

State of California
California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting & Closed Session
Held on October 22, 2025
Sacramento, California
Zoom Platform

Present:

Ed Lowry, Public Member, Chair
Judith Freyman, Management Member
Marvin Kropke, Labor Member
Scott Pease, Interim Executive Officer
Kerry Lewis, Presiding Administrative Law Judge
Sam E. Lucas, Presiding Administrative Law Judge
Christopher Jessup, Administrative Law Judge
Aaron Jackson, Chief Counsel
Jeffrey Mojcher, Chief Counsel Emeritus
Elizabeth Clarke, Staff Counsel
Karen Halbo, Staff Counsel
Maria Rios, Legal Analyst
Beth Reiken, Executive Secretary
Denise Cardoso, Assistant Chief Counsel, DOSH
Rocio Reyes, Assistant Chief Counsel, DOSH
Tuyet Tran, Attorney Supervisor DOSH
Ina Fitzgibbon, Office of Director, DIR
Kathryn Woods, Staff Counsel, DOSH
David Wiseman, Staff Counsel, Cal Fire
Kita Banks, Staff Counsel, Cal Fire
David Botelho, DIR
Eddie Sanchez, Executive Co-Director of SoCal COSH
Simone, Department of Consumer Affairs
Karin Umpfrey, Worksafe

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:

Member Marvin Kropke made a motion requesting to attend the November 5th and November 19th Board meetings remotely pursuant to Government Code section 11123.2, subdivision (j)(2)(A).

This motion was seconded by Ed Lowry.

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The Board voted to approve the remote attendance request 3-0.

Minutes of October 8, 2025, Meeting:

(Approve or amend minutes of previous board meeting.)

Action: The Board voted to approve the minutes for the October 8, 2025, meeting with amendments.
This was moved by Marvin Kropke.
It was seconded by Judith Freyman.
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.)

Action: No report.

Legislation:

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

Action: Karen Halbo provided the following update on legislation: SB 20, SB 470, and AB 845 have been signed by the Governor.

Chairperson's Report:

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

Action: Chairperson Ed Lowry shared that he, Scott Pease, Jennifer Osborn, and Adam Romero (DIR's Chief Deputy Director) met and discussed hearing transcripts and negotiating agency-wide contracts. He also advised that he is changing the Wednesday, December 17th, 2025 Board meeting to Thursday, December 18th, 2025.

Board Members' Reports:

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

Action: No report.

Executive Officer's Report:

(Report regarding administrative matters.)

Action: Scott Pease reported that the Stakeholder's Conference memo was posted online. He is continuing to work with the

May Lee Complex on the Stakeholder's Conference to be held in January. As for staffing, a top candidate has been selected for the Senior Legal Typist position. Our new Associated Governmental Program Analyst, Tariq Akbar, starts today and will be our expert for OASIS and IT issues. Interviews for the limited term Attorney III position started yesterday and will continue through today. Interviews for the Attorney III position will begin in November. OSHAB's Zoom contract for the ALJs is transitioning from OSHAB to DIR. OSHAB will send out updated notices with the revised dial in number.

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: No report.

2. Ligation Update

Action: Aaron Jackson provided the following updates: There was a court of appeal opinion in the Uber case (1594663) against the Division and the drivers finding that Uber must exhaust its administrative remedies before filing a Writ. In the General Dynamics NASSCO appeal case (1300984), the matter has been fully briefed, and we are waiting to hear if it will be set for oral argument. On the Baldi/Arana case (1568252) and the Geo Group case (1609228), there are hearings on calendar and the Board is currently waiting to receive oppositions. We received a new appeal in the Waterproofing and Roofing case (1690885).

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.)

Action: The Board heard comments from Denise Cardoso regarding the Divisions hiring attorneys in both their Northern and Southern California DOSH offices and that they will be

posting three additional Attorney positions. Karen Halbo expressed her appreciation to Cal Fire for their management of California wildfires this year.

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.)

- 1296297 Alliance Diversified Enterprises Inc.
Action: The Board discussed this matter.
- 1573582 California Department of Corrections & Rehabilitations
Action: The 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.)

- 1789153 J.G. Boswell Company
Action: The Board voted to issue a Denial of the Petition for Reconsideration.
It was moved by Marvin Kropke.
It was seconded by Judith Freyman.
The vote was 3-0
- 1599318 LA Police Department
Action: The Board discussed this matter.
- 1745466 M&J Design Inc
Action: The Board voted to issue a Denial of the Petition for Reconsideration.
It was moved by Marvin Kropke.
It was seconded by Judith Freyman.
The vote was 3-0
- 1698769 Suburban Propane, LP
Action: The Board voted to issue a Denial of the Petition for Reconsideration.
It was moved by Marvin Kropke.
It was seconded by Judith Freyman.
The vote was 3-0
- 1458699 Primula Mozzarella LLC

Action: The Board voted to take this matter under submission.
It was moved by Marvin Kropke.
It was seconded by Judith Freyman.
The vote was 3-0.

Orders Dismissing Appeal:

1762350 AMP United LLC
Action: The Board discussed the Orders Dismissing Appeal.

Orders Denying Leave to File Late Appeal:

1796353 A. Preman Roofing, Inc.
Action: The Board voted to issue an order reinstating and
remanding the appeal.
It was moved by Ed Lowry.
It was seconded by Marvin Kropke.
The vote was 3-0.

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 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.

1360156 CA Forest and Fire Protection
Did the Decision of the Administrative Law Judge properly affirm a violation for failure to wear thermal protection for ears and neck during wildland fire fighting.

1488312 Indiana Finish Line, Inc.
Whether the cited employer established procedures adequate to protect employees from COVID-19.

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.

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- 1486257 Kroger Company
Whether the cited employer adequately trained employees regarding workplace hazards.
- Action: The Board voted to issue the Decision After Reconsideration.
It was moved by Marvin Kropke.
It was seconded by Judith Freyman.
The vote was 3-0.
- 1692964 L & S Framing, Inc.
Whether Employer committed the violations alleged in the citations, including alleged violations of section 1704, subdivision (f) [failure to adopt a compliant Code of Safe Practices]; section 1704, subdivision (b)(2) [failure to ensure that nailers and staplers were operated in accordance with manufacturer's recommendations], and section 1704, subdivision (g), 1509, and section 3203 [inadequate safety training on the use of nailers and staplers].
- 1235941 McCarthy Building Companies, Inc.
Whether the Division proved exposure to Valley Fever.
- 1549611 Metcalf, Inc.
Whether Employer committed the violations alleged in the citations, including alleged violations of section 3203, subdivision (a)(6) [failure to correct an unsafe condition]; section 1621, subdivision (b) [failure to provide toeboards on scaffolding]; and (3) section 3276, subdivision (e)(15)(B) [safe use of ladders], and whether Employer established its affirmative defense.
- 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.
- 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)?
- 1703764 The Don Chapin Co., Inc.
Did the Decision of the Administrative Law Judge properly find that employees were exposed to the hazard of a failure to provide a swinging gate or equivalent protection at the entrance to a ladder opening on a platform.

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- 1454931 Tesla Inc.
Whether the ALJ properly affirmed the citations and, if so, whether Employer committed a serious accident-related violation of section 3328, subdivision (a).
- 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 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. USA Waste of California, Inc., 34-2022-80003841 (1384029)
2. Arana Residential and Commercial Painting, Inc. (1568252)
3. Western Oilfields Supply Company, 24WM000169 (1498595)
4. The Geo Group, Inc., 25WM000023 (1609228)
5. Uber Technologies Inc (1594663)
6. Employbridge Holding Company, 25CHCP00143 (1499137)
7. Sun Belt Rentals, 25CU041526C (1465119)

Appellate Court:

1. General Dynamics NASSCO (1300984)

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.)

- 1815622 Absolute Aero Inc.
1804520 All-Tex, Inc.

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1796856	Alta Pump Company, LLC
1695005	Angel City Bell, LLC
1644618	Arboricultural Specialties, Inc.
1836448	B K Custom Concrete
1799801	California Citrus Association
1734148	California Food Management LLC
1799617	Castlerock Water, LLC
1809063	Davis Construction Plumbing, Inc.
1770849	Delta Air Lines, Inc.
1810164	Eco-Shell, LP
1743156	Empower Solar, Inc.
1759726	Fowler Packing Company, Inc.
1819856	J & A Brothers Inc.
1758533	Janoel Enterprises, Inc.
1803581	JJ Star Complete Auto Repair LLC
1799645	Martin Brothers Supply
1792009	Maui Fresh International, LLC
1786360	Mendocino Forest Products
1803882	Mercury Plastics
1811867	MJ Visalia Grape Farms LLC
1455388	Nikolas Weinstein Studios, Inc.
1843224	Pacific Bell Telephone Company
1749851	Pacific Gas & Electric Company
1750998	Pacific Gas & Electric Company
1601782	Pacific West Builders, Inc.
1804718	Peach Roofing Solutions Inc.
1766432	PWC California Builders, Inc.
1819210	Quality Smog & Auto Repair
1811247	Rapid Human Resources LLC.
1782215	Saarman Construction LTD.
1799317	Science Applications International Corporation
1812660	Sierra Pacific Home & Comfort, Inc.
1772776	Socal Packaging Repair Inc.
1778271	Staffing Network
1626624	Taylor Farms California, Inc.
1583365	TDDGUS, Inc.
1768555	Transdev
1775553	Valley Prune LLC
1713437	VCA Animal Hospitals, Inc.
1825438	Ward's Concrete Inc.
1842524	Ward's Concrete Inc.

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

Personnel:

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(Issues regarding staff)

The Closed Session adjourned at 11:02 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 11:03 a.m.