

State of California
California Occupational Safety and Health Appeals Board
Closed Session Agenda

Government Code § 11126 (a), (c)(3), (e) and (f)
for
Thursday, June 24, 2021
9:30 a.m.
Held on Zoom

To: Members of the California Occupational Safety & Health Appeals Board

From: J. Jeffrey Mojcher, Chief Counsel

Date: June 11, 2021

RE: Closed Session of the Board to be held on June 24, 2021

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), (e) and (f) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session. Any matter not completed at this meeting may be continued to subsequent meetings. If the closed session agenda is not completed on the scheduled day, the closed session will continue from day to day until completion and adjournment.

Decisions Of Administrative Law Judges:

(Written decision issued by an Administrative Law Judge. The Decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the Decision. The Board Members review the Decision and decide if they will reconsider the ALJ Decision on their own motion.)

1239535 Los Angeles City Fire Department

0000139 Special Order- Los Angeles City Fire Department

Petitions For Reconsideration:

(The Division of Occupational Safety & Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)

1457804 ATV Inc.

1240360 Harris Spice Company, Inc.

1480202 Precision Castparts Corporation

Petitions For Reconsideration (Second Review):

None

Orders Dismissing Appeal:

None

Orders Denying Leave To File Late Appeal:

None

Matters Pending Reconsideration:

(If the Appeals Board orders reconsideration of an Order or Decision, it reviews the record and then affirms, rescinds, alters or amends the Order or Decision being reconsidered.)

The following list is intended to inform stakeholders and members of the public of what the Board believes is the issue of most interest to the general public presented in each of the following matters. The issues are listed so as to assist those interested in research or public information, and not litigation, and are not necessarily or exclusively the only issue or issues presented in each matter. The issues identified are not positions of the Board. Further, the Board may add and decide issues not included in the list or decide the matter on other grounds, under authority of Labor Code sections 6620 through 6623.

- | | |
|---------|---------------------------------------------------------------------------------------------------------------------------------------------|
| 1272378 | Andrew Harrison Barnes
<i>Whether Mr. Barnes was/is an employer.</i> |
| 1141604 | Boy Racer Inc. DBA Burning Angel
(Employer's Petition)
<i>Whether adult film performers are employees or independent contractors.</i> |
| 1141604 | Boy Racer Inc. DBA Burning Angel
(Dosh's Petition)
<i>Whether adult film performers are employees or independent contractors.</i> |
| 1246527 | Cemex
<i>Whether the settlement in this matter was procured by fraud.</i> |
| 1135350 | Hill Crane Service Inc.
<i>Whether Employer violated the safety orders as alleged.</i> |
| 1422951 | Lineage Logistics
<i>Whether Employer's motion to amend its appeal should be granted.</i> |

California Occupational Safety & Health Appeals Board
Closed Session Agenda
Posted June 11, 2021

- 1290766 Millenium Reinforcing
Whether the Employer proved that wearing foot protection would not have prevented the injury. Whether futility is a defense to a personal protective equipment requirement.
- 1334740 Olam West Coast, Inc. dba Olam Spices and Vegetable Ingredients
Whether the Employer committed the alleged violations.
- 1199064 SA Recycling
Whether employer established that, the alleged violation was abated at the time of inspection.
- 1155042 Signal Energy LLC
Whether Employer appropriately oversaw the actions of the subcontractors.
- 1306170 Siu's Products and Distributor, Inc.
Whether Employer complied with lockout/tagout requirements.
- 1303461 SSA Terminals (Oakland), LLC DBA SSA Marine Terminals
Whether Employer violated section 3212(a)(2)(A) as alleged.
- 1153101 Sunview Vineyards of California, Inc.
Whether the Board should reconsider this interlocutory petition. Whether the Division should be required to provide a redacted copy of the complaint to Employer.
- 1251879 Target Stores, Inc.
Whether the employee suffered a serious injury as defined by statute and regulation.
- 1384029 USA Waste of California, Inc. dba Blue Barrel Disposal Services
Whether the Employer committed the alleged violations.

Matters Pending Litigation:

(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

Superior Court:

1. MCM Construction, Inc., 34-2016-80002312 (13-R1D2-3851-3854)
2. Key Energy Service, LLC (12004280)
3. Barnard Impregilo Healy, JV, (317134021), CPF 17-515575

California Occupational Safety & Health Appeals Board
Closed Session Agenda
Posted June 11, 2021

4. R N R Construction, Inc., 34-2017-80002632 (1092600)
5. Ashley Furniture Industries, 34-2017-800002750, (1016514)
6. United Parcel Service, Inc. dba UPS, 34-2019-80003174 (1116529)
7. Shimmick Construction Company, Inc., 34-2019-80003191 (1059365)
8. Process Cooling International, 34-2019-80003220 (1232555)
9. Prestige Painting, 37-2019-00066143 (1367265)
10. Davis Development Company, 34-2020-80003373 (1226084)
11. Vincent Tuomey, RG20061099 (1152851)
12. Golden State Boring & Pipe Jacking, Inc. 34-2020-80003465 (1308948)
13. Interline Brands, Inc., CIVDS2021813 (1251604)
14. Shimmick Construction Company, Inc., 34-2020-80003550 (1080515)
15. MWL Solutions, 34-2020-80003549 (1436014)
16. Hampton Tedder Electric, 34-2020-80003562 (1233597)
17. BMW West, LLC, 34-2021-80003574 (1399613)
18. Southern California Edison, 34-2021-80003580 (1320327)
19. Davis Development Company 34-2021-80003586 (1293194)
20. Sierra Forest Products, VCU285853 (1291481)
21. APTCO, LLC, BCV-21-100421 (1332715)
22. Ventura Coastal, (317808970)
23. L&S Framing, Inc., SCV-0046603 (1173183)
24. Granite Construction, 34-2021-80003634 (1235643)
25. Pacific Utility Installation, Inc., 30-2021-01201020 (1321161)
26. Golden State FC, LLC dba Amazon Fulfillment,
STK-CV-UWM-2021-0004380 (1310525)
27. USA Waste of California, Inc. dba Blue Barrel Disposal Services,
21STCP01729 (1384029)

Appellate Court:

1. Lion Farms, LLC, MCV075788 (1070258)
2. Atkinson Construction, LP, 34-2017-80002611, C091705 (317386084)
3. United Parcel Service, B308218, 18STCP03195 (1158285)

Other Items:

1. New and/or interlocutory petitions for reconsideration not filed in time to be agendaized.
2. Categorizing the Board's DARs and Denials on the DIR website.
3. Staff attorneys to provide legal analysis, advice and counsel regarding COVID-19 cases.

Orders Of Administrative Law Judges:

(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

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|---------|--------------------------------------|
| 1471585 | Alpha General Contracting Inc. |
| 1464466 | Andreas Natural Marble and Stone |
| 1425590 | B & V Enterprises, Inc. |
| 1468729 | Berry Global |
| 1489764 | Broc Cellars |
| 1483650 | Cal North Farming Group, Inc. |
| 1489305 | Calavo Growers, Inc. |
| 1271885 | California Industrial Rubber Company |
| 1493465 | Cardenas Markets, LLC |
| 1487880 | Century Rubber Company Inc. |
| 1496358 | City of Covina |
| 1399861 | Clark-Pacific Corporation |

California Occupational Safety & Health Appeals Board
Closed Session Agenda
Posted June 11, 2021

1253598	Clayco Inc.
1345041	Condon-Johnson and Associates, Inc.
1495252	Elkhorn Packing Co. LLC
1343535	Express Messenger Systems, Inc.
1484303	Finley Farming Inc., a California Corporation
1487405	George's Auto Body & Service
1474096	Green Giant Landscape
1494843	Harbor Area Gang Alternatives Program
1449027	Icon West
1465029	J & A Pallet Accessory, Inc.
1105855	Jeff Alexander Farming
1515289	K H Mckenny Inc.
1447926	Lidan Corporation
1422484	Lidestri Foods, Inc.
1452715	Lovesticks
1194484	Maruichi American Corporation
1480395	Metzer Farms, Inc.
1420163	Minasian Brothers, Inc.
1466517	MM Reforestation, Inc.
1476487	MNET Solutions LLC
1480989	Musco Excavators, Inc.
1484737	Newton Heat Treating Company, Inc.
1431912	Orange Coast Building Services, Inc.

California Occupational Safety & Health Appeals Board
Closed Session Agenda
Posted June 11, 2021

1474680 Pacific Farm Management, Inc.
1363991 Primex Farms, LLC
1448470 Protech Deliver & Installation
1401990 Richard M. Blank
1501770 San Francisco Fire Department
1491604 San Luis Rey Bakery & Restaurant Corp.
1297209 Setton Pistachio of Terra Bella, Inc.
1415143 Standard Homeopathic Company
1490099 Stanley G. Alexander, Inc.
1514502 Steelhead Constructors, Inc.
1483240 Stephen H. Smith Farms, Inc.
1491340 Success Valley Farms LLC
1459671 Universal Coatings, Inc.
1468207 Vallarta Food Enterprises, Inc.
1418301 Van-G Trucking, Inc.
1319823 Venado Custom Tillage, Inc.
1436458 Venterra Environmental, Inc.
1484707 Vivint Solar Inc.
1385239 Westrock Converting LLC

Pending appeals involving covid19-related citations:

(The following list consists of pending appeals that involve Covid19-related citations. Find more information about the citations at the [Federal OSHA Website](#). . Type the inspection number in a box and click on the submit button.)

1475491 Sutter Bay Medical Foundation
1485198 Alfaro Farm Labor Contractor, Inc.

California Occupational Safety & Health Appeals Board
Closed Session Agenda
Posted June 11, 2021

1472716	Sutter Bay Hospitals
1477632	DL Poultry, Inc.
1475440	Sutter Health - California Pacific Medical Center - Mission Bernal
1483569	Vie de France Yamazaki, Inc.
1484808	Jobsource North America, Inc.
1473542	Jobsource North America, Inc.
1475234	Amazon.com Services, LLC
1473644	Amazon.com Services, LLC
1476240	Overhill Farms, Inc.
1473510	Overhill Farms, Inc.
1475903	Ralphs Grocery Company
1472915	Kaiser Permanente Psychiatric Health Facility - Santa Clara
1474956	Kaiser Foundation Hospital Ontario
1472020	Pitman Family Farms
1473517	Kaiser Foundation Hospital - San Francisco
1474250	Ralphs Grocery Company
1472724	Santa Rosa Police Department
1473654	CHA Health Systems, Inc. / CHA Hollywood Medical Center, LP
1472737	University of California, Santa Cruz
1482017	Food 4 Less Holdings Inc.
1476202	Ralphs #222
1476044	Ralphs Grocery Company
1474648	Kaiser Foundation Hospitals

California Occupational Safety & Health Appeals Board
Closed Session Agenda
Posted June 11, 2021

- 1475605 Kaiser Foundation Hospitals Redwood City Medical Center
- 1474630 Kaiser Foundation Hospitals/Kaiser Permanente - Oakland Med.
- 1476723 Smithfield Foods Inc.
- 1474695 Kaiser Foundation Health Plan, Inc.
- 1479073 Integral Senior Living, LLC
- 1496706 Morada Produce Company, LLC
- 1476551 Arden Group, Inc.
- 1473356 The Regents of the University of California, Los Angeles
- 1473875 Panorama Meadows Nursing Center, LP
- 1476073 Kaiser Foundation Hospital
- 1475159 Driftwood Hayward Operating Company, LP
- 1478836 Los Angeles County Metropolitan Transportation Authority
- 1482031 United Staffing Associates, LLC
- 1476167 Kaiser Foundation Hospitals
- 1476072 Windsor Vallejo Care Center LLC
- 1478727 Doctors Medical Center, Inc.
- 1476882 NorthBay Medical Center
- 1477009 Lusamerica Foods, Inc.
- 1483221 CLW Foods LLC
- 1483678 California Farms Meat Company, Inc.
- 1477051 Marin General Hospital
- 1479906 Hayward Sisters Hospital
- 1484106 DHL Express (USA), Inc.

California Occupational Safety & Health Appeals Board
Closed Session Agenda
Posted June 11, 2021

1475603	Kaiser Permanente Antioch Medical Center
1482357	H & R Labor Contracting, LLC
1474698	City of Santa Clarita-Santa Clarita Transit
1488121	Apollo Wood Recovery, Inc.
1483438	Mills-Peninsula Medical Center
1483129	Walmart Inc.
1487976	Stevens Creek BMW
1482808	Primex Farms, LLC
1477773	Citistaff Solutions, Inc.
1486320	Coldwater Care Center LLC
1477159	Grimmway Enterprises, Inc.
1481574	Daniel C Salas Harvesting, Inc.
1479549	Kaiser Foundation Hospitals
1481502	Fremont Healthcare Operating Co, LP
1481792	HGST, Inc.
1483898	Chipotle Mexican Grill Inc.
1495407	D'Arrigo Bros. Co. of California
1481860	Carter's Retail Inc.
1486771	Doctors Medical Center, Inc.
1483170	H&B Hospitality LLC
1478378	Kaiser Foundation Hospitals
1483472	California Enterprises Employment, Inc.
1484306	Olam West Coast, Inc.

California Occupational Safety & Health Appeals Board
Closed Session Agenda
Posted June 11, 2021

1480866	State of California, Department of Corrections & Rehabilitation
1485615	OOMA, Inc.
1491837	MV Transportation
1482178	United Parcel Service Inc.
1477528	Tranquility Inc.
1480875	OWB Packers, LLC
1487546	Bevill Vineyard Management
1495502	Al Pak Labor Inc.
1478155	Kingston Healthcare Center, LLC
1483470	HR Staffing Solutions, Inc.
1478320	Sutter Bay Hospitals
1485410	SC Warehouses, Inc.
1489025	Los Angeles Apparel, Inc.
1489768	State of California, Dept. of Corrections - Avenal State Prison
1482518	G.L. Mezzetta Inc.
1484564	Integrated Pain Management Medical Group, Inc.
1489371	Frontier-Kemper Constructors, Inc. and Tutor Perini Corporation
1489032	Michael Nicholas Designs, Inc.
1486257	The Kroger Company
1481476	Marin Resource Recovery Center
1504282	Imperfect Food
1490787	Gibraltar Convalescent Hospital Ind. / Del Mar Care Center
1488389	Mannington Mills, Inc.

California Occupational Safety & Health Appeals Board
Closed Session Agenda
Posted June 11, 2021

1492892	California Agriculture, Inc.
1491024	Grimmway Enterprises, Inc.
1476007	KF Sunray, LLC
1478127	Contra Costa Behavioral Health Services
1489226	Mollie Stone's Market
1499605	United Staffing Associates, LLC.
1473477	A Vidovich Construction, Inc.
1481578	California Prison Industry Authority
1489284	Tosca Services, LLC
1478754	California Department of Corrections and Rehabilitation
1487741	BSF Fitness, LLC
1488834	Norman Elloway DDS
1481321	Autumn Hills Health Care Center
1491659	Studio City Rehabilitation Center
1483915	Sutter Health
1511137	Southern California Permanente Medical Group
1510890	Kaiser Foundation Hospitals
1492738	Dan Marcus
1495150	Troy Roofing, Inc.
1476839	PIH Health Good Samaritan Hospital
1490971	Santa Clara Valley Transportation Authority
1485894	Sutter Health
1494822	Ciasom, LLC

California Occupational Safety & Health Appeals Board
Closed Session Agenda
Posted June 11, 2021

1491648	Sandhu Orchards, LLC
1492130	Grapes FLC
1485435	Healthcare Services - Encino Hospital, LLC
1483579	Amazon
1493805	Simmons Real Estate, Inc.
1484803	California State Lottery
1494655	Randstad USA LLC
1481021	American Machine & Tool, Inc.
1492283	Aerotek Inc.
1479497	California Dept. of Corrections & Rehabilitation - Chuckawalla
1483379	Marin Senior Coordinating Council
1487399	Anaheim Healthcare Center, LLC
1482596	Parkview Operating Company, LP
1499765	Kaiser Foundation Hospitals - San Francisco
1492135	Brutocao Vineyards, Inc.
1500426	WB Powell Inc.
1479039	Armorcast Products Company, Inc.
1497482	Monterey Mushrooms, Inc.
1499522	Advanced Roof Design Inc.
1487717	Millbrae Care Center, LLC
1489597	The Growers Company, Inc.
1490265	Rubicon Bakers LLC
1493068	Kaiser Permanente

California Occupational Safety & Health Appeals Board
Closed Session Agenda
Posted June 11, 2021

1488366	CourtSide Basketball Center
1476402	Northridge Care Center, Inc.
1487776	Grocery Delivery E-Services USA Inc.
1499047	Partners Personnel
1514218	Wesley Allen Inc.
1499592	Fairway Staffing
1483206	Elkhorn Packing Co. LLC
1491795	Salinas Farm Labor Contractor, Inc.
1486324	California Department of Food and Agriculture
1487101	American Medical Response West
1494789	Fresh & Ready Foods LLC
1512743	BCOK, Inc.
1496216	Santa Clara County Sheriff's Office
1483625	Cardenas Market

Personnel:

(Issues regarding staff.)

Any matter not completed at this meeting may be continued to subsequent meetings. If the closed session agenda is not completed on the scheduled day, the closed session will continue from day to day until completion and adjournment.