

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

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

for

Thursday, January 19, 2023

9:30 a.m.

Held on Zoom

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

**From: J. Jeffrey Mojcher, Chief Counsel**

**Date: January 6, 2023**

**RE: Closed Session of the Board to be held on January 19, 2023**

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.)*

1473644 Amazon.Com Services, LLC

**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.)*

1541484 Empire Remodeling, Inc.

1565022 Victorio Mufflers, Inc.

**Orders Dismissing Appeal:**

1502785 Arc Restoration & Waterproofing, Inc.

1531630 Frazier Industrial Co.

**Orders Denying Leave To File Late Appeal:**

1490008 Elite MD, 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.*

- 1314092 99 Cents Only Store, LLC  
*Whether the employer committed a foot protection violation as alleged.*
- 1380273 Bigge Crane & Rigging, Co.  
*Whether the employer committed the alleged violation.*
- 1360156 CA Forestry and Fire Protection  
*Whether it was an error to assign a particular ALJ to the matter.*
- 1564732 Calvary Chapel of San Jose dba Calvary Chapel Academy  
*Whether the ALJ correctly excluded evidence from the inspection.*
- 1262720 General Dynamics NASSCO  
*Whether the employer followed proper procedures in rigging a load.*
- 1300984 General Dynamics NASSCO  
*Whether Employer committed the violations alleged.*
- 1436480 Interline Brands, Inc.  
*Whether the employer violated foot protection standards.*
- 1004280 Key Energy Services, LLC  
*Matter remanded to the Board from the Court.*
- 1340591 Lennar Corporation  
*Whether Employer committed the violations alleged.*

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- 1465354      Natural Alternatives International, Inc.  
*Whether the ALJ erred in dismissing the matter.*
- 1336276      Rios Farming Company, LLC  
*Whether the ALJ's decision was correct.*
- 1291481      Sierra Pacific Forest Products  
*Whether Employer was in compliance with the cited safety order.*
- 1303461      SSA Terminals (Oakland), LLC dba SSA Marine Terminals  
*Whether Employer violated section 3212(a)(2)(A) as alleged.*
- 1203336      Three-D Services Co. Inc.  
*Whether the record establishes that the violation involved in Citation 3 (survey of structure prior to demolition) was serious.*

**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. Barnard Impregilo Healy, JV, CPF 17-515575 (317134021)
2. Ashley Furniture Industries, 34-2017-800002750 (1016514)
3. United Parcel Service, Inc. dba UPS, 34-2019-80003174 (1116529)
4. Shimmick Construction Company, Inc., 34-2019-80003191 (1059365)
5. Davis Development Company, 34-2020-80003373 (1226084)
6. Southern California Edison, 34-2021-80003580 (1320327)
7. Hill Crane Service Inc., 34-2021-80003744 (1135350)
8. USA Waste of California, Inc., 34-2022-80003841 (1384029)
9. Ranch of the Golden Hawk, 22STCP02302 (1224802)
10. Guy F. Atkinson Construction, LLC, 22STCP03019 (1332867)
11. American Fumigation Services, LLC, 22STCP04305 (1506586)

**Appellate Court:**

1. Interline Brands, Inc., CIVDS2021813 (1251604)
2. Golden State FC, LLC, STK-CV-UWM-2021-004380 (1310525)
3. L & S Framing, Inc. S-CV-0046603 (1173183)
4. Granite Construction Company, 34-2021-80003634 (1235643)
5. MWL Solutions, C097353, 34-2020-80003549 (1436014)
6. BMC West LLC, 34-2020-80003459 (1399613)
7. Hampton Tedder Electric, 34-2020-80003549 (1233597)
8. Sierra Forest Products, VCU290996 (1291481)

**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.)*

1525431	Albini Hardwood Flooring
1601207	Arnold Farms, LP
1583125	Asacrete Inc.
1569388	Asacrete, Inc.
1549988	BMC West, LLC
1586624	C2R Engineering, Inc.
1596520	Chino Ford
1396181	Citrus Pro, Inc.

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1495388	City of Santa Rosa - Santa Rosa Water
1598290	Devcon Construction, Inc.
1550663	Dutch Dairy
1535840	EEL River Transportation and Salvage
1315593	FedEx Supply Chain
1285834	Fox Rent a Car, Inc.
1442055	General Dynamics Nassco
1540034	General Pump Company, Inc.
1566103	Glasswerks LA, Inc.
1567635	Hernandez Drywall, Inc.
1551171	Horizon Personnel Services
1507539	J&J Snack Foods
1523929	Jonathan D. Terry, Inc.
1491794	Joseph J. Albanese, Inc.
1472915	Kaiser Permanente Psychiatric Health Facility
1610637	Leslie Anshutz - an Individual
1362030	Los Angeles Department of Water And Power
1530539	Lovotti, Inc.
1583322	Maya Dairy
1559767	Milk Specialties Global
1488600	NGC Construction, Inc.
1568383	Nongshim America, Inc.
1489219	Pacific Gas & Electric
1505310	Paydar Properties, Inc.
1541272	Penhall Company
1523257	Randstad Inhouse Services, LLC
1545208	Riverside County Sheriff's Department
1577444	Sacramento Municipal Utility District
1431051	San Joaquin Steel Co., Inc.
1372409	Skyline Scaffold Inc.
1623547	Smith and Moen Construction, LLC
1504666	Sper Contracting Corporation
1527884	State of California - Department of
1551903	Tatung Company of America, Inc.
1594295	Transtar Builder, Incorporated
1496100	Tulare County
1560074	Tutor Perini Corporation
1488960	United Parcel Service, Inc.
1553040	Van's Paving & Grading Inc.
1537848	Walmart, Inc.

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1570673 Walmart, Inc.  
1591872 Western Refining Retail, LLC

**Personnel:**

*(Issues regarding staff.)*

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