

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

Wednesday November, 02, 2016

9.30 AM

Sacramento, California
&
West Covina, California

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

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: October 21, 2016

RE: Closed Session of the Board to be held on November 02, 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.)

1025083 OLDCASTLE PRECAST INC

1055209 ABEL GARCIA DBA ABEL & BROTHERS CUSTOM IRON

PETITIONS FOR RECONSIDERATIONS:

1079591 MERCURY METALS

317201556 ROBERT A. BOTHMAN, INC.

DENIAL OF PETITIONS FOR RECONSIDERATIONS (DRAFT):

ORDERS DISMISSING APPEAL:

ORDER DENYING LEAVE TO FILE LATE APPEAL:

1102164	FENICO PRECISION CASTINGS, INC.
1119711	OWENS CORNING ROOFING AND ASPHALT, LLC
1116549	SAN DIEGO UNIFIED SCHOOL DISTRICT

MATTERS PENDING RECONSIDERATION:

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

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:

314863978 W A RASIC CONSTRUCTION CO INC.

FOR ITEMS PRIOR TO OCTOBER 1, 2016 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.)

1036831	ICE RENTALS LLC DBA SPECIAL ICE
1044084	CMH MANUFACTURING WEST, INC. DBA KARSTEN HOMES
1047875	THE DAVEY TREE EXPERT CO.
1050778	STRATEGIC MATERIALS, INC DBA WESTERN STRATEGIC
1052040	ACTIVAR CONSTRUCTION PRODUCTS GROUP
1064799	ESSEY CONSTRUCTION COMPANY, INC. DBA ROCK HARD
1066051	TWO RIVERS DEMOLITION, INC.
1066604	TOPANGA CANYON ICE, LLC
1073254	EAST BAY REGIONAL PARK DISTRICT
1076145	OFFICIAL PEST PREVENTION
1076504	DENSO PRODUCTS AND SERVICES AMERICAS INC.
1078682	DECORUS LAND ENHANCEMENTS, INC. DBA DECORUS LAND
1079148	VOLT INFORMATION SCIENCES DBA VOLT WORKFORCE
1080796	RUAN TRANSPORT CORPORATION
1081237	WEST COAST PLASTERING
1081954	RENO
1082445	CHEVRON U.S.A. INC.
1083812	WESTERN NATIONAL SECURITIES DBA WESTERN NATIONAL
1085501	TUTOR PERINI CORPORATION
1085849	SOUTHWEST PRODUCTS, LLC DBA CIRCLE FOODS
1086978	O'HAGIN SHEET METAL MANUFACTURING LLC
1088215	ACCESS TO POWER, INC. DBA ACCESS ELECTRIC
1088885	CACIQUE INC
1090075	C.E.G. CONSTRUCTION
1090336	99 CENTS ONLY STORES
1090490	BUYLOW MARKET
1090494	BUYLOW MARKET
1091155	HELCCO
1091191	PFLUG PACKAGING & FULFILLMENT INC.

1091567	APTAN CORPORATION
1092116	INTERTEX GENERAL CONTRACTORS INC.
1092155	CPM LTD INC DBA MANPOWER OF SAN DIEGO
1092619	KENNETH LYONS DBA LYONS CONSTRUCTION
1094673	LINDSAY - STRATHMORE IRRIGATION DISTRICT
1094717	ALLIEDBARTON SECURITY SERVICES LP
1095038	NAUTILUS GENERAL CONTRACTORS INC.
1095373	RUPPERT, INC.
1095934	SAINT JOHN'S PROGRAM FOR REAL CHANGE
1096753	IMERYS PERLITE USA INC
1097234	VISTA HERMOSA HARVESTING, INC.
1097709	MCELVANY INC.
1097996	CAMPOS FARM LABOR
1098656	JAMES B WALKER FLP DBA JAMES WALKER FARMS
1098757	EL CHICO PRODUCE INC.
1101208	ALLEN CONSTRUCTION, INC.
1101575	J & E BERRY FARMS, LLC
1102959	LARGO CONCRETE, INC.
1104457	ROYALTY CARPET MILLS, INC.
1105529	J.W. MCCLENAHAN CO.
1105785	SCHENKER INC
1107430	CAMPOS BROTHERS FARMS
1107990	GORSUCH PLUMBING INC DBA GORSUCH PLUMBING &
1108341	SINAI FARM MANAGEMENT, INC.
1108491	BMY CONSTRUCTION GROUP INC.
1108845	MCWANE, INC. DBA AB&I FOUNDRY
1109527	UNIVERSAL PROTECTION SERVICE LP
1109724	RC PROVISION INC

1110161 CHAMBERS GROUP INC.
1112321 ETO DOORS CORPORATION DBA CONTEMPORARY DOORS
1113171 PLUMBING TECH INC.
1114118 DEPCOM CALIFORNIA INC.
1114740 LONGS DRUG STORES CALIFORNIA, LLC DBA CVS
1116718 SIERRA LATHING COMPANY INC.
1116869 SFUSD-RAOUL WALLINBERG H.S.
1117153 FOCUS DIAGNOSTICS, INC.
1117704 MAVEN TRANS GRP
1119720 A2 RAILLA DEVELOPMENT, INC.
1120501 MIKAWAYA
1124077 CREATIVE COATINGS
1124713 SANDMAN PAINTING
1124885 CAL COAST PACKING & CRATING INC
1125718 CALIFORNIA DEPT OF CORRECTIONS AND REHABILITATION,
1126620 CORREA PALLETS INC.
1126767 ALBERTSONS LLC DBA ALBERTSONS STORE #6734
1127065 HODGE CAPITAL COMPANY
1128882 YOUNGSTOWN GRAPE DISTRIBUTORS INC.
1129289 GOLD STAR CATTLE LLC
1130425 FIELD FRESH FOODS INC
1131087 SAFEWAY INC.
1133030 PHILLIPS, LOBUE & WILSON MILLWORK INC DBA ANAHEIM
1134913 KALIN ENTERPRISE, INC.
1136012 DRAGADOS USA/FLATIRON WEST/SUKUT CONSTRUCTION JV
1137053 BLACKSTONE ENTERPRISES DBA MCDONALD'S #13813
1137057 WARE DISPOSAL INC.
1138060 SIERRA PACIFIC INDUSTRIES
1138246 GREENE & SONS PLASTERING

1141546	SANGHYUN FASHION INC
1145869	REPUBLIC SERVICES DBA SOLANO GARBAGE COMPANY
1146228	FERGAL P MACDONNELL DBA URBAN ENERGY
1149308	DEL BIAGGIO CONSTRUCTION, INC. DBA D C I BUILDERS
1150905	KMART CORPORATION #3842 DBA KMART
1153126	PIEDRAFINA MARBLE INC
1153456	PACIFIC COAST PRODUCERS
1158319	CREAM OF THE CROP AG SERVICE, INC.
316720861	B & A INTERNATIONAL FARM LABOR SERVICE INC
317796761	HOME DEPOT USA, INC DBA THE HOME DEPOT

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. FIRST PRIORITY DESIGN & CONSTRUCTION, 16-R3D5-9073
8. FOUNDATION BUILDING MATERIALS LLC, 14-R1D2-3533 THROUGH 3535
9. HOME DEPOT, U.S.A., INC., 15-R3D3-4516 THROUGH 4518
10. JD MILLER CONSTRUCTION, INC. dba M & M FRAMING, 16-R4D4-9058
11. MARK C. JACOBS DBA THE LAW OFFICE OF MARK JACOBS, 16-R2D1-9111
12. PLATE LINE FRAMERS, INC., 16-R1D3-9110
13. SAEED GHIASSI, 2016-R3D5-9115
14. SHIMMICK CONSTRUCTION CO., INC/OBAYASHI CORP., 11-R3D1-2562
THROUGH 2570
15. SYNERGY TREE TRIMMING, 15-R2D1-0828
16. 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)

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

November 02, 2016

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)