

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

**Government Code § 11126 (a), (c)(3), (e) and (f)  
for  
Thursday, October 21, 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: October 8, 2021**

**RE: Closed Session of the Board to be held on October 21, 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.)*

1342017 O.C. Jones & Sons, Inc.

**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.)*

None

**Petitions For Reconsideration (Second Review):**

1485458 SD DESIGN CONSTRUCTION CORP.

**Orders Dismissing Appeal:**

1494822 Ciasom, LLC

**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<br><i>Whether Mr. Barnes was/is an employer.</i>   |
| 1279492 | Arriaga USA, LLC<br><i>Whether the cited employer's rights were adequately protected at the video hearing.</i>  |
| 1141604 | Boy Racer Inc. DBA Burning Angel<br>(Employer's Petition)<br><i>Whether adult film performers are employees or independent contractors.</i>   |
| 1141604 | Boy Racer Inc. DBA Burning Angel<br>(Dosh's Petition)<br><i>Whether adult film performers are employees or independent contractors.</i>   |
| 1246527 | Cemex<br><i>Whether the settlement in this matter was procured by fraud.</i>  |
| 1290766 | Millenium Reinforcing<br><i>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.</i> |
| 1334740 | Olam West Coast, Inc. dba Olam Spices and Vegetable Ingredients<br><i>Whether the Employer committed the alleged violations.</i>  |
| 1327187 | Ontario Refrigeration Service, Inc.   |

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- 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.*
- 1384029 USA Waste of California, Inc. dba Blue Barrel Disposal Services  
*Whether the Employer committed the alleged violations.*
- 1152851 Vincent Tuomey  
*Whether the Board order to issue a new decision was consistent with the Superior Court's ruling on a writ of mandate.*
- 1461476 Walmart, Inc.  
Whether Walmart was an employer citable for the alleged violation.

**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. Key Energy Service, LLC (12004280)
2. Barnard Impregilo Healy, JV, (317134021), CPF 17-515575
3. R N R Construction, Inc., 34-2017-80002632 (1092600)
4. Ashley Furniture Industries, 34-2017-800002750, (1016514)
5. United Parcel Service, Inc. dba UPS, 34-2019-80003174 (1116529)
6. Shimmick Construction Company, Inc., 34-2019-80003191 (1059365)
7. Process Cooling International, 34-2019-80003220 (1232555)
8. Prestige Painting, 37-2019-00066143 (1367265)
9. Davis Development Company, 34-2020-80003373 (1226084)

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10. MWL Solutions, 34-2020-80003549 (1436014)
11. Hampton Tedder Electric, 34-2020-80003562 (1233597)
12. BMW West, LLC, 34-2021-80003574 (1399613)
13. Southern California Edison, 34-2021-80003580 (1320327)
14. APTCO, LLC, BCV-21-100421 (1332715)
15. Ventura Coastal, (317808970)
16. L&S Framing, Inc., SCV-0046603 (1173183)
17. Granite Construction, 34-2021-80003634 (1235643)
18. Pacific Utility Installation, Inc., 30-2021-01201020 (1321161)
19. Golden State FC, LLC dba Amazon Fulfillment,  
STK-CV-UWM-2021-0004380 (1310525)
20. USA Waste of California, Inc. dba Blue Barrel Disposal Services,  
21STCP01729 (1384029)
21. Grimmway Enterprises, Inc., BCV-21-101503 (1477159)
22. Grimmway Enterprises, Inc., BCV-21-101554 (1238985)
23. RND Contractors, Inc., CIV SB 2119442 (1436785)
24. Sunview Vineyards of California, Inc. RG21111733 (1153101)

**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 agendized.
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.)*

1476219	Abdellatif Mohammed Latif
1461711	Ace Hardware Corporation
1493073	Ajinomoto Foods North America Inc.
1501057	Ajinomoto Foods North America Inc.
1528457	AT&T
1469098	ATV, Inc.
1447226	Avalon Bay Communities, Inc.
1516125	Barry R. Kirshner Wildlife Sanctuary
1412698	Berkel And Company Contractors, Inc.
1474527	Burrtec Waste Industries, Inc.
1468036	CDK Agriculture, Inc.
1466824	Chandler Brothers Construction Inc.
1499806	Commercial Design, Inc.
1487981	Control Technology, Inc.
1485632	Country Villa Westwood
1314741	DAMCO Distribution Services, Inc.
1462224	Davis Development Company, Inc.
1496930	Day-Lee Foods Inc.
1194705	Drill Tech Drilling & Shoring, Inc.
1540871	Ducommun Aerostructures Incorporated
1492128	Emerald Textiles Services, San Diego, LLC
1481941	Express Employment Professionals
1531251	Fleur De Lait West, LLC
1505121	G A Roofing
1487937	Galasso's Bakery
1497499	Garcia's Wood Works Corporation
1503397	GMJ Arborists, Inc.
1398198	Golden State FC, LLC
1510010	HACOR Inc.
1395410	Hansen Bros. Enterprises
1341831	Helix Electric, Inc.
1523776	Hunt & Sons, Inc.
1414949	JJ Charles, Inc.
1494844	Johnstone Moyer, Inc.
1476073	Kaiser Foundation Hospitals

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1474689	Kandola Farms
1521186	Los Amigos Food Center, Inc.
1525990	Los Angeles Turf Club, Incorporated
1507752	Ludwick Construction LLC
1525610	Macpherson Oil Company, LLC
1522167	Matt and Sarah Alvernaz, Individuals
1305557	Moorefield Construction, Inc.
1494439	National Construction Rentals, Inc.
1506791	National Logistics Team
1508070	Nestle USA
1498564	Ontario-Montclair School District
1468757	Os4labor, LLC
1496109	R & S Manufacturing Of Southern California Inc.
1494655	Randstad USA LLC
1475451	RCP Construction, Inc.
1474931	Rio Hondo Subacute and Nursing Center
1361831	Rodolfo Alberto Medina
1473686	Santa Clara Valley Medical Center
1490971	Santa Clara Valley Transportation Authority
1323621	Santa Fe Aggregates, Inc.
1480729	Sincere Orient Commercial Corporation
1474695	Southern California Medical Group Erroneously
1487976	Stevens Creek BMW
1196972	Sully-Miller Contracting Company
1541653	Superior Wall Systems, Inc.
1484801	T.M. Cobb Company
1348177	Target Corporation
1538807	TBC - The Boring Company
1520355	The People Concern
1471674	UDC Corporation
1509373	Ultramar, Inc.
1490762	Us Shutters and Blinds Inc.
1475496	ZG Plastering LLC

**Personnel:**

*(Issues regarding staff.)*

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