

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

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

for

Thursday, April 20, 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: April 7, 2023

RE: Closed Session of the Board to be held on April 20, 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.)

There are no Decisions scheduled for this meeting.

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.)

1580817 Cameron Sparks, an Individual

1486257 The Kroger Company

Orders Dismissing Appeal:

1570564 Horizon Personnel Services, Inc.

1453051 Rojo Green, Inc.

Orders Denying Leave to File Late Appeal:

1600556 State of Calif. Department of Transportation

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.
- 1431672 A. Teichert & Son, LLC
Whether the cited employer was in violation of lockout/tagout requirements.
- 1570353 Adept Process Services, Inc.
Whether employer's motion to stay administrative proceedings should be denied.
- 1538332 Albeco, Inc.
Whether denial of motion for late appeal was correct.
- 1473644 Amazon.com Services, LLC
Whether the employer's training program was in compliance with the applicable safety order.
- 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.
- 1490008 Elite MD, Inc.
Whether the ALJ's denial of leave to file a late appeal was correct.

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- 1262720 General Dynamics NASSCO
Whether the employer followed proper procedures in rigging a load.
- 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.
- 1465354 Natural Alternatives International, Inc.
Whether the ALJ erred in dismissing the matter.
- 1405107 S.C. Anderson, Inc.
Whether employer committed the alleged violations.
- 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.

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)

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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. L & S Framing, Inc. S-CV-0046603 (1173183)
3. Granite Construction Company, 34-2021-80003634 (1235643)
4. MWL Solutions, C097353, 34-2020-80003549 (1436014)
5. BMC West LLC, 34-2020-80003459 (1399613)
6. Hampton Tedder Electric, 34-2020-80003549 (1233597)
7. RND Contractors, Inc., CIVSB2119442 (1436785)

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.

1476883 AG Monrovia, LLC
1504268 All Service Builders, Inc.

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1578889	American Custom Coils, Inc.
1574305	Antonio Enrique Arango, an Individual
1522739	Art Deck, Inc.
1600344	Asen Construction
1493778	Aurora Las Encinas, LLC
1545661	BAPKO Metal, Inc.
1617045	Bell Brothers Plumbing Heating & Air
1624867	C & L Refrigeration
1487771	Canoga Park SH, LLC
1296881	CCC Steel, Inc.
1630699	CHM Hotels
1513047	City of Healdsburg
1570563	Comcast Cable Communications, LLC
1570244	Commercial Machineworx Co., LLC
1547200	Contra Costa County Public Works Department
1567890	County of Kern Probation Department
1498140	Diversified Utility Services, Inc.
1552833	Duran's Paving Rentals, Inc.
1547230	Encina Wastewater Authority
1623394	Encore Textile Services LLC
1557081	Expert Staffing West, Inc.
1401005	Fenix Marine Services LTD
1508912	Food 4 Less Holdings, Inc.
1555726	Frontier Auto Sales
1562485	Frontier-Kemper Constructors, Inc.
1620986	Gary Johnson, Individual
1449746	Ghanooni Construction, Inc.
1564738	Golden West Veg, Inc.
1591324	Housing Authority of The City Of Los Angeles
1544103	HP Hood LLC
1620710	Ideal Restoration, Inc.
1632828	Infinity Metals Inc
1570117	Irbis HVAC, Inc.
1494634	Istairs, Inc.
1581949	J. Reliable Construction Cleanup, LLC
1585153	Jack E. Seiler and Ryan R. Seiler
1536572	JC Farming LLC
1639066	Jerry's Pallets, Inc.
1599473	JMB Construction, Inc.
1603601	John Kautz Farms

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1336041	Johnson Controls, Inc.
1609143	Juan Andalon Garden Service
1530638	KCM Technical, Inc.
1615242	King Door Company, Inc.
1605631	Kiss Cattle, LLC
1588293	Kiss That Frog, Inc.
1596913	Konoike-Pacific California, Inc.
1627752	Larson Custom Woodworks
1605739	Lee Austin Construction, Inc.
1635951	Lennar Homes Of California, LLC
1608950	Magic Laundry Services, Inc.
1607746	Manish Ishwarlal Drona
1642058	Mark Danis
1532864	Midstate Construction Corporation
1615524	Midstate Sheetmetal, Inc
1555973	Minim Productions Inc.
1578563	Nasatka Barrier Incorporated
1568720	Nextcrop, Inc.
1625342	North Coast Cooperative, Inc.
1515776	Pacific Bell Telephone Company
1490501	Pacific West Builders, Inc.
1588642	Partners Personnel - Management Services, LLC
1644328	Pathway Vet Alliance LLC
1520328	Penny Lane Centers
1504562	Premier Custom Builders, Inc.
1554346	Raymond Handling Solutions, Inc.
1621621	Richard Bohrbough
1627567	Royal Food Production, Inc.
1571935	S&W Roof Tear-Off
1570987	Sansum Clinic
1374066	Schuff Steel Company
1598329	Seventh Tree Farm, Inc.
1515218	Shasta Linen Supply, Inc.
1536555	Sierra Pacific Industries
1582135	Signal Restoration West, LLC
1630529	South East Employee Leasing Services
1556507	Stewart Engineering Inc.
1624013	Trinity Framing & Construction, Inc.
1571302	Tungsten Strawberry Lodge, LLC
1501471	Turn Around Communications, Inc.

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1450865	Tutor Perini Corporation
1618100	U-Haul Corporation of California
1597285	UKA's Big Saver Foods, Inc.
1614978	Valley AG Enterprise, Inc.
1512248	Walmart, Inc.
1533954	Walmart, Inc.
1620699	Wayne Lugo and Eddie Lugo, A General Partnership
1500426	WB Powell Inc
1623366	Wellington Foods, Inc.

Personnel:

(Issues regarding staff.)

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