

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Thursday, October 6, 2016
9:30 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: September 23, 2016

RE: Closed Session of the Board to be held on October 6, 2016

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.)

1. CLP RESOURCES, INC., 15-R1D4-2889
2. MARUCHAN, INC., 15-R3D1-3431
3. PRP PAINTING, 15-R3D1-2907 THROUGH 2908
4. ROBERT A BOTHMAN, INC., 14-R1D4-0387

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.)

1. MARK C. JACOBS dba THE LAW OFFICE OF MARK JACOBS, 2016-R2D1-9111

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

ORDERS DISMISSING APPEAL:

1. BASSETT MASONRY, 16-R4D3-0649
2. CREATIVE DENIM RESOURCES INC., 16-R6D5-3159 THROUGH 3161
3. JRW AND COMPANY, 16-R6D5-1994 THROUGH 1996

ORDER DENYING LEAVE TO FILE LATE APPEAL

MATTERS HELD OVER FROM PREVIOUS MEETINGS:

(If the Board is unable to conclude its deliberations and/or if any matter(s) is (are) put over from a previous meeting, they will be further discussed.)

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.)

1. ATKINSON CONSTRUCTION, LP, 14-R3D1-4111
2. BARRETT BUSINESS SERVICES, INC., 12-R3D1-1204 THROUGH 1206
3. BIGGE CRANE & RIGGING CO., 14-R1D2-1798
4. CALSTRIP STEEL CORPORATION, 12-R3D6-1998 & 1999
5. CYBERNET ENTERTAINMENT, LLC, 14-R6D1-0364
6. DAVEY TREE SURGERY CO., 13-R3D3-1018 THROUGH 1021
7. DYNAMIC CONSTRUCTION SERVICES, INC., 15-R4D1-1471 AND 1472
8. FEDEX FREIGHT, INC., 14-R2D1-0144
9. FIRST PRIORITY DESIGN & CONSTRUCTION, 16-R3D5-9073
10. FOUNDATION BUILDING MATERIALS LLC, 14-R1D2-3533 THROUGH 3535

11. HOME DEPOT, U.S.A., INC., 15-R3D3-4516 THROUGH 4518
12. JD MILLER CONSTRUCTION, INC. dba M & M FRAMING, 16-R4D4-9058
13. PLATE LINE FRAMERS, INC., 16-R1D3-9110
14. SAEED GHIASSI, 2016-R3D5-9115
15. SHIMMICK CONSTRUCTION CO., INC/OBAYASHI CORP., 11-R3D1-2562 THROUGH 2570
16. SYNERGY TREE TRIMMING, 15-R2D1-0828
17. UNITED PARCEL SERVICE, 13-R3D2-2664 and 2665

LEGISLATION:

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. JENSEN PRECAST, 34-2012-80001120 (05-R2D1-2377)
2. UNDERGROUND CONSTRUCTION, 34-2012-80001124 (09-3518)
3. DUININCK BROS., INC., 34-2012-80001129 (06-2871)
4. C.A. RASMUSSEN, INC., 34-2012-80001241-CU-WM-GDS (08-R4D5-0219 AND 0220)
5. SHIMMICK CONSTRUCTION CO., INC., 34-2012-80001248 (09-R2D3-0399)
6. CA DEPT OF FORESTRY, 34-2012-80001263 (10-R2D1-0728)
7. PRESTON PIPELINES, INC., 34-2012-80001277 (09-R6D7-3345)
8. BLUE DIAMOND GROWERS, 34-2012-80001308 (10-R2D1-1280/1281)
9. CLARK PACIFIC PRECAST LLC, et al, 34-2012-80001319 (09-R2D1-0282/0283)

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10. A.TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001332
(09-R4D5-0459 & 0460)
11. PRESTON PIPELINES, INC., 34-2013-8001381 (11-2530)
12. DSS COMPANY DBA KNIFE RIVER CONSTRUCTION, 34-2013-80001575
(12-R5D1-337)
13. HILL CRANE SERVICE, INC., 34-2014-80001730 (12-R4D1-2475)
14. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 34-2014-
80001749 (2008-R2D1-3414 THROUGH 3418)
15. SHIMMICK-OBAYASHI, 34-2014-80001750 (08-R3D3-5023 THROUGH 5025)
16. TAD VAN NGUYEN, CPF-14-513482 (13-R1D1-9163)
17. BRUNTON ENTERPRISES DBA PLAS-TAL MFG CO., 34-2014-80001817
(09-R6D2-2238 ~ 2241)
18. WEST VALLEY CONSTRUCTION, INC., 34-2014-80001832 (12-R2D5-3526)
19. BARNARD IMPREGILO HEALY JV, CPF-14-513697 (14-R5D1-9013)
20. DAVIS DEVELOPMENT CO., 34-2014-80001892 (10-R3D1-3360
THROUGH 3362)
21. KDTD, INC. DBA KD DEVELOPMENT, INC., 37-2015-00003550-CU-WM-CTL
(14-R3D2-1935 & 1936)
22. HHS CONSTRUCTION, 34-2015-80002052 (12-R3D2-0492 THROUGH 0497)
23. MARIA DE LOS ANGELES COLUNGA dba MERCED FARM LABOR, 15CV-
00945 (08-R2D1-3093 ~ 3098)
24. STANISLAUS FOOD PRODUCTS CO., 34-2015-80002087 (13-R2D4-0572 ~ 0574)
25. OLDCASTLE PRECAST, INC., 34-2015-80002167 (13-R3D3-0583)
26. SHIMMICK CONSTRUCTION CO., INC./OBAYASHI CORP., 34-2015-80002204
(12-R3D1-0781)
27. CHARLES PANKOW BUILDERS, LTD., 34-2015-8000221 (13-R4D1-1759)
28. NATIONAL DISTRIBUTION CENTERS, LP, 12-R6D2-0391

29. TRI STATE STAFFING, 12-R6D2-0378
30. CHEVRON U.S.A., N15-2013 (13-R6D3-0655 THROUGH 0662)
31. T & R CONSTRUCTION GROUP, BS159712 (14-R4D3-4120 & 4121)
32. ABM FACILITY SERVICES, INC. dba ABM BUILDING VALUE, 30-2016-00831661, 12-R3D6-3496 ~ 3498
33. MCM CONSTRUCTION, INC., 34-2016-80002312 (13-R1D2-3851 ~ 3854)
34. SOLARCITY CORP., 14-R3D2-3707, 34-2016-80002345
35. BURTECH PIPELINE, INC., 13-R3D2-0830 and 0831, 37-2016-00013806
36. AVALON BAY COMMUNITIES, INC., 30-2016-00872036 (2015-R3D2-0751)

APPELLATE COURT:

1. XL CONSTRUCTION, C074514, 34-2009-80000300 (08-R1D2-1191 THROUGH 1193)
2. AC TRANSIT, A142799, RG13-687314 (08-R1D4-0135)
3. CLARK PACIFIC DBA PACIFIC EMBEDDED PRODUCTS, C078953, 34-2011 80000965, (10-R6D2-0188 THROUGH 0191)
4. KEY ENERGY SERVICES, INC., F073567, S-1500-CV-283958-LHB
5. RAAM CONSTRUCTION, RG16810863 (2015-R1D4-0155)
6. THYSSENKRUPP ELEVATOR CORPORATION, CO77115, 34-2013-80001456 (11-R2D1-2217 TO 2219)

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. ADVANCED TECHNOLOGY DISTRIBUTORS, INC. DBA ADTECH, 16-R2D4-1917
2. ADVANTAGE BACKHOLES LLC, 16-R4D3-0126
3. ALAMILLO REBAR INC, 15-R2D4-1388

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4. ALEJANDRO CERVANTES CENTENO DBA ALEJANDRO CERVANTES CONTRACTORS, 16-R3D3-2524 THROUGH 2528
5. ALL ACCESS DOORS, INC., 16-R3D1-0431
6. ALLEN CONSTRUCTION INC, 16-R4D1-1676
7. AMERICAN APPAREL (USA) LLC., 16-R4D1-0677 AND 0678
8. AMERICAN BUILDING SUPPLY, INC., 16-R2D1-2963 THROUGH 2965
9. ARBORWORKS, INC., 16-R3D5-1779 AND 1780
10. ARI MODE, INC., 16-R6D5-3524 THROUGH 3526
11. ATLAS DISPOSAL INDUSTRIES, LLC, 16-R2D1-3245
12. BAJA FLOWERS, LLC., 16-R6D5-3112
13. BEZJIAN'S GROCERY, 16-R4D1-3430
14. BLATTNER ENERGY, 16-R3D3-2879
15. BOART LONGYEAR DRILLING SERVICES, 16-R2D5-1005 THROUGH 1007
16. BORDER VALLEY LOGISTICS DBA BORDER VALLEY TRADING, 16-R3D2-2877
17. CA BOARD OF STATE AND COMMUNITY CORRECTIONS, 16-R2D1-2831
18. CALIFORNIA DEPT. OF FORESTRY AND FIRE PROTECTION DBA CAL FIRE, 15-R3D2-4465
19. CENTRAL VALLEY LABOR, LLC, 16-R2D4-1448
20. CHILI BAR LLC, 16-R5D1-0273
21. CITY OF ARVIN, 16-R4D7-2799 AND 2800
22. CITY OF LOS ANGELES DEPARTMENT OF WATER AND POWER, 15-R4D3-4015
23. COLEVAN ELECTRIC, 16-R1D1-3304
24. COMBINED TRANSPORT INC DBA BLACKWELL CONSOLIDATION LLC, 16-R2D5-2990

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25. CONTRA COSTA ELECTRIC INC., 16-R1D5-0906 AND 0907
26. CORNERSTONE MASONRY SERVICES INC., 14-R3D3-3116
27. D. CARLSON CONSTRUCTION, INC. 16-R1D3-1057 THROUGH 1059
28. DECKERS OUTDOOR CORPORATION DBA DECKERS BRANDS, 16-R3D3
2349 AND 2350
29. DHOBHI, INC. DBA DRYCLEAN EXPRESS, 16-R4D3-0977
30. DULCE SONRISA INC., 16-R6D5-1871 AND 1872
31. E & J GALLO WINERY, 16-R7D1-2645
32. FALCON ROOFING COMPANY, 16-R1D5-2220
33. FINISH LINE, INC., 16-R3D5-1672
34. FIRESTONE COMPLETE AUTO CARE, 16-R3D3-2351 THROUGH 2354
35. FISK ELECTRIC COMPANY 16-R5D1-2842
36. FOSTER FARMS LLC, 16-R2D4-2157
37. FREEFORM DEVELOPMENT INC. DBA FREEFORM DEVELOPMENT
SOLUTIONS INC., 16-R3D2-1950
38. FREETIME, INC. DBA WHEEL FUN RENTALS, 16-R3D1-0843
39. FROZSUN FOODS, 16-R7D1-0411
40. GARZA CONTRACTING, INC., 16-R2D5-2024 THROUGH 2026
41. GEORGE JUE MANUFACTURING COMPANY DBA PARAMOUNT METALS &
SUPPLY COMPANY, 16-R3D5-1366 THROUGH 1367
42. GEORGE TAVERNAS & KEITH FRASER DBA CALIFORNIA NUT COMPANY,
15-R2D4-4349 THROUGH 4351
43. GILLESPI AG SERVICE, 14-R2D5 0413
44. GLASSWERKS LA, INC., 16-R6D2-2596
45. THOMAS GRAMMER, 16-R1D4-2746 AND 2747

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46. GRUMA CORPORATION DBA MISSION FOODS, 14-R4D3-4124
47. HECTOR J. RAMIREZ DBA THE DIE SHOP, 16-R3D5-3175 THROUGH 3179
48. HEEL AND SOLE SHOES, 16-R2D3-3550
49. INTERNATIONAL MARMOL, INC., 16-R4D4-3700 THROUGH 3703
50. IRWIN INDUSTRIES, INC., 15-R4D7-0982
51. J B HUNT TRANSPORTATION, 16-R3D3-2181 AND 2182
52. JACHIO PRODUCTS, INC., 16-R6D5-2809
53. KAMRAN STAFFING, INC., 16-R3D3-1665
54. KING PALLETS, INC., 16-R4D4-3511 AND 3512
55. KITCHELL, 15-R3D2-0567
56. KOLOA PACIFIC CONSTRUCTION, INC., 16-R3D1-3275
57. KRASNE'S, INC., DBA TRIPLE K MANUFACTURING, CO., 15-R3D2-4406
AND 4407
58. LARRY KRIKORIAN DBA LARRY KRIKORIAN CONSTRUCTION, 16-R3D5
1534 THROUGH 1536
59. LATHROP WOODWORKS, 15-R2D4-1672 AND 1673
60. LEONARD'S MOLDED PRODUCTS, INC. DBA LEONARD'S MOLDED
PRODUCTS, 15-R4D3-4148 AND 4149
61. MALIBU PACIFIC CONSTRUCTION & DEVELOPMENT, INC., 16-R6D5-1054
62. MARK TOPPING DBA NORTH COAST CYCLE, 16-R2D3-3365
63. MARRONE BROS., INC. DBA MARRONE & MARRONE, 16-R1D3-1055
AND 1056
64. MERCURY METALS, 15-R1D2-3977 THROUGH 3979
65. MORNING GLORY GOLD MINES, 15-R5D1-4024
66. NANCY SMITH CONSTRUCTION, INC., 16-R1D1-2810

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67. NEW INDY OXNARD, LLC, 15-R4D3-0250
68. NORTHRIDGE AUTO WRECKING, INC., 15-R4D3-2586
69. ORIGINAL SIXTEEN TO ONE MINE, INC., 15-R5D1-4023
70. P & R TOWER COMPANY, INC, 16-R2D3-2984 THGOUGH 2986
71. PABCO CLAY PRODUCTS, LLC DBA H C MUDDOX, 16-R5D1-3564
72. PETERSEN-DEAN INC. DBA PETERSENDEAN, 16-R6D5-1866
73. PETROCHEM INSULATION, INC., 16-R7D1-0595
74. PRECISION GRAPHIC SYSTEMS, 16-R3D2-1661 THROUGH 1663
75. PRECISION WOODWORKING OF SAN DIEGO, INC. DBA PRECISION WOODWORKING, 16-R6D5-2210
76. PULMUONE FOODS USA, INC., 16-R3D1-1564 THROUGH 1566
77. RELIEF-MART, INC., 16-R6D2-1251 THROUGH 1254
78. ROCK CHRISTIAN ACADEMY, 16-R3D1-0430
79. RRASSK SERVICES, INC., 16-R3D5-3066
80. SA RECYCLING LLC DBA SA RECYCLING, 15-R4D3-4311
81. SATURN FASTENER INC., 15-R4D3-3577
82. SCALIA FARMS, 16-R2D5-0100
83. SHEEHAN CONSTRUCTION, INC, 16-R1D2-2088
84. SIERRA PACIFIC INDUSTRIES, 15-R2D1-2079 THROUGH 2081
85. SIERRA PACIFIC INDUSTRIES, 16-R2D3-2724 AND 2725
86. SIMPSON STRONG-TIE COMPANY, INC., 16-R2D4-2988 AND 2989
87. SPAN-O-MATIC, INC., 16-R6D2-2801
88. STEEL PRODUCTS DBA PRECISION STEEL PRODUCTS, INC., 15-R6D2-2674 AND 2675

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89. STEELTECH REINFORCING INC., 16-R6D5-1992 AND 1993
90. STEVENS CREEK QUARRY, INC., 15-R5D1-4331
91. SUPERIOR FARMS LLC, 16-R1D5-2823
92. SURF BREWERY, LLC., 16-R6D2-2922 THROUGH 2924
93. SYAR INDUSTRIES INC DBA SYAR FAMILY VINEYARD, 16-R1D5-2819
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94. T. M. COBB COMPANY DBA HALEY BROTHERS INC., 15-R6D2-4125
THROUGH 4127
95. THE FINISH LINE, INC., 16-R4D4-2675
96. THE MCCLATCHY COMPANY DBA THE SACRAMENTO BEE, 16-R2D1-1124
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97. THE ORIGINAL MOWBRAY'S TREE SERVICE INC., 16-R3D3-0285
98. TOP BRANDS DISTRIBUTION INC. DBA OASIS NATURALS, 15-R3D2-1585
AND 1586
99. TREBOR SHORING RENTALS, 16-R4D4-2894
100. UC LOS ANGELES FACILITIES MAINTENANCE, 16-R4D1-0062
THROUGH 0064
101. UNIVAR USA INC., 16-R7D4-3758
102. UNIVERSAL FOREST PRODUCTS, INC. DBA UFP RIVERSIDE, LLC.,
16-R6D2-2587 THROUGH 2591
103. VALLEY SELECTIVE WASH INC. DBA LORENO HAND WASH, 16-R6D5
1724 AND 1725
104. WESTOWER COMMUNICATIONS, INC., 16-R3D3-2805 THROUGH 2807
105. WORLD AUTO REPAIR INC., 16-R6D5-1873 THROUGH 1875

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PERSONNEL:

(Issues regarding staff.)

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.