGNMENT OF ERRORS**

1. The Board of Industrial Insurance Appeals erred in its Decision and Order dated June 20, 2017, Findings of Fact 5, when it found that Ms. Kozubenko was able to obtain and perform generally available jobs.
2. The Board of Industrial Insurance Appeals erred in its Decision and Order dated June 20, 2017, Findings of Fact 6, when it found that Ms. Kozubenko was able to obtain and perform gainful employment on a reasonably continuous basis.
3. The Board of Industrial Insurance Appeals erred in its Decision and Order dated June 20, 2017, Findings of Fact 7, when it found that the pleadings and evidence submitted by the parties demonstrate that there is genuine issue as to any material fact.
4. The Board of Industrial Insurance Appeals erred in its Decision and Order dated June 20, 2017, Conclusions of Law 3, when it found that the Department of Labor and Industries is entitled to a decision as a matter of Law as contemplated by CR 56.
5. The Board of Industrial Insurance Appeals erred in its Decision and Order dated June 20, 2017, Conclusions of Law 3, when it found that from August 23, 2012 through March 16, 2016, Ms. Kozubenko was not a temporary totally disabled worker within the meaning of RCW 51.32.090.

6. The Board of Industrial Insurance Appeals erred in its Decision and Order dated June 20, 2017, Conclusions of Law 4, when it found that the Board of Industrial Insurance Appeals does not have jurisdiction to determine whether Ms. Kozubenko was entitled to vocational rehabilitation services pursuant to RCW 51.32.095

7. Superior Court erred in its decision not to review case records, while ignoring Kozubenko's brief, unlawfully change judge and failing to make sure that Ms. Kozubenko was informed by Department of upcoming hearings, Departments' motions and Court's decisions.

## **II. STATEMENT OF ISSUES**

1. Whether Ms. Kozubenko is not entitled to Vocational Rehabilitation Services as a disabled worker pursuant RCW 51.32.095 . (Assignment of Error 1,2,3,5 and 6).
2. Whether Summary Judgment against Ms. Kozubenko was proper for the reason that trial court judge failed to provide interpreter, follow rules and apply the proper standard to construe the facts (Assignment of Error 3,4 and 5).
3. Whether the Board of Industrial Insurance Appeals has jurisdiction to decide that Ms. Kozubenko is entitled to Vocational Rehabilitation Services pursuant RCW 51. 32.095 and means to decide if Ms. Kozubenko is entitled to Vocational Rehabilitation

Services as provided by RCW 51.52.102, WAC 263-12-045(2)(e),(f), WAC 263-12-020(1)(d) (Assignment of Error 6)

3. Whether Superior Court failed to follow Rules and Laws in changing judge, having hearing and making decision while not informing or misleading Ms. Kozubenko.

### **III. STATEMENT OF THE CASE**

In August 2011, Board of Industrial Appeal (Board) decided that Ms. Kozubenko's industrial injury on January 25, 2008, is responsible for CEREBRAL THROMBOSIS IN THE RIGHT MID TRANSVERSE SINUS, EXTENDING THROUGH THE SIGMOND SINUS (Docket 10-17403), condition of CIRCULATORY SYSTEM.

Nevertheless, Department continues to deny of Ms. Kozubenko's right to a Vocational Evaluation as provided by:

**RCW 51.32.095 Vocational rehabilitation services:** "... the department ... **MUST** utilize the services of individuals and organizations ...

(2) ... In determining whether to provide vocational services and at what level, the following list **MUST** be used ...

(3) Notwithstanding subsection (2) of this section, vocational services may be provided to an injured worker ... **REGARDLESS OF WHETHER OR NOT** these services are either necessary or

reasonably likely to make the worker employable at any gainful employment.

**WAC 296-19A-030 What are the responsibilities of the parties?**

(2) (a) For state fund claims, the department **MUST:**

(i) **Obtain medical information required** to initiate vocational rehabilitation services before a referral is made to a vocational rehabilitation provider.

(iv) **Review the assessment report and determine whether the worker is eligible** for vocational rehabilitation plan development services (emphasis added).

Without any vocational evaluations Department's adjuster decided that I am able to work; therefore, forcing me into Court just because I have burden of proof. Further, the Board allowed for 'textbook 100%' hearsay to be used as an expert opinion, while (1) abusing any logic and even deny Ms. Kozubenko an interpreter during Board's hearing, (2) ordering Department to write Motion for Summary Judgment and; thereafter, approving it, while (3) denying Ms. Kozubenko, via Summary Judgment, any opportunity for cross examination of so-called experts like M.D. Turner, (4) demanding from Ms. Kozubenko to re-list her witnesses, and more.

Department's denial of benefits is based on 2009 documentation which are false and or inaccurate because they did not consider Ms. Kozubenko's res-judicata conditions which were allowed into Department's documents only in 2010.

Department's own record contain July 2013 full PCE (attached), which clearly demonstrates to any reasonable, or even unreasonable person, a need of benefits Ms. Kozubenko entitled too, by Law.

Notwithstanding, Department insist that Ms.Kozubenko has no limitations whatsoever.

Despite Department's illegal actions, Ms. Kozubenko's Occupational Therapist recorded numerous times that Ms. Kozubenko needs vocational rehabilitation.

#### **IV. LEGAL AUTHORITY AND ARGUMENT**

##### **ABUSE OF PROCESS, BIAS, COVER UP**

Washington State Constitution in ARTICLE I, SECTION 3 PERSONAL RIGHTS provides that "No person shall be deprived of life, liberty, or property, without due process of law."

**Board Denied Ms. Kozubenko an interpreter**

Contrary to RCW 2.43 Interpreters for non-English speaking persons, during hearing on December 5, 2017, NO INTERPRETER and NO COURT REPORTER were provided. Nevertheless, Judge Ridley used this very hearing to justify his decision to change Court dates from January 4 to May 2017 and; subsequently, ordered me to resubmit my witnesses by March 24, 2017, contrary to my continuous objections. Judge Ridley claims that during the hearing I asked for continuance, and more.

NO TRANSCRIPTS exists for me to use (1) to understand what went on during hearing and (2) to prove that the only thing I asked for in my emergency motion, is to bar Department from unwarranted contact with my witnesses.

During very next hearing my objections to continuance were forcefully ignored:

JUDGE RIDLEY: ... Whether you [Kozubenko] did [request to continue] or not, if you don't, I will -- I continued them on my own motion.

MS. KOZUBENKO: Yeah, I understand that. But you put it down as I requested it.

JUDGE RIDLEY: I thought you had. I don't know whether you did or not. If I misspoke, then I have corrected it now.

MS. KOZUBENKO: Yeah, you wrote down not the truth.(Tr. 12/13/16 P. 4) (emphasis added)

Significantly, during August 17, 2016 Conference, Judge Ridley denied Department's attorney Mr. Elliot's suggestion to continue trial:

MR. ELLIOTT: So there was a prior decision of the Board which upheld a Department decision segregating unspecified cerebral vascular disease. That appeal [is] at the Court of Appeals. ... it might be appropriate to stay this action until the Court of Appeals makes a decision on that. (Tr. 08/17/16, P. 10)

JUDGE RIDLEY to MR. ELLIOTT: All right. I can't stay these proceedings indefinitely if the hearings [in WA State Court of Appeals, Division III] have not been held.... I have set her hearing date for January 4, 2017, from 9:00 to noon and 1:00 to 4:00. And I have set the Department's hearing date for January 18, 2017, from 9:00 to noon and 1:00 to 4:00. Ms. Kozubenko must confirm her witnesses by November 4, 2016. And the Department must confirm its witnesses by November 18, 2016. (Tr. 08/17/16, P. 11-12)

It is a mystery why Judge would 'justify' his decision on what I allegedly said during December 5, 2017 hearing, especially

considering that Judge Ridley sent home Court Interpreter and Court Reporter before the hearing.

**Judge did mislead Pro Se about burden of proof.**

It is well established that in order to establish a prima facie case, plaintiff need only produce evidence which would show that he is unable to follow his previous occupation and **is no longer able to perform or obtain work suitable to his qualifications and training,** and that this incapacity is a result of the industrial accident. *Fochtman v. Department of Labor & Indus.*, 7 Wn. App. at 294. (emphasis added).

JUDGE RIDLEY: “[for] specific period of August 23, 2012, through March 10, 2016, you were **temporarily totally disabled. That's your burden.**” (August 17, 2016 p.13) (emphasis added).

In fact, Judge used temporary total disability is the benchmark to decide this case, contrary to Law and, at times, elementary common sense.

**A worker must be considered as a whole person** when determining whether he or she is capable of performing and obtaining gainful employment. *Wendt v. Department of Labor &*

*Industries*, 18 Wn. App. 682-683, 571 P.2d 229, 235(1977).

(emphasis added).

A worker's earning capacity assessment involves "a hybrid quasi-medical concept in which there are intermingled in various combinations, the medical fact of loss of function and disability, together with the ability to perform and the ability to obtain work as a result of his industrial injury. *Fochman*, 7 Wn. App. at 294, 499 P.2d at 260. A worker's ability to obtain relevant employment is always relevant.

*One's disability requires broader assessment as to whether extent of the worker's impairment results in the loss of a gainful wage earning capacity, which involves **economic considerations outside of medical expert's qualifications to render a complete opinion**. Consequently, vocational evidence is desirable, relevant and admissible. *Fochtman v. Department of Labor and Industries*, 7 Wn. App. 286, 295-296, 499 P.2d1003, 1004-1005 (1942) (emphasis added). **A worker must be considered as a whole person** when determining whether he or she is capable of performing and obtaining gainful employment. *Wendt v. Department of Labor & Industries*, 18 Wn. App. 682-683, 571 P.2d 229, 235(1977). (emphasis added).*

*If a worker can be retrained to become gainfully employable, the worker is not totally disabled but remains **entitled to temporary total disability benefits** while actively and successfully undergoing retraining i.e. provided vocational services. (emphasis added). RCW 51.32.095(3)(a). **Vocational Services are in sole discretion of Department, but may not be manifestly unreasonable or exercised on untenable grounds for untenable reasons**. In *Re: Mary Spencer, BIIA De.*, 90 0264 (1991), quoting, *Ritter v. Board of Commissioners*, 96 Wn.2d 503, 515, 637 P.2d 940 (1981). (emphasis added).*

### **Judge's bias**

It is well established that when the party with the burden of proof is unrepresented during Administrative Hearings of the Board, IAJ must ask questions necessary to elicit a prima facie case. *In re Calvin Williams*, Board Dckt., 04 12770 (2005); *In re Doretta Pratt*, Dckt. No. 04 16655 (May 3, 2006); and *In re Chester Burns*, Dckt. No. 08 11027 (February 4, 2009). In *Williams*, Board did address the scope of this responsibility as follows:

IAJ obligation to secure additional evidence to 'fairly and equitably decide the appeal' is broad, WAC 263-12-045(2)(f). See RCW 51.52.102. The hearing judge should ask those questions necessary to present a 'bare bones' prima facie case. This would not constitute 'advocacy' on the part of the judge based on Board rules, as well as legislative mandate. *In re Adeline I. King*, Dckt. No. 92 2380 (January 25, 1994) and *In re Gladys G. Langen*, Dckt. No. 68,404 (January 3, 1986).

Judge Ridley: "I will send you a pro se letter. Pro se means self-represented. And I will explain to you all of your duties in this appeal." (August 17, 2016 p.13)

Judge Ridley did not send the letter, while demonstrating his bias toward Pro Se, for example:

JUDGE RIDLEY: " If you don't file that confirmation letter, then I will strike all of the testimony time which I have set aside for you and your witnesses except for one hour for you to

testify. Now if I do that, it will mean you can't win ..." (August 17, 2016 @ p9)

**Judge 'covers up' Department's unlawful contact with Pro Se witnesses**

Below are two examples:

Dr. Sayres was declared by Claimant as a witness by November 4, 2016; nevertheless, Department declared Dr. Sayres is its witness two weeks later, on November 17. On November 23, 2016, Dr. Sayres' office did confirm to Claimant that he is going to testify on behalf of Department.

Ms. Kozubenko did declare Vocational Counselor McKinney, as her witnesses. However, on and or before March 4, 2017, Department did provided Mr. McKinney with unknown to Ms. Kozubenko documents, obtaining declarations from Mr. McKinney.

Ms. Kozubenko's objections were simply ignored. In order to cover up Department's violations, Judge Ridley did order Ms. Kozubenko to re-declare her witnesses by March 24, 2017.

**Judge failed to follow Law**

Legislature imposed upon BIIA broad duties and powers to help unrepresented injured workers during hearings and in obtaining additional evidence (see RCW 51.52.102, WAC 263-12-045(2)(e),(f), WAC 263-12-020(1)(d), and more). In practice, BIIA Significant Decisions did pronounce its Judges' duties as intended by the Legislature to help injured unrepresented workers in exchange for giving up some of their rights:

When the party with the burden of proof is unrepresented, **IAJ must ask those questions necessary to elicit a prima facie case.**

In re Calvin Williams, BIIA Dec., 04 12770 (2005); In re Doretta Pratt, Dckt. No. 04 16655 (May 3, 2006); and In re Chester Burns, Dckt. No. 08 11027 (February 4, 2009).(emphasis added). In

Williams, BIIA did address the scope of this responsibility as follows: **IAJ obligation to secure additional evidence to 'fairly**

**and equitably decide the appeal' is broad, WAC**

263.12.045(2)(f). (emphasis added). See RCW 51.52.102, WAC 263.12.120

Judge Ridely managed to mislead Ms. Kozubenko on her burden of proof, while ignoring his duties as a finder of facts, contrary to Law and logic, going as far as denying an interpreter during hearing of the case.

## **SUMMARY JUDGMENT OF THE CASE**

The function of Summary Judgment is to determine whether there is an issue of material fact requiring formal trial. *Leland v. Frogge*, 71 WN2d 197, 427, P.2d 724 (1967). Summary Judgment is appropriate only if pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. *Bainbridge Citizens United v. Washington State dept. of Natural resources*, 147 Wn.App 365, 198 P.3d 1033 (2008). Courts who have stepped in for the injured workers of Washington, mandating that "special consideration" be given to the testimony of their attending physicians. *Hamilton v. Dept. of Labor & Industries*, 111 Wn. 2d 569, 761 P. 2d 618 (1988)

An expert opinion may be offered by the trier of fact's consideration **only when it is founded upon established facts of the case.** *Lamphiear v. Skagit Corp.*, 6 Wn.App. 350, 356, 493 P2d 2018 (1972). (emphasis added). Not only evidence must be substantial, it must also be "competent" evidence. *Lightle v. dept. of Labor & Indus.*, 68 Wn.2d 507, 510, 413 P2d 814 (1966). Also, an expert opinion has no probative value if it assumes for its basis material facts not established by the evidence. *Rode v. Dept. of Labor & Indus.*, 47 Wn.2d 619, 621, 289 P.2d 354 (1955);

*Chalmers v. Dept. of Labor & Indus.*, 72 Wn.2d 595, 601, 434 P.2d 720 (1967).

“Special consideration” be given to testimony of worker’s attending physicians, in stark contrast to testimony of those “one shot” examiners, who so frequently testify for their insurers.

*Hamilton v. Department of Labor & Industries.*, 111 Wn.2d 569, 761 P.2d 618 (1988).

The Law concerning total disability clearly requires consideration of a worker’s ability to sustain work activity with a reasonable degree of success and continuity. *Kuhnle, Id* at 197, 120 P.2d at 1007. In *Adams v. Department of Labor & Industries*, 128 Wn.2d 224, 905 P.2d 1220 (1995), the Court wrote that “wage earning capacity and working in great pain is not sustainable ...”

Essentially, a worker should not have to perform work that can causes serious discomfort or pain or endangers his or her life or health.

**A worker must be considered as a whole person** when determining whether he or she is capable of performing and obtaining gainful employment. *Wendt v. Department of Labor & Industries*, 18 Wn. App. 682-683, 571 P.2d 229, 235(1977). (emphasis added).

A worker's earning capacity assessment involves "a hybrid quasi-medical concept in which there are intermingled in various combinations, the medical fact of loss of function and disability, together with the ability to perform and the ability to obtain work as a result of his industrial injury. *Fochman*, 7 Wn. App. at 294, 499 P.2d at 260. A worker's ability to obtain relevant employment is always relevant.

Just one fact that Ms Kozubenko did not have an opportunity to cross-examine witnesses, who were used as expert by Judge as experts, makes Judge's decision illegal and or fake and or improper. Furthermore, Judge use of M.D. Turner, who treated Ms. Kozubenko for fake diagnosis per Department's request, is improper just because M.D. Turner did not treat Ms. Kozubenko during period under review. Same logic applies to Dr. Stromb, whom in fact, did state to Department that Ms. Kozubenko is not able to work, but this statement was ignored by the Judge. Notably, Judge ruled on Summary Judgment without any consideration for vocational issues and Ms. Kozubenko's ability to find gainful employment.

**FACTS-IN-EVIDENCE:**

My claim contains medical documents which do state that I do have limitations due to my industrial injury by Occupational Therapist Dr. Turner, Dr. Sayres, Dr. Stromb, and more. Also, all of Department's own deposition of my doctors, do state that I have numerous limitations.

Notwithstanding medical evidence in my claim, Department did not accept any limitations, whatsoever; consequently, did base its decision that I am "able to work" on:

false premises that I have no limitations. And,

**(B) contrary to RCW 51.32.095 Vocational rehabilitation services:**

"the department ... **MUST** utilize the services of individuals and organizations ...

(2) ... In determining whether to provide vocational services and at what level, the following list **MUST** be used

...

(3) Notwithstanding subsection (2) of this section, vocational services may be provided to an injured worker ...

**REGARDLESS OF WHETHER OR NOT** these services are

either necessary or reasonably likely to make the worker employable at any gainful employment".

**WAC 296-19A-030 What are the responsibilities of the parties?**

(2) (a) For state fund claims, the department **MUST:**

(i) **Obtain medical information required** to initiate vocational rehabilitation services before a referral is made to a vocational rehabilitation provider.

(iv) **Review the assessment report and determine whether the worker is eligible** for vocational rehabilitation plan development services” (emphasis added).

Physical Capacity Evaluation i.e. PCE, which I did order and paid for, during the period under review, which was conducted by Dr. Stromb, whom Department did depose, states that I can: “Sit up to 2.5 hours, stand up to 15 minutes without restrictions, walk up to 2 minutes ... sit/stand/walk up to 2 hours without restrictions ...”. (see attached PCE, p. 392, 05/14/13)

Below are quotes by doctors, whom Department did depose under oath, during this case:

**Department and Dr. Sayres**

Dr. Sayres: “... she can't be in some sort of work where she is at risk of getting bruised” (Deposition, p. 132 )

**Department and Dr. Turner**

Department: “The first question, did you certify [Kozubenko] for time loss for that period [under this appeal]?”

Dr. Turner: “I had placed restrictions. She was on restrictions.”

(Deposition, p.243)

Department: **“With What restrictions?”**

Dr. Turner: “To limit her standing to frequent, her bending and her stooping, squatting and kneeling to occasional, and to lift no more than 25 pounds, seldom” (Deposition, p 244)

**Department and Dr. Stromb, whom performed an eight hours long Physical Capacity Evaluation (PCE) during period under review:**

Dr. Stromb: “ ...Maybe you haven't read this because you didn't have page two. I think that – that her performance on the PCE in ways certainly reflects her day-to-day activity levels. (Deposition,, p. 225) (emphasis added)

Department: “if you were hailed into court tomorrow and the judge says “Tell me your opinion on a more-probable-than-not basis,” you wouldn't have an opinion or” (Deposition, p.224-225)

Dr. Stromb: “.. If someone had pressed me to give an opinion on whether I thought she could work , I’d have to say probably not ...” (Deposition, p. 237) (emphasis added).

In addition to replacement of diagnosis, during period under review, and more, Department did ignore and ignores my limitations due to res judicata “**THROMBOSIS IN RIGHT MID TRANSVERSE SINUS, EXTENDING THROUGH SIGMOID SINUS**”, did not include my limitations in its decisions.

#### **SUPERIOR COURT CONDUCT**

On August 28, 2017 I did file an appeal to Superior Court and; therefore, on the same date Judge Hazel was assigned the appeal.

On September 29, 2017, Judge Hazel did issue an Order with Schedule with due dates for briefs and oral argument for March 05, 2018 at 9:00 a.m.

On December 11, 2017 Department files a Motion to Dismiss and Notice of Hearing for January 19, 2018 without informing me.

Furthermore, those filing do not state to which Judge they were sent.

January 18, 2018 Judge John Conney, ordered an interpreter for a hearing.

January 19, 2018 Judge Please, NOT Judge Hazel, has had a 'hearing' and signed the Order for Dismissal. There were no oral argument, and Laws and procedures were not followed.

I am not going to allege conspiracy between Department and Court, but based on what ground and Laws:

Judge Hazel was replaced with Judge Please, since there is no records of any request of Judge and so on?

Judge Judge Hazel's Order was cancelled without informing me? Why Judge Please allowed Department to use whatever evidence, which are nowhere to be seen in this case's records?

Furthermore, to date, I did not receive in the mail any communications from Department or Court about anything and had to obtain documents by going to Court' Record Department.

## **CONCLUSION**

Based on submitted here Department's depositions of my doctors and other documents in the case, I would like this Court to recognize as facts, and more, that:

I do have limitations due to my industrial injury and am entitled to vocational rehabilitation services,

Department did not accept any limitation during the period under review, and more,

Department did base its Decision its decision that I am “able to work” without any considerations that I do have limitations.

To date, I did not receive from the Board certified record as required from it by Law; therefore, I reserve a right to amend this brief once I receive and review required by Law records.

I certify (or declare) under penalty of perjury under the laws of the State of Washington that the forgoing is true and correct and documents attached are true copies of the original or Boards’ publicly available and or other attached documents and reports.

Ms. Kozubenko respectfully requests the Court to order Department to provide me with vocational benefits as provided by RCW 51.32.095

DATED this 20th day of July,2018



A handwritten signature in black ink, appearing to read 'Olga Kozubenko', is written over a horizontal line.

Olga Kozubenko

## PROOF OF SERVICE

I certify that I served a copy of this document on all parties  
or their counsel of records on the date below as follows:

- ✓ US Mail Postage Prepaid and or
- ✓ E-mail and or
- ✓ Fax
- ✓ In person.

Board of Industrial Insurance Appeal  
2430 Chandler Court SW  
P.O. Box 42401  
Olympia, WA 98504 – 2401

Lindsay Jensen , AAG  
Office of Attorney General  
P.O. Box 40121  
Olympia, WA 98504-0121  
Fax: (360) 586-7717  
Tel: (360) 586-7719

I certify under penalty of perjury under the laws of the State of  
Washington that the foregoing is true and correct.

DATED 20th of July, 2018, at Spokane, Washington.



---

Olga Kozubenko