

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
For

Wednesday, February 18, 2009

10:00 AM

Sacramento, California
&
West Covina, California

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

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: February 5, 2009

RE: Closed Session of the Board on February 18, 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.

DECISIONS OF ADMINISTRATIVE LAW JUDGES:

(Written decision issued by an Administrative Law Judge (ALJ). The decision summarizes the evidence received from the Division of Occupational Safety and 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. ANODIZING INDUSTRIES, INC., 08-R4D2-2563 THROUGH 2565
2. COMMERCIAL BOX & PALLET, 08-R3D2-1733
3. H & M PRODUCTION, INC., 08-R6D2-1180 AND 1181
4. SAIC [SCIENCE APPLICATIONS INTERNATIONAL CORPORATION], 03-R3D2-2201

ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge (ALJ) after a pre-hearing conference in which the Division of Occupational Safety and 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. AGBG DESIGNS, INC. DBA STORM TEES, 08-R6D5-3463
2. ALPHA CONSTRUCTION COMPANY, INC., 08-R4D1-4297 THROUGH 4300
3. ARNIE'S SUPPLY SERVICE, 08-R4D2-2784 THROUGH 2786
4. AT&T MOBILITY, 08-R4D2-1364
5. B.P.O. ELKS NO. 1378, 08-R3D5-1615
6. BAY CONSTRUCTION, INC., 08-R4D2-3536 AND 3537
7. BELLIS STEEL COMPANY, INC., 08-R6D5-2771 THROUGH 2773
8. CALIFORNIA CARTAGE COMPANY, LLC., 08-R3D5-4790 AND 4791
9. CEDAR FAIR LP DBA GREAT AMERICA, 08-R1D2-0373
10. CENTURY BLINDS, INC., 08-R3D3-1743
11. CERRITOS CONSTRUCTION, 08-R4D1-2556 AND 2557
12. CLARK PACIFIC, 08-R3D3-1610
13. COMPTON STEEL, 08-R4D2-2203
14. CORBETT CONSTRUCTION, INC., 07-R4D2-5213 AND 5216
15. DDH APPLE VALLEY CONSTRUCTION, INC., 08-R3D3-3899 AND 3900
16. FIELDSTONE COMMUNITIES, INC., 08-R3D2-1499 AND 1500
17. J W FOWLER, 08-R5D2-1032
18. FROZUN FOODS, 08-R6D4-3865 AND 3866
19. GALASSO'S BAKERY, 08-R3D3-1339

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20. GOLDEN CONSTRUCTION & EXCAVATION, 08-R4D3-1896
21. JC HANSCOM, INC. DBA PANEL VENEER & PLYWOOD WORKS, 08-R6D2-1925
AND 1926
22. HANSON AGGREGATES WEST, INC., 07-R5D1-4917
23. HUNTINGTON BEACH UNION HIGH SCHOOL DISTRICT, 08-R3D1-2511
24. HUNTINGTON CAR WASH & LUBE CENTER, 08-R6D5-2703
25. INDO ASIAN HUMAN HAIR INTERNATIONAL, INC., 08-R4D1-4295
26. JCM ENGINEERING CORP., 08-R3D3-3442 AND 3443
27. JMB CONSTRUCTION, INC., 08-R1D3-1381
28. KAISER PERMANENTE, 08-R4D4-5054
29. KENKO FREIGHT SYSTEMS, INC., 08-R4D4-1156 AND 1157
30. K-MART DISTRIBUTION DBA SEARS HOLDINGS CORPORATION, 08-R3D3-
1742
31. LOS ANGELES COUNTY PARKS & RECREATION, 08-R4D1-3839
32. LPM MANUFACTURING, INC., 08-R3D3-4523
33. MARICH CONFECTIONERY, 08-R1D2-0661
34. MITSUBISHI CEMENT CORPORATION, 08-R5D3-1431
35. MK GARMENT, 08-R6D5-3381 AND 3382
36. NATIONAL SIGNAL, 08-R4D4-1637 AND 1638
37. NIAGARA BOTTLING, LLC., 08-R3D1-3432 THROUGH 3434
38. NS PLUMBING, INC., 08-R4D3-1106
39. PERFORMANCE TEAR OFF, 08-R4D3-0599 AND 0600
40. PETE'S ROAD SERVICE, INC., 08-R3D3-3514 AND 3515

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41. PS AUTOBODY, 08-R6D5-2666
42. QUALITY MAINTENANCE SERVICES CONST. CO., 07-R4D3-5380 AND 5381
43. RECORDS STORAGE SERVICES, INC., 08-R3D1-3692
44. ROBINSON CALF RANCH, 08-R3D3-1508 AND 1509
45. ROGO CONSULTING, INC., 08-R6D5-2925 THROUGH 2928
46. SANDERS CANDY FACTORY, INC., 08-R6D2-3778 AND 3779
47. SCHERZAR SHEPARDS, 06-R1D4-4507
48. SELECT STAFFING, 08-R4D3-2015
49. SEQUEL CONTRACTORS, INC., 05-R3D3-1438 THROUGH 1441
50. RICK SLATER CONSTRUCTION, 08-R1D2-0662 AND 0663
51. STANDARD DRYWALL, 08-R3D5-1616
52. SUMMIT PLASTERING, INC. AKA SAN MARINO PLASTERING, 08-R2D2-0392 THROUGH 0395
53. TNJ ELECTRIC DBA HARRIS ELECTRIC, 07-R2D5-5334 AND 5335
54. TRITON FRESH, 08-R4D2-1890
55. TROY-CSL LIGHTING, INC., 08-R4D4-0092 AND 0093
56. TUTOR SALIBA CORPORATION, 07-R1D1-1496 AND 1497
57. ULTIMATE PAPERBOX CO., 08-R4D4-1639 THROUGH 1641
58. UNITED PARCEL SERVICE, INC., 07-R4D3-4571
59. US POLYMER, INC., 08-R4D4-0929 AND 0930 & 09-R4D4-0271
60. VALLARTA SUPERMARKETS, 08-R4D3-2016
61. VALLEY PRIDE, INC., 08-R3D3-2386
62. VELLUTINI CORPORATION DBA ROYAL ELECTRIC COMPANY, 08-R2D2-0542

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63. VIDEO ONLY, 08-R1D4-0133 AND 0134
64. VORTEX COMPANY, 08-R4D4-1015
65. WEST COAST ARBORISTS, INC., 07-R4D2-5217 THROUGH 5219
66. WESTEC BUILDER, 08-R2D2-0543 THROUGH 0545
67. WESTERN ALLIED CONSTRUCTION, INC., 08-R4D1-3771 THROUGH 3773
68. Y2BK COMPANY, 07-R6D2-4925 THROUGH 4927
69. YMCA OF THE EAST BAY, 08-R1D3-1294 THROUGH 1296

ORDERS DISMISSING APPEALS:

1. AGUAYO CONTRACTING, 08-R6D5-9415
2. LARRY BELL, 08-R6D5-9416
3. CENTRAL TRANSPORT, INC., 08-R3D3-9474
4. CMC RESCUE, 08-R4D3-9477
5. DURAMAR INTERIOR SURFACES DBA DURAMAR FLOOR, INC., 04-R6D2-3442 THROUGH 3448
6. DURIGON CONSTRUCTION & PLASTERING, 08-R6D5-9480
7. FARIA & SONS DAIRY, 08-R2D5-9433
8. GOMEZ FARM LABOR CONTRACTING, INC., 08-R6D5-9418
9. KLADIS PAINTING, 08-R3D2-9441
10. JOHN LEE, 08-R1D1-9445
11. MASONRY SERVICES, INC., 08-R1D4-9446
12. FRANCO C. MENDOZA, 08-R2D5-9448
13. MICKEY'S LUCIO DBA MICKEY'S RV CENTER, 08-R6D5-9421

14. JOHN MORRIS MASONRY, 08-R6D5-9395
15. NORSOL AUTOWASH, INC. DBA L ST. CAR WASH & DETAIL, 07-R1D4-3098
AND 3099
16. REDONDO ANAHEIM CAR WASH, INC. DBA BELMONT AUTO SPA, 08-R6D5-
9454
17. SO CAL FIRE PROTECITON, 08-R6D5-9417
18. SUMMIT PALLET & CORRUGATED, INC., 08-R6D2-9414
19. SW DRYWALL, 08-R3D2-9450

STIPULATIONS:

1. CONOCO PHILLIPS COMPANY, 08-R6D3-5161
2. FORDEL, INC., 07-R2D5-560
3. JAMAL RAHMAN, 08-R4D4-1232 AND 1233
4. MAMMOTH MOUNTAIN SKI AREA, LLC, 06-R2D4-4230 THROUGH 4232
5. MAMMOTH MOUNTAIN SKI AREA, LLC, 06-R2D4-4233
6. PACIFIC GAS & ELECTRIC COMPANY, 08-R2D1-2907 THROUGH 2909

PETITIONS FOR RECONSIDERATION:

(The Division of Occupational Safety and 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.)

1. PALLETS IN MOTION, 08-R6D5-1942
2. SAN JOAQUIN VALLEY AG SERVICES, CO., 08-R2D4-0155

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT)

1. PACIFIC SCIENTIFIC COMPANY, 07-R6D3-2662 THROUGH 2667

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. AC FRAMERS INC., 03-R2D3-3475
3. AMISH COUNTY GAZEBOS, INC., 08-R6D2-227
4. ASC PROFILES, INC., 06-R2D1-1181
5. ANNING-JOHNSON COMPANY, 06-R1D3-1976
6. BART, 03-R1D1-5170
7. BIMBO BAKERIES USA, 03-R1D3-5215 THROUGH 5217
8. BLF, INC. dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
9. BLF, INC. dba LARRABURE FRAMING, 02-R4D1-4675 THROUGH 4680
10. C & M FINE PACK, INC. 07-R6D2-4149 THROUGH 4155
11. CA RASMUSSEN, INC., 08-R4D5-219 AND 220
12. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
13. CALIFORNIA FAMILY FITNESS, 03-R2D1-95 AND 96
14. CENTRAL VALLEY CONTRACTING, 05-R4D3-2351
15. CVS PHARMACY GARFIELD BEACH LLC, 08-R3D1-9368
16. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
17. DAVIS BROTHERS FRAMING, INC., 03-R3D1-114
18. DAVIS BROTHERS FRAMING, INC., 05-R3D3-634 THROUGH 636
19. DUKE PACIFIC, INC., 06-R3D3-5175 THROUGH 5177

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20. DUKE PACIFIC, INC., 08-R3D3-574
21. DYNALECTRIC, 03-R1D1-4101
22. ESTENSON LOGISTICS LLC 05-R1D4-1755 AND 1756
23. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
24. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
25. FORTUNA IRON WORKS 06-R2D3-4222
26. G.T. ALDERMAN, INC., 05-R4D3-3513
27. GENERAL TRUSS CO. INC., 06-R2D1-783 AND 784
28. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
29. GLASS PAK, 03-R2D2-750 AND 751
30. HARRY L. MURPHY, INC., 06-R1D2-218 AND 219
31. HELPMATES STAFFING SERVICES, 05-R3D3-2239
32. THE HERRICK CORP., 07-R3D1-495
33. HUSSMAN CORPORATION, 03-R3D1-2939
34. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
35. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456
36. JENSEN PRECAST, 05-R2D1-2377
37. JOHN LAING HOMES, 04-R3D1-194 AND 195
38. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968
39. KELLY SERVICES, INC., 06-R1D2-1024
40. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-323
41. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960

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42. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
43. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
44. BILL NELSON GENERAL ENGINEERING & CONSTRUCTION, 06-R2D5-1552 THROUGH 1554
45. O & M INDUSTRIES, 04-R1D5-1597
46. PMR RACE CARS, 03-R3D3-1825
47. POUK & STEINLE, INC., 03-R4D2-1495 AND 1496
48. R & L BROSAMER, INC., 03-R1D5-4832
49. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
50. STACY & WITBECK, INC., 05-R1D1-1142
51. STATE CENTER COMMUNITY COLLEGE DISTRICT, 05-R2D5-1688 THROUGH 1692
52. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
53. A. TEICHERT & SON, INC., A CORPORATION DBA TEICHERT AGGREGATES, 04-R5D2-850 AND 851
54. A. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 05-R2D4-2650 AND 2651
61. A. TEICHERT AGGREGATES, 04-R5D1-2982
62. TRIO METAL, 03-R4D4-317
63. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2256 AND 2557
64. UNITED PARCEL SERVICE, 07-R3D3-3322
65. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
66. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802

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PENDING LITIGATION:

(If the Division of Occupational Safety and Health or the Employer disagrees with a decision after 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. UNITED AIRLINES DBA UNITED AIRLINES SFO SYC, 07CS00331 (00-2844)
2. HARRIS CONSTRUCTION COMPANY, INC., 07CS00518 (02-3914)
3. JERLANE v DIVISION OF OCCUPATIONAL SAFETY & HEALTH, 37-2007-0005631-CU-WM-NC, (01-4344/4345)
4. J.F. SHEA CONSTRUCTION, INC. (DOSH V OSHAB), 34-2007-00882187-CU-WM-GDS, (02-801)
5. E.L. YEAGER CONSTRUCTION COMPANY, INC. (DOSH v OSHAB), 34-2007-00882192-CU-WM-GDS, (01-3261)
6. BRUTOCO ENGINEERING & CONSTRUCTION, INC., 30-2007 00100159 (07-9223)
7. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (00-440)
8. KHS & S CONTRACTORS, 32-2008-00107284-CU-WM-GDS CJC (06-2759)
9. ARTHUR J. BREWSTER CORP. dba PRESTIGE KITCHENS, INC., 30-2008-00110573 (08-1121)
10. EMPIRE PRO-TECH INDUSTRIES, 37-2008-00091916-CU-WM-CTL (07-2837)
11. MENDOTA UNIFIED SCHOOL DISTRICT, 08-CE CG 04 324 (07-3572)
12. SHIMMICK CONSTRUCTION CO., 34-2008-80000121-CU-WM-GDS (06-1136)
13. INTERNATIONAL TRANSPORTATION SERVICE (07-3824)
14. DSS ENGINEERING CONTRACTORS, 02CS00928

APPELLATE COURT:

1. MURRAY COMPANY, BS112469
2. HARRIS CONSTRUCTION COMPANY, INC. 07CS00518 (02-3914)

OTHER LEGAL MATTERS:

(Any legal matter that comes about after the agenda is noticed 10 days in advance of the meeting announcement and that must be acted upon or legal matters pending before the Board requiring specific Board action but do not fall within the above categories.)

PERSONNEL:

(Issues regarding staff.)

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