

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

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

for

Thursday, November 16, 2023

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: November 3, 2023
RE: Closed Session of the Board to be held on November 16, 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 review.

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.)

1674336 Finishing Touch Moulding, Inc.

1638013 G N L Development Inc.

Orders Dismissing Appeal:

- 1550325 25/8 Acquisition And Development, LLC
- 1620470 Catalina Car Wash Inc.
- 1552671 Circulating Air, Inc.
- 1649308 Elite Rooter San Diego

Orders Denying Leave to File Late Appeal:

There are no Orders Denying Leave to File Late Appeal scheduled for review.

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.

- 1431672 A. Teichert & Son, LLC
Whether the cited employer was in violation of lockout/tagout requirements.
- 1473644 Amazon.com Services, LLC
Whether the employer's training program was in compliance with the applicable safety order.
- 1113026 Angelus Block Co., Inc.
Whether Employer violated lock out/tag out requirements as alleged.
- 1398352 Anheuser-Busch, LLC
- 1490008 Elite MD, Inc.
Whether the ALJ's denial of leave to file a late appeal was correct.
- 1674336 Finishing Touch Moulding, Inc.
- 1497263 Hamilton Iron Works, Inc.

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- 1436480 Interline Brands, Inc.
Whether the employer violated foot protection standards.
- 1465354 Natural Alternatives International, Inc.
Whether the ALJ erred in dismissing the matter.
- 1405107 S.C. Anderson, Inc.
Whether employer committed the alleged roof opening violations.
- 1291481 Sierra Pacific Forest Products
Whether Employer has abated the cited violation of safety order section 3314 (c).
- 1465119 Sun Belt Rentals
Whether certain information accepted into evidence was inadmissible hearsay, and whether the evidence supports a finding that Employer violated sections 3203 and 3328, as alleged.
- 1475491 Sutter Bay Medical Foundation
- 1609228 The Geo Group, Inc. dba Golden State Annex (3RD PTY PFR)
- 1488312 The Indiana Finish Line, Inc.
Whether the cited employer established procedures adequate to protect employees from COVID-19.
- 1486257 The Kroger Company
Whether the cited employer adequately trained employees regarding workplace hazards.
- 1594663 Uber Technologies, Inc.
How Proposition 22 interacts with the Board's statutes and operative regulations.

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. Ashley Furniture Industries, 34-2017-800002750 (1016514)
2. United Parcel Service, Inc. dba UPS, 34-2019-80003174 (1116529)

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3. Davis Development Company, 34-2020-80003373 (1226084)
4. Southern California Edison, 34-2021-80003580 (1320327)
5. Hill Crane Service Inc., 34-2021-80003744 (1135350)
6. USA Waste of California, Inc., 34-2022-80003841 (1384029)
7. American Fumigation Services, LLC, 22STCP04305 (1506586)

Appellate Court:

1. Interline Brands, Inc., CIVDS2021813 (1251604)
2. Granite Construction Company, 34-2021-80003634 (1235643)
3. MWL Solutions, C097353, 34-2020-80003549 (1436014)
4. BMC West LLC, 34-2020-80003459 (1399613)
5. Hampton Tedder Electric, 34-2020-80003549 (1233597)
6. RND Contractors, Inc., CIVSB2119442 (1436785)

Other Items:

1. Stakeholders' comments from June 27, 2023 Roundtable Discussion.
2. Discuss Cal/OSHA Reporter's requests for access to OASIS.
3. New and/or interlocutory petitions for reconsideration not filed in time to be agendized.
4. Categorizing the Board's DARs and Denials on the DIR website.
5. Staff attorneys to provide legal analysis, advice and counsel regarding COVID-19 cases.
6. Discussion of DOSH Proposal to have their eAttorney system interface with OASIS.
7. Discussion regarding Board communications with stakeholders.

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.

1652707	Able Auto and Truck Repair LLC
1570353	Adept Process Services, Inc.
1625710	Advantage Painting Solutions, Inc.
1524797	Alten Construction, Inc.
1562590	Base Framing, Inc.
1573505	CA Corrections and Rehabilitation, Kern Valley
1489492	CA Corrections and Rehabilitation, North Kern
1589796	California Environmental Systems, Inc.
1642637	Coast Cooling, Inc.
1659067	Cremi Mex, Inc.
1483236	Davis Ranch LLC
1592342	DDCM Incorporated
1605960	Din Tai Fung (Glendale) Restaurant, LLC
1666035	Durabag Company Inc.
1652840	Foundation Building Materials
1684940	Galag Securities Inc.
1652300	Galleria Petroleum LLC
1683205	Golden Farms Express Inc
1658784	Grasmick Construction LLC
1662341	Gutierrez & Sons Tree Service & Landscaping Inc
1684978	Harbert Roofing Inc.
1602031	Harbor Distributing, LLC
1608433	Headstart Nursery, Inc.
1588992	Infinity Structures, Inc.
1554283	Inspire Brands, LLC
1653661	Lee's Pottery Inc.
1561961	Lennar Multifamily Builders, LLC
1576810	Los Angeles County Sheriff's Department
1391951	M.W. Reid Welding, Inc.
1575438	Macpherson Oil Company, LLC
1621247	Mariani Packing Co., Inc.
1632666	Maruhachi Ceramics of America, Inc.
1596282	Mcdonald's
1579549	MCK Enterprises
1652315	Milanco Building Group

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1572172	National Retail Transportation, Inc.
1663170	Neighbors OTC, LLC
1297348	NH Environmental
1644986	Nieves Landscape, Inc.
1475100	Pacific West Builders, Inc.
1681929	Residential Elevators, LLC
1658511	Skyline Solar LLC
1518448	Southern California Permanente Medical Group
1614650	Southern Minnesota Beet Sugar Cooperative
1583387	Spreckels Sugar Company, Inc.
1663947	State of California - Department Of Veterans
1630408	Style-Line Construction, Inc.
1351840	Suffolk Construction Company, Inc.
1457846	Sundt Construction, Inc.
1606680	Swann Roofing
1574058	The Save Mart Companies
1611281	The Vons Company, Inc.
1655715	Timothy Paul Alvarado, David Paul Alvarado
1640550	Titan Roofing & Decking Co Inc.
1598691	True Blue Company
1655531	Tutor Perini Corporation
1603301	Villara Corporation
1594770	Westturf Landscape Management, Inc.

Personnel:

(Issues regarding staff.)

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