

**State of California**  
**CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD**  
**CLOSED SESSION AGENDA**  
**Government Code § 11126 (a), (c)(3), and (e)**  
**for**  
**Wednesday, October 21, 2009**  
**10:00 a.m.**  
**Sacramento, California**  
**&**  
**West Covina, California**

**TO: Members of the California Occupational Safety and Health Appeals Board**

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

**DATE: October 8, 2009**

**RE: Closed Session of the Board to be held on October 21, 2009**

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), and (e) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.

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**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.)*

1. A C EQUIPMENT SERVICES CORP., 06-R5D3-5218 THROUGH 5220
2. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387
3. GOLETA FABRICATION, INC. DBA PRECISION WELDING, 09-R6D2-1147 THROUGH 1151
4. M & M CONSULTING & CONTRACTING, INC., 08-R3D3-4209 AND 4210
5. NEWMAN FLANGE & FITTING COMPANY, 07-R2D4-2581 THROUGH 2583
6. NMC PROPERTIES, INC., 09-R4D2-0781 THROUGH 0783
7. WEBCOR BUILDERS, INC., 06-R1D1-3030 THROUGH 3032

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**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.)*

1. 4-CON ENGINEERING, INC., 08-R3D3-4292 THROUGH 4294
2. ABE-EL PRODUCE, 08-R2D5-3501
3. AKAL SECURITY, 08-R3D2-3440
4. ALLIED WEST PAPER CORP., 08-R3D3-4467 THROUGH 4469
5. AUTOBAHN CONSTRUCTION, INC., 09-R4D2-1405
6. BENJAMIN CONTRACTING, 08-R2D5-3592 AND 3593
7. BERT W. SALAS, INC., 09-R3D2-0489 AND 0490
8. CA FORESTRY & FIRE PROTECTION – SAN MATEO/SANTA CRUZ UNIT, 08-R1D2-3619
9. CARDENAS MARKETS, INC., 08-R3D3-4783 THROUGH 4785
10. CARGILL FRESNO, 09-R2D5-2404
11. CENTRAL CONCRETE SUPPLY CO., INC., 08-R1D2-3672 AND 3673
12. CLP RESOURCES, INC., 09-R1D4-1753 THROUGH 1756
13. COAST ALUMINUM ARCHITECTURAL, INC., 08-R1D4-2227
14. D. C. CORPORATION, 08-R4D4-4224
15. DENLEY INVESTMENT & MANAGEMENT CO., INC., 09-R4D1-1299 AND 1300
16. E & S FARM LABOR CONTRACTOR, 08-R2D5-3502
17. ECKERT COLD STORAGE COMPANY, 08-R2D4-0554 and 09-R2D4-2607
18. EMANUEL A BELO DAIRY, 08-R2D4-0813
19. ESPARAZA ENTERPRISES, 09-R2D5-0040

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20. ET & ET ENTERPRISES, INC. DBA MANDARIN GOURMET, 09-R6D5-0269
21. EXPERT PLASTERING, INC., 07-R1D5-2000 AND 2001
22. EXPRESS MARBLE & GRANITE, INC., 09-R4D3-2618 AND 2619
23. FAIRWEATHER ROOFING, INC., 09-R3D1-2406
24. FALLBROOK PUBLIC UTILITY DISTRICT/WASTEWATER PLANT, 09-R6D4-1167 THROUGH 1170
25. FED EX GROUND PACKAGE SYSTEMS, INC., 09-R6D2-1793 AND 1794
26. FLEETWASH, INC., 08-R2D4-3589 THROUGH 3591
27. GENERAL VENEER MANUFACTURING CO., 09-R6D2-1660 THROUGH 1667
28. GOLDEN STATE HERBS, 08-R3D3-4329
29. GOODWILL INDUSTRIES, 08-R2D4-3625 AND 3626
30. HAULOTTE US, INC., 08-R3D3-4782
31. HERNANDEZ LABOR, INC., 09-R2D5-0482 THROUGH 0484
32. HILLTOWN PACKING CO., INC., 09-R6D3-2384
33. IRWIN INDUSTRIES, INC., 09-R6D2-1309 THROUGH 1311
34. J. G. BOSWELL COMPANY, 08-R2D5-1219 AND 1220
35. JAMISON SERVICES, INC., 09-R3D2-2294
36. JIM GUTHRIE, INC., 06-R3D3-4366 THROUGH 4369
37. KAUTZ FARMS, 09-R2D1-0104
38. KIRSCHENMAN ENTERPRISES, 07-R2D5-5172
39. LANGETWINS WINERY & VINEYARDS, 08-R2D4-2678
40. LOCKHEED MARTIN AERONAUTICS COMPANY, 09-R4D3-1535
41. LONG BEACH UNIFIED SCHOOL DISTRICT, HUGHES MIDDLE, 09-R3D5-2627

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42. MACY'S, 08-R3D5-3596 AND 3597
43. MANUFACTURED PACKAGING PRODUCTS GROUP, 09-R3D1-1296
44. MAYA STEEL FABRICATIONS, INC., 09-R4D3-1144
45. MILL MAN STEEL, INC., 09-R6D2-2273 THROUGH 2277
46. MOBILE ILLUMINATION, INC., 09-R4D3-0684 AND 09-R4D3-2637
47. NATURES BEST, 09-R3D1-2197
48. NEW UNITED MOTOR MANUFACTURING, INC., 08-R1D4-0964
49. NORWALK – LA MIRADA JOHN GLEN HIGH SCHOOL, 08-R4D4-3909 AND 3910
50. OLSON & CO. STEEL, 07-R2D5-4673
51. OWENS CORNING, INC., 09-R1D2-1427
52. PACIFIC INTERNATIONAL STEEL CORPORATION, 09-R2D4-2982 THROUGH 2985
53. PANDA RESTAURANT GROUP, INC. DBA PANDA EXPRESS RESTAURANT, 07-R2D4-5101 THROUGH 5103
54. PARAMOUNT SCAFFOLD, INC., 08-R4D1-2409 AND 2410
55. QUIKRETE INTERNATIONAL, INC., 08-R2D1-4313 THROUGH 4315
56. R & H STEEL, INC. DBA H & R STEEL, 09-R6D2-1687
57. R & R SALES, INC., 08-R2D3-3133
58. RAMBO, INC., 08-R2D5-3860 AND 3861
59. RAY TONEY & ASSOCIATES, 09-R2D3-0746
60. RIO BRAVO – FRESNO, 09-R2D5-0627
61. ROBERT HEELY CONSTRUCTION, L.P., 09-R4D5-1145
62. RUIZ FOOD PRODUCTS, INC., 08-R2D5-1594 THROUGH 1596
63. SACRAMENTO BUILDING PRODUCTS, 08-R2D5-0560 THROUGH 0562

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64. SAFEWAY, INC., 08-R2D4-4945 THROUGH 4949
65. SAFEWAY, INC., 09-R1D2-1499
66. SANG GIP, 08-R2D5-3654
67. SELECT REMEDY, 08-R2D5-0048 THROUGH 0050
68. SOUTHERN CALIFORNIA ICE CO., 09-R6D4-1803 THROUGH 1807
69. SPARTAN, INC., 09-R6D2-2826 THROUGH 2830
70. STATE PIPE & SUPPLY, INC., 08-R4D4-4227 THROUGH 4229
71. STANDARD STRUCTURES, 08-R1D5-2801
72. TERRA FIRMA DRILLING, 09-R4D3-0218
73. TRIDON POOL & SPA CONSTRUCTION, 08-R3D3-3834 AND 3835
74. VALERO BENICIA REFINERY, 09-R6D3-1890 AND 1891
75. VESSEY AND COMPANY, INC., 09-R3D2-0754
76. VILLAGE INVESTMENTS, INC., 08-R1D4-3948
77. WERMERS CORPORATION, 09-R3D2-1911
78. WFE, INC. DBA WESTERN FABRICATION & EQUIPMENT, 09-R6D2-1412 THROUGH 1415

**ORDERS DISMISSING APPEALS:**

1. AMERICAN CUSTOM HARVESTING, LLC, 07-R2D4-1854 AND 1855
2. D & V MACHINE SHOP & PUMP CO., INC., 08-R2D4-3650
3. EAST BAY GLASS COMPANY, 07-R1D4-2563
4. SAN JOAQUIN VALLEY AG SERVICES, INC., 08-R2D4-3283

**ORDER DENYING LATE APPEALS:**

1. R & R FRAMING, INC., 09-R2D3-9188

**ORDER DENYING-DISMISSING LATE APPEALS:**

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1. LOS ANGELES UNIFIED SCHOOL DISTRICT – HENRY T. GAGE MIDDLE SCHOOL, 09-R4D2-9238

**ORDER RE: SANCTIONS DISMISSING APPEAL:**

1. THE PEPBOYS – MANNY, MOE AND JACK OF CALIFORNIA, 09-R3D1-1732

**ORDERS DENYING LEAVE TO FILE LATE APPEAL:**

1. DEPARTMENT OF WATER AND POWER, THE CITY OF L.A., 09-R4D3-9235
2. ERDSIECK DEVELOPMENT COMPANY DBA DIAMOND WOODWORKS, 09-R3D3-9236
3. PACIFIC BELL DBA AT & T, 09-R1D4-9232
4. RANCHO SALINAS PACKING, INC., 09-R6D5-9231

**STIPULATIONS:**

1. ANC ROOFING, INC., 06-R1D5-3058
2. C G ROXANE, INC., 08-R2D3-1205 AND 1206
3. DHV INDUSTRIES, 07-R2D5-4859 AND 4860
4. GREEN TEAM OF SAN JOSE, 07-R1D2-3088 AND 3089
5. KIEWIT PACIFIC COMPANY, 09-R5D1-1761 AND 1762

**PETITIONS FOR RECONSIDERATION:**

1. ADVANCE DISPOSAL CO. & RECYCLING CENTER DBA BESTWAY DISPOSAL, 09-R3D3-9212
2. BRUNTON ENTERPRISES, INC. DBA PLAS-TAL MFG. CO., 08-R3D3-3445
3. DUININCK BROS, INC., 06-R4D3-2871
4. HOWARD ROOFING COMPANY, INC., 07-R4D2-2736 AND 2737
5. JOHN ROHRER CONSTRUCTION, INC., 08-R2D4-2759
6. LAND O'LAKES PURINA FEED, LLC, 08-R2D4-1843 AND 1844

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7. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
8. MCM CONSTRUCTION, INC., 09-R2D1-9230
9. MONTAUK ENERGY CAPITAL DBA GSF ENERGY, 09-R6D4-0917 AND 0918
10. REX MOORE ELECTRICAL CONTRACTORS & ENGINEERS, 07-R1D4-4314
11. WORK CREW DIRECT, LLC, 09-R3D3-9166

**DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS):**

1. CITY WAY, 09-R6D5-9105
2. ORIGINAL SIXTEEN TO ONE MINE, INC., 01-R5D1-7888 AND 7889
3. PASO ROBLES, TANK, INC., 08-R4D5-2593
4. PMI PERRYMAN MECHANICAL, INC., 08-R2D1-2593
5. ROSECRANS CAR WASH, 08-R6D5-9342

**DECISIONS AFTER RECONSIDERATION (DRAFTS):**

*(If the Appeals Board grants a petition for reconsideration it reviews the facts of the appeal and then issues a decision after reconsideration upholding, reversing or modifying the underlying ALJ decision.)*

1. A & C LANDSCAPING, INC. aka A & C CONSTRUCTION, INC., 03-R4D4-4791
2. AARON METALS COMPANY, INC., 09-R1D4-2137 AND 2138
3. ABACHERLI DAIRY, 08-R3D3-5028
4. AC FRAMERS INC., 03-R2D3-3475
5. AC TRANSIT, 08-R1D4-0135
6. AMERICAN REMEDIAL TECHNOLOGIES, 08-R4D2-3154 THROUGH 3156
7. VERNON MELVIN ANTONSEN & COLLEEN K. ANTONSEN, INDIVIDUALLY  
DBA ANTONSEN CONSTRUCTION, 06-R2D3-1272
8. ARBORICULTURAL SPECIALTIES INC., DBA PROFESSIONAL TREE CARE  
CO., 08-R1D4-0799
9. ANNING-JOHNSON COMPANY, 06-R1D3-1976

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10. AVESON EDUCATIONAL COOPERATIVE, 09-R4D2-0337
11. BART, 03-R1D1-5170
12. BIMBO BAKERIES USA, 03-R1D3-5215 THROUGH 5217
13. BIMBO BAKERIES USA, 05-R6D2-0856 AND 0857
14. BLF, INC. dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
15. BLF, INC. dba LARRABURE FRAMING, 02-R4D1-4675 THROUGH 4680
16. BURTON L. SILVA FARMS, 09-R1D2-1498
17. C & M FINE PACK, INC. 07-R6D2-4149 THROUGH 4155
18. CA RASMUSSEN, INC., 08-R4D5-219 AND 220
19. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
20. CALIFORNIA FRESH FARMS, 06-R2D4-4127
21. CELTIC SCAFFOLDING, INC., 08-R1D1-1469 THROUGH 1471
22. CENTRAL VALLEY CONCRETE, INC., 07-R2D4-1375 THROUGH 1378
23. CITY OF POWAY, DEPARTMENT OF PUBLIC WORKS, 09-R3D2-2165 AND 2166
24. CLINE CELLARS, INCL., 08-R1D5-2946
25. CJI PROCESS SYSTEMS, 09-R6D2-1333 THROUGH 1336
26. CNL ROOFING COMPANY, 08-R1D2-1692 AND 1693
27. COLES CARBIDE CORPORATION, 08-R4D3-2012 THROUGH 2014
28. CORE GENERAL CONTRACTOR DBA CORE BUILDERS, 08-R1D2-1379
29. CVS PHARMACY GARFIELD BEACH, LLC, 09-R3D1-0571
30. CVS PHARMACY GARFIELD BEACH LLC, 08-R3D1-9368
31. D'QUALITY SERVICE, INC., 08-R4D4-3454

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32. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
33. DAVIS BROTHERS FRAMING, INC., 03-R3D1-114
34. DAVIS BROTHERS FRAMING, INC., 05-R3D3-634 THROUGH 636
35. DESIGN BUILDERS, INC., 08-R4D4-1901
36. DUKE PACIFIC, INC., 06-R3D3-5175 THROUGH 5177
37. DUKE PACIFIC, INC., 08-R3D3-574
38. JOAQUIN DUARTE DBA PROFESSIONAL TREE SERVICE, 09-R3D3-1111
39. DUININCK BROS., INC., 06-R4D3-2871
40. DYNALECTRIC, 03-R1D1-4101
41. E C U, INC., 09-R3D5-1094 AND 1095
42. ESTENSON LOGISTICS LLC 05-R1D4-1755 AND 1756
43. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
44. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
45. FORTUNA IRON WORKS 06-R2D3-4222
46. FREAS PLASTERING CO., INC., 08-R1D1-1188 AND 09-R1D1-2568
47. G.T. ALDERMAN, INC., 05-R4D3-3513
48. GENERAL TRUSS CO. INC., 06-R2D1-783 AND 784
49. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
50. GLASS PAK, 03-R2D2-750 AND 751
51. GOLDEN WEST INDUSTRIES, INC., 08-R3D2-3930
52. GRISWOLD INDUSTRIES, 09-R6D2-0981 THROUGH 0984
53. H. WAYNE LEWIS, INC., DBA AMBER STEEL CO., 09-R3D3-2016 AND 2017
54. HB PARKCO, 07-R4D2-1730 AND 1731
55. HELPMATES STAFFING SERVICES, 05-R3D3-2239

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56. HARBOR ORNAMENTAL, INC., 09-R3D5-2086
57. HELM & SONS, INC., DBA HELM & SONS AMUSEMENTS, 08-R3D3-3513
58. HERITAGE OPERATING, LP DBA PRO-FLAME, 09-R3D3-1067
59. THE HERRICK CORP., 07-R3D1-495
60. HUSSMAN CORPORATION, 03-R3D1-2939
61. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
62. INTERNATIONAL ALUMINUM CORPORATION, 09-R6D2-1185
63. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456
64. JC PAPER, 08-R1D4-1823 AND 1824
65. JENSEN PRECAST, 05-R2D1-2377
66. JOHN LAING HOMES, 04-R3D1-194 AND 195
67. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968
68. JT WINDOWS, INC., 09-R6D2-0693 THROUGH 0698
69. KELLY SERVICES, INC., 06-R1D2-1024
70. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-323
71. KINDER MORGAN ENERGY PARTNERS, LP., 05-R5D1-2013 AND 2014
72. LARSON STEEL, INC., 08-RID4-4334 AND 4335
73. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
74. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
75. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
76. MICHELS CORP. DBA MICHELS PIPELINE CONSTRUCTION, 07-R5D1-4274
77. MILLENIUM GENERATION, INC., 08-R4D3-5047
78. MITCHELL ENVIRONMENTAL CONCRETE, 09-R4D5-0147
79. NEW CREATION BUILDERS, 09-R3D1-1460

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80. NUTRAMED, INC., 08-R3D3-4546 AND 4547
81. O & M INDUSTRIES, 04-R1D5-1597
82. PMR RACE CARS, 03-R3D3-1825
83. POUK & STEINLE, INC., 03-R4D2-1495 AND 1496
84. PRIME STEEL, INC., 09-R3D6-1523
85. R.A. CAMPBELL, INC., 09-R6D2-1209 THROUGH 1211
86. R & L BROSAMER, INC., 03-R1D5-4832
87. RR DONELLEY, INC., 09-R3D3-2201
88. REAL EQUITY DEVELOPMENT, INC., 07-R2D4-4129 AND 4130
89. SAN FRANCISCO FIRE DEPARTMENT, 09-R1D1-0655
90. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
91. SHANKARA IND. DBA RUSS'S AUTO BODY & REPAIR, 09-R6D5-2135
92. SOUTHWEST TRADERS, INC., 08-R2D4-0710 THROUGH 0712
93. STACY & WITBECK, INC., 05-R1D1-1142
94. STENDERUP AG PARTNERS, 09-R6D2-2111 AND 2112
95. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
96. TEICHERT & SON, INC., A CORPORATION DBA TEICHERT  
AGGREGATES, 04-R5D2-850 AND 851
97. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 05-R2D4-2650  
AND 2651
98. TEICHERT AGGREGATES, 04-R5D1-2982
99. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2256 AND 2557
100. UNITED PARCEL SERVICE, 07-R3D3-3322
101. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095

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102. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802

103. WINCHESTER CONSTRUCTION, 08-R4D3-4709 AND 4710

**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. HARRIS CONSTRUCTION COMPANY, INC., 07CS00518 (02-3914)
2. JERLANE v DIVISION OF OCCUPATIONAL SAFETY & HEALTH, 37-2009-0005631-CU-WM-NC, (01-4344/4345)
3. JERLANE V DIVISION OF OCCUPATIONAL SAFETY AND HEALTH, 37, 2009-0005932CU-WM-NC
4. E.L. YEAGER CONSTRUCTION COMPANY, INC. (DOSH v OSHAB), 34-2007-00882192-CU-WM-GDS, (01-3261)
5. BRUTOCO ENGINEERING & CONSTRUCTION, INC., 30-2007 00100159 (07-9223)
6. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (00-440)
7. SHIMMICK CONSTRUCTION CO., 34-2008-80000121-CU-WM-GDS (06-1136)
8. SOUTHERN CALIFORNIA EDISON COMPANY, BS 119297, LOS ANGELES SUPERIOR COURT (08-9062)
9. UNITED AIRLINES (SFO), 07CS00331
10. UNITED AIRLINES (SFO), 34-2009-80000256
11. XL CONSTRUCTION, SUPERIOR COURT (34-2009-80000300), 08-R1D2-1191 THROUGH 1193
12. MENDOTA UNIFIED SCHOOL DISTRICT, 08-CECG04324 (07-3572)
13. JERLANE v DIVISION OF OCCUPATIONAL SAFETY & HEALTH, 37-2007-0005631-CU-WM-NC, (01-4344/4345)

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14. JERLANE, v DIVISION OF OCCUPATIONAL SAFETY AND HEALTH, (37-2009-00059323-CU-WM-NC)

**APPELLATE COURT:**

1. MURRAY COMPANY, BS112469
2. HARRIS CONSTRUCTION COMPANY, INC. 07CS00518 (02-3914)
3. ARTHUR J. BREWSTER CORP. dba PRESTIGE KITCHENS, INC., G042132

**PERSONNEL:**

*(Issues regarding staff.)*

Any matter not completed at this Closed Session may be continued to subsequent meetings.