

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

Government Code § 11126 (a), (c)(3), (e) and (f)

for

Thursday, May 5, 2022

9:30 a.m.

Sacramento, California

West Covina, California

&

Held on Zoom

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

From: J. Jeffrey Mojcher, Chief Counsel

Date: April 22, 2022

RE: Closed Session of the Board to be held on May 5, 2022

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.)

1300984 General Dynamics NASSCO

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.)

There are no Petitions for Reconsideration scheduled for review.

Orders Dismissing Appeal:

1486537 All Right Electric, Inc.

1540636 Bestway Sandwiches, Inc.

Orders Denying Leave To File Late Appeal:

1489483 California QSR Management, Inc.

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 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.

- 1332867 Guy F. Atkinson Construction, LLC
Whether the Division proved the alleged violation.
- 1410726 Hathaway Dinwiddie Construction Co.
Whether the Division proved the alleged violation.
- 1224802 Ranch of the Golden Hawk
Whether the household domestic service exception applies to the tree trimming involved in this matter.
- 1291481 Sierra Pacific Forest Products
Whether Employer was in compliance with the cited safety order.
- 1155042 Signal Energy LLC
Whether Employer appropriately oversaw the actions of the subcontractors.
- 1192534 Shimmick Construction Company Inc.
Whether the employer committed the violation alleged.
- 1303461 SSA Terminals (Oakland), LLC DBA SSA Marine Terminals
Whether Employer violated section 3212(a)(2)(A) as alleged.
- 1461476 Walmart, Inc.
Whether Walmart was an employer citable for the alleged violation.
- 1416143 Webcor Builders, Inc.

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, CPF 17-515575, (317134021)
3. Ashley Furniture Industries, 34-2017-800002750, (1016514)
4. United Parcel Service, Inc. dba UPS, 34-2019-80003174 (1116529)
5. Shimmick Construction Company, Inc., 34-2019-80003191 (1059365)
6. Process Cooling International, 34-2019-80003220 (1232555)
7. Prestige Painting, 37-2019-00066143 (1367265)
8. Davis Development Company, 34-2020-80003373 (1226084)
9. MWL Solutions, 34-2020-80003549 (1436014)
10. Hampton Tedder Electric, 34-2020-80003562 (1233597)
11. BMC West, LLC, 34-2021-80003574 (1399613)
12. Southern California Edison, 34-2021-80003580 (1320327)
13. L&S Framing, Inc., SCV-0046603 (1173183)
14. Granite Construction, 34-2021-80003634 (1235643)
15. Pacific Utility Installation, Inc., 30-2021-01201020 (1321161)
16. Grimmway Enterprises, Inc., BCV-21-101503 (1477159)
17. Grimmway Enterprises, Inc., BCV-21-101554 (1238985)
18. RND Contractors, Inc., CIV SB 2119442 (1436785)
19. Sunview Vineyards of California, Inc. RG21111733 (1153101)
20. Hill Crane Service Inc., 34-2021-80003744 (1135350)

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21. Amazon.com Services, LLC dba Amazon Warehouse LGB3, 22STCP00403 (1473644)
22. Sierra Forest Products, VCU290996 (1291481)
23. USA Waste of California, Inc., 34-2022-80003841 (1384029)

Appellate Court:

1. Interline Brands, Inc., CIVDS2021813 (1251604)

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.
4. Discussion of DOSH Proposal to have their eAttorney system interface with OASIS.

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.)

1545492	Aegis Treatment Centers, LLC
1489853	Agrima Farms Inc.
1417196	Baker Electric, Inc.
1499864	Barnard Bessac Joint Venture
1461731	Barnhart Reese Construction
1500801	Brawley Elementary School District
1459818	Cal Ag Resources, Inc.
1559202	California Department of Transportation
1494822	Ciasom, LLC
1266866	Coastal Vineyard Care Associates
1497313	County Of Santa Clara, Santa Clara Valley
1575128	Diversity Business Solutions, Inc.

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1495238	Enterprise Order Solutions, LLC
1468819	EUB Transport LLC
1540820	FCS Ag, Inc.
1561975	George L. Throop Company
1495766	Golden State Construction & Framing Inc.
1559586	Hudson Pacific Properties
1514699	Jacob Healthcare Center
1524795	Kwan Wo Ironworks, Inc.
1450914	Lyneer Staffing Solutions, LLC
1485544	M V Transportation, Inc.
1497246	Mark's Mobile Truck Service, LLC
1344829	Millie & Severson, Inc.
1450561	Nate's Fine Foods, LLC
1488834	Norman Elloway DDS
1521658	Orchard's Tree Service, Inc.
1449996	PAE Applied Technologies, LLC
1533683	Panda Restaurant, Inc.
1523775	Pediatric & Family Medical Center
1490983	Pie Venture, LLC
1524294	Precision Development Group, Inc.
1336414	Prestige Painting Corp
1311884	Santa Barbara Center for The Performing Arts, Inc.
1511811	SFPUC - Wastewater Treatment Plant
1474541	Solar Sense PV Inc.
1565007	Sunfood Corporation
1230473	Sutter Home Winery, Inc.
1573440	The Lamb Company
1541952	The Neil Jones Food Company
1490037	The Permanente Medical Group, Inc.
1544441	Tristar FLC, Inc.
1555229	Tube-Tainer, Inc.

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1420958	Walmart, Inc.
1346116	Westrock CP, LLC
1514475	YD Window, Inc.

Personnel:

(Issues regarding staff.)

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