

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA

Thursday October, 20, 2016

9.30 AM

West Covina, California
&
Sacramento, California

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

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: October 07, 2016

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

PETITIONS FOR RECONSIDERATIONS:

1011071	HOME DEPOT USA INC
1022118	SAN DIEGO GAS & ELECTRIC
1076936	PCC ROLLMET INC

DENIAL OF PETITIONS FOR RECONSIDERATIONS (DRAFT):

ORDERS DISMISSING APPEAL:

ORDER DENYING LEAVE TO FILE LATE APPEAL:

MATTERS PENDING RECONSIDERATION:

SEE ATTACHED LIST

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:

SEE ATTACHED LIST

APPELLATE COURT:

SEE ATTACHED LIST

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.)

1097712	PALMERI PIZZA CRUST DBA VENICE BAKERY AND VENICE
1107558	SERENA PROVENCIO DBA SPECIALIZED EXHAUST & CUSTOM
1110302	SAFEWAY, INC
1118805	LA COUNTY HEALTH SERVICES LAC + USC MEDICAL CENTER
1121664	PACIFIC TRUCK EQUIPMENT, INC.
1132425	GARY FONG YU DBA TEA GARDEN CHINESE CUISINE
316722537	LEPRINO FOODS COMPANY
316723634	LEPRINO FOODS COMPANY

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD

CLOSED SESSION MEMORANDUM

October 20, 2016

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.

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. BIGGE CRANE & RIGGING CO., 14-R1D2-1798
3. CALSTRIP STEEL CORPORATION, 12-R3D6-1998 & 1999
4. CYBERNET ENTERTAINMENT, LLC, 14-R6D1-0364
5. DAVEY TREE SURGERY CO., 13-R3D3-1018 THROUGH 1021
6. DYNAMIC CONSTRUCTION SERVICES, INC., 15-R4D1-1471 AND 1472
7. FEDEX FREIGHT, INC., 14-R2D1-0144
8. FIRST PRIORITY DESIGN & CONSTRUCTION, 16-R3D5-9073
9. FOUNDATION BUILDING MATERIALS LLC, 14-R1D2-3533 THROUGH 3535
10. HOME DEPOT, U.S.A., INC., 15-R3D3-4516 THROUGH 4518
11. JD MILLER CONSTRUCTION, INC. dba M & M FRAMING, 16-R4D4-9058
12. MARK C. JACOBS DBA THE LAW OFFICE OF MARK JACOBS, 16-R2D1-9111
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

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)
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)

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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)
37. W.A. RASIC COMPANY, INC., 13-R4D1-1422, 34-2016-80002454

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)