



Dellen Wood Products v. Department of Labor and Industries, 43636-1-II (2/25/2014)

By Michael H. Weier • February 27, 2014

The Washington State Court of Appeals in *Dellen Wood v. Department* defined the legal terms default versus voluntary or elective termination under the state's Industrial Insurance Act. The Court declared a default occurs when a self-insured employer fails to satisfy multiple legal obligations, not simply fails in its single obligation to pay workers' compensation benefits. Conversely, the unanimous decision indicated voluntary or elective termination of self-insured status is an express, affirmative withdrawal and surrender of an employer's self-insurance certificate.

The Court held a self-insured employer surrenders the right and title to its surety bond if it is deemed in default. Whereas, if the employer is held to have properly elected to terminate its self-insurance status, then the employer's right and title to the surety remain in effect.

The *Dellen Wood* decision is a strong reminder to the self-insured community. A self-insured employer must provide a clear and unambiguous declaration of its intent to withdraw and surrender its self-insurance status. Otherwise, the employer will likely be deemed to have effectively surrendered the right and title to its surety. ■



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