

**State Of California**  
**California Occupational Safety and Health Appeals Board**  
**Minutes of the Public Meeting & Closed Session**  
**Held on February 5, 2025**  
**Sacramento, California**  
**Zoom Platform**

**Present:**

Ed Lowry, Public Member, Chair  
Judith Freyman, Management Member  
Marvin Kropke, Labor Member  
Patricia Hapgood, Executive Officer  
Sam E. Lucas, Presiding Administrative Law Judge  
Christopher Jessup, Administrative Law Judge  
Rheeah Yoo Avelar, Administrative Law Judge  
Weiru Wang, Administrative Law Judge  
Aaron Jackson, Chief Counsel  
Elizabeth Clarke, Staff Counsel  
Vincent Mersich, Staff Counsel  
Scott Pease, Operations Manager  
Maria Rios, Legal Analyst  
Anne Marie Plascencia, Senior Legal Typist  
Beth Reiken, Executive Secretary  
Denise Cardoso, Assistant Chief Counsel, DOSH  
Javier Castro, Staff Counsel, DOSH  
Kathryn Woods, Staff Counsel, DOSH  
Keith Mackenzie, Staff Counsel, DOSH  
Sesilya Saraydarian, Staff Counsel, DOSH  
Kita Banks, Staff Counsel, CalFire  
Chris Meyer, Office of the Director for DIR

**Notice of remote attendance:**

As required by Government Code Section 11123.5, subdivision (d), notice is hereby given that Board member Marvin P. Kropke will be participating remotely pursuant to Government Code Section 11123.2, subdivision (j), paragraph (2), and Board member Judith Freyman will be participating remotely pursuant to Government Code Section 11123.2, subdivision (j), paragraph (1).

**Request for remote attendance:**

No report.

**Minutes of January 22, 2025, Meeting:**

(Approve or amend minutes of previous board meeting.)

Action:           The Board approved the minutes of the January 22, 2025 meeting as amended.  
This was moved by Marvin Kropke.  
It was seconded by Judith Freyman.

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The vote was 3-0.

**New Business:**

*(The Appeals Board hears and discusses new reports presented by staff.)*

Action: No report.

**Old Business:**

*(The Appeals Board hears and/or discusses matters on a follow-up basis.)*

1. Discuss the newly prepared informational stakeholder videos (re “How to File an Appeal”) and discuss whether to post on OSHAB’s website. In addition, discuss whether the Board should explore any other avenues to publicize the availability of these videos to stakeholders.

Action: The Informational stakeholder videos (re “How to File an Appeal”) have been posted on OSHAB’s website. Currently, there are three videos posted, one in Spanish. Scott Pease will also work on how to bring attention to these videos to the public. The board may look into tracking how many hits the videos are receiving.

2. Discuss proposals and comments received at the recent roundtable meeting.

Action: Scott Pease will be making edits to the Stakeholders Memorandum and present at the next Board meeting.

**Legislation:**

*(Review and discuss current legislation which may affect the appeals Board.)*

Action: Elizabeth Clarke reported there are no new Assembly Bills of interest to the Board. February 21, 2025, is the last day to introduce new bills.

**Chairperson’s Report:**

*(Hear report from the Chairperson on activities and issues affecting the Appeals Board.)*

Action: Ed Lowry was sworn in by Chief Counsel Aaron Jackson. He met with Fed OSHA and discussed the budget and grants. They will meet again on May 6, 2025.

**Board Members’ Reports:**

*(Hear reports from Board members on activities and issues affecting the Appeals Board.)*

Action: Judith Freyman had no report. Marvin Kropke said changes are happening daily at the federal level and he will continue to seek updates.

**Executive Officer's Report:**

*(Report regarding administrative matters.)*

Action: Administrative Law Judge interviews are completed, and the top candidates will complete their written tests. Interviews start today for the Associate Government Program Analyst position. Monday, Patty and Scott are interviewing Retired Annuitants to assist with front desk responsibilities. Patty is working towards being properly staffed per the volume of cases in the ques.

**Staff Reports:**

*(Reports from the Supervising ALJ and the Chief Counsel regarding matters from the Hearing Operations and Legal Units.)*

1. Discuss and may take action on proposals for new regulations or proposals for modifications to, or repeal of, existing regulations. In addition, discuss whether any concerns exist with existing regulations.

Action: Presiding Judge Sam E. Lucas is happy with the candidates interviewed for the ALJ position. The Presiding Judges are preparing to start training the accepted candidate. The ALJ's calendars are set till June.

Action: Karen Halbo is waiting on information from the Office of Regulatory and Legislative Affairs for the economic and fiscal analysis for the Appeals Initiation regulations rulemaking package.

2. Litigation Update

Action: Aaron Jackson reported on three Superior Court cases 1.) Angelus Block Co. Inc. (1743773) has a hearing set for March 28, 2025. 2.) Arana Residential and Commercial Painting, Inc (1568252) has a hearing set for April 1, 2025. The Board may file a motion before the hearing. 3.) The Board recently became aware of a new writ on Waterproof and Roofing Solutions (1690885). The Board is waiting to be served with the documents.

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.

**Public Comment:**

*(Public comments will be entertained during discussion of each agenda item of the open meeting.)*

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Action: Attendees congratulated Ed Lowry on being reappointed. Denise Cardoso and Kathryn Woods requested additional information on the Waterproofing and Roofing writ.

Action: Denise Cardoso reported DOSH legal has hired three new attorneys.

**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.)*

1549611 Metcalf, Inc.  
Action: Board Discussed this matter

**Petitions for Reconsideration:**

*(The Division of Occupational Safety & Health and the Employer each have 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.)*

There are no petitions for reconsideration at this time.

**Orders Dismissing Appeal:**

1633722 All in One Services, Inc.  
Action: The Board discussed this matter.

1624337 Event Staff Solutions, LLC.  
Action: The Board discussed this matter.

1724957 Sahara Construction Co., Inc.  
Action: The Board discussed this matter.

**Orders Denying Leave to File Late Appeal:**

1724957 San Bernardino County Fire Protection District  
Action: The Board discussed this matter.

**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.)*

The following list is intended to inform stakeholders and members of the public of what the Board believes is the issue of most interest to the general public presented in each of the following matters. The issues are listed to assist those interested in research or

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public information, and not litigation, and are not necessarily or exclusively the only issue or issues presented in each matter. The issues identified are not positions of the Board. Further, the Board may add and decide issues not included in the list or decide the matter on other grounds, under authority of Labor Code sections 6620 through 6623.

- 1431672      A. Teichert & Son, LLC  
*Whether the cited employer was in violation of lockout/tagout requirements.*
- 1473644      Amazon.com Services, LLC  
*Whether the employer's training program was in compliance with the applicable safety order.*
- 1466722      Bragg Investment Company, Inc.  
*Whether the Employer violated the crane operating safety order as alleged while repositioning a crane at a construction site.*
- 1647115      Concord Farms, Inc.  
*Whether there was good cause for the late appeal.*
- 1420923      Drill Tech Drilling & Shoring, Inc.  
*Whether the Employer failed to enforce its IIPP as required.*  
*Whether the Employer violated the lockout/tagout requirements of section 3314 as alleged.*
- 1499137      Employbridge Holding Company  
*Whether Employer violated IIPP requirements as alleged.*
- Action:      The Board discussed this matter.
- 1238985      Grimmway Enterprises, Inc.  
*Was the ALJ correct in holding that Employer did not violate section 4002, subdivision (a)? Was the ALJ correct in finding that Employer satisfied the IEAD with respect to the alleged violation of section 3314, subdivision (c)?*
- Action:      The Board voted to issue the Decision After Reconsideration.  
                 This was moved by Marvin Kropke.  
                 It was seconded by Judith Freyman.  
                 The vote was 3-0.
- 1488312      Indiana Finish Line, Inc.  
*Whether the cited employer established procedures adequate to protect employees from COVID-19.*

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- 1436480 Interline Brands, Inc.  
*Whether the employer violated foot protection standards.*
- 1371294 KPRS Construction Services, Inc.  
*Whether the employer violated section 1632 as alleged? Whether the ALJ's ruling that the Division did not meet its burden of proof regarding the employer's IIPP was correct.*
- 1486257 Kroger Company  
*Whether the cited employer adequately trained employees regarding workplace hazards.*
- 1235941 McCarthy Building Companies, Inc.  
*Whether the Division proved exposure to Valley Fever.*
- 1355061 Republic Electric West, Inc.  
*Whether fall protection requirements apply to the work. Whether the IEAD was established. Whether penalties were duplicative. Whether the Employer exercised reasonable diligence. Whether it was an error to reduce the classification of the violations and reduce the penalties.*
- Action: The Board discussed this matter
- 1760736 RJS Electric  
*Was the ALJ's Order Denying Late Appeal correctly decided?*
- 1465119 Sun Belt Rentals  
*Whether certain information accepted into evidence was inadmissible hearsay, and whether the evidence supports a finding that Employer violated sections 3203 and 3328, as alleged.*
- 1475491 Sutter Bay Hospitals dba Mills-Peninsula Medical Center  
*Was the ALJ correct in granting Employer's appeals of the citations alleging violations of section 342, subdivision (a) and section 5199, subdivision (i)?*
- 1454931 Tesla Inc.
- 1486176 Tutor Perini Corporation and O&G Industries, Inc.  
*Whether the Employer committed a serious accident-related violation of section 3328, subdivisions (a)?*

**Matters 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*

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*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 Parcel Service, Inc. dba UPS, 34-2019-80003174 (1116529)
2. Davis Development Company, 34-2020-80003373 (1226084)
3. Hill Crane Service Inc., 34-2021-80003744 (1135350)
4. USA Waste of California, Inc., 34-2022-80003841 (1384029)
5. Angelus Block Co., Inc., CIVSB2417796 (1113026)
6. Hamilton Iron Works, Inc., 24WM000100 (1497263)
7. Arana Residential and Commercial Painting, Inc. (1568252)
8. Western Oilfields Supply Company, 24WM000169 (1498595)

**Appellate Court:**

There are no cases currently filed with the Appellate Court.

**Other Items:**

There are no Other Items.

**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.)*

1663373	A C Framers
1674739	Albert D Seeno Construction Co.
1713062	American Wrecking, Inc.
1741428	B & M Builders Inc.
1750963	Berberian Nut Company, LLC
1781299	California Bread Co.
1734466	California Department of Corrections and Rehabilitations
1771360	Capistran Ranch LLC
1722746	Cheung Hing Millbrae, Inc.
1546907	City of Chowchilla
1646768	Costco Wholesale Corp, Store #121
1670176	Costco Wholesale Corporation

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1681820	County of Colusa Department of Public Works
1560080	Covanta Stanislaus, Inc.
1520720	Cream of the Crop AG Services
1734988	Darfa Capital, LLC
1676918	Dennis Cook Roofing Inc.
1756668	Deseret Farms of California
1768030	Dryco Construction, Inc.
1694300	Flexi Tech Contracting Inc
1515041	Fruitvale Operating Company, LP
1625110	Gravity Hill Logistics
1299087	Greenwaste Recovery, Inc.
1578822	Hydra-Point Plant Growers, Inc.
1504282	Imperfect Foods, Inc
1685093	JTI Electrical & Instrumentation, LLC
1688810	Kember Flooring Inc
1704537	Legacy Stone Works, Inc.
1760573	Legends Hospitality at Toyota Amphitheatre
1767078	Mast Roofing, Inc
1538424	MC Painting, Inc.
1585439	McDonald's
1563291	McDonald's Restaurants of California, Inc.
1619484	Midway Construction Corp.
1772574	Modern Method Roofing Co Inc
1463279	Monterey Mushrooms, Inc.
1738568	Mountain Cascade Inc.
1579532	Mountain F Enterprises, Inc.
1645441	Northrop Grumman Systems Corporation
1737085	Orion G Inc.
1745861	Pen Manufacturing, LLC.
1719411	Ramon Camiro Santiago, An Individual
1598397	Regional Supplemental Services
1763466	San Francisco Police Department
1670356	Saputo Cheese USA Inc.
1490544	Sharp Healthcare
1727167	Sid Ceballos Construction, Inc.
1651770	Staffing Network Holdings, LLC
1748412	Sumiden Wire Products Corporation
1436571	Sun-Maid Growers of California
1736134	The Lotus Pet Food, Inc.
1520788	Timothy D. Friesen DBA Friesen Landscaping
1523942	Troy Roofing Inc.
1738510	Twin Rivers Unified School District
1186659	TWR Enterprises, Inc.
1715550	Upper Valley Disposal Service
1713263	Ventura Coastal, LLC
1755020	W L Butler Inc.



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1730327	Yamasa Enterprises
1692178	Zimeno, Inc.

Action: The Board discussed the Settlement Orders issued by the Administrative Law Judges.

**Personnel:**

*(Issues regarding staff)*

The Closed Session adjourned at 11:19 a.m. and the Board returned to the Public Meeting. The Appeals Board incorporated, by reference, its actions in the Closed Session as indicated above. The Board meeting was adjourned at 11:20 a.m.