

State of California
California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting & Closed Session
Held on December 3, 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
Aaron Jackson, Chief Counsel
Karen Halbo, Staff Counsel
Maria Rios, Legal Analyst
Beth Reiken, Executive Secretary
Ina Fitzgibbon, Office of Director, DIR
Ramesses Surban, Staff Counsel, DOSH
David Wiseman, Staff Counsel, Cal Fire
Kevin D. Bland Ogletree Deakins
Adam Crane, Ogletree Deakins
Michelle Henson, Ogletree Deakins
Mihaela Cintean, Cal Fire
Karin Umpfrey, Worksafe
Lisa Prince, The Prince Firm
Mona F.

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 November 19, 2025, Meeting:

(Approve or amend minutes of previous Board meeting.)

Action:	The Board voted to approve the minutes for the November 19, 2025, meeting. This was moved by Marvin Kropke. It was seconded by Judith Freyman. The vote was 3-0.
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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: No report.

Chairperson's Report:

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

Action: Ed Lowry shared a reminder about the Stakeholder's Roundtable Discussion on Wednesday, January 7, 2026. OSHAB's next board meeting will be on Thursday, December 18, 2025.

Board Members' Reports:

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

Action: Marvin Kropke shared an article from the New York Times regarding restoring funds to the National Institute of Occupational Safety and Health (NIOSH).

Executive Officer's Report:

(Report regarding administrative matters.)

Action: Scott Pease reported he is finalizing the agenda items for the Stakeholder's Roundtable Discussion, and they will be shared by 12/18/2025. He has a meeting today with the AV vendor to discuss the audio set up for the Stakeholder's Roundtable. The interviews for the Senior Legal Typist (SLT) and the Attorney III positions will take place in December. The Attorney III (LT) position is being finalized by HR. The Attorney I position will be opening soon as a back fill.

Staff Reports:

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

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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: Karen Halbo received revisions from DIR Legal on the texts for both the Appeal Initiation Regulations and the Prehearing and Hearing Regulation packages. Karen is revising the text and will present the changes to the Board.

2. Ligation Update

Action: Aaron Jackson provided the following updates: The Board received a writ in the Metropolitan News Company matter (1689021) and will file a responsive pleading in the next 2-3 weeks. In the Uber matter (1594663), the Court of Appeal ruled, and the case is active again. The Board will file a responsive pleading in the next few weeks. The Board has upcoming hearings in both the GEO group (1609228) and the Baldi/Arana (1568252) matters in January and February respectively. Both hearings relate to the Board demurrers. In the General Dynamics NASSCO appeal (1300984), the Board is currently waiting for the court to set the matter for oral argument. The Waterproofing and Roofing matter (1690855) is before the appellate court, but is still in the early stages.

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 upcoming Board Meeting will conflict with the Standards Board Meeting so some of our usual attendees may not make our meeting on Thursday, December 18th.

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.)

1722052

KSJV3 Inc.

Action: The Board discussed this matter.

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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.)

- 1296297 Alliance Diversified Enterprises, Inc.
Action: The Board voted to issue an order taking the Petition of Reconsideration under submission.
It was moved by Marvin Kropke.
It was seconded by Judith Freyman.
The vote was 3-0.
- 1529748 Los Angeles Department of Water & Power
Action: The Board voted to issue an order taking the Petition of Reconsideration under submission.
It was moved by Judith Freyman.
It was seconded by Marvin Kropke.
The vote was 3-0
- 1573582 CA Department of Corrections & Rehabilitations
Action: The Board voted to grant the Petition for Reconsideration
It was moved by Marvin Kropke.
It was seconded by Judith Freyman.
The vote was 3-0.

Orders Dismissing Appeal:

- 1613409 Calego International, Inc.
Action: The Board discussed this matter.
- 1677654 Emunahahavah Corporation.
Action: The Board discussed this matter.
- 1777071 The Vortex Companies
Action: The Board discussed this matter.

Orders Denying Leave to File Late Appeal:

- 1824733 Orchard Machinery Corporation
The Board voted to issue an order of remand.
It was moved by Marvin Kropke.
It was seconded by Judith Freyman.
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.

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| 1360156 | CA Forest and Fire Protection
<i>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.</i> |
| 1545777 | Entact, LLC
<i>Did the Decision of the Administrative Law Judge properly affirm violations for failure to ensure that employees operated industrial trucks in a safe manner by maintaining a safe distance from other vehicles, and for failure to ensure that employees traveled with the load trailing when the load being carried obstructed forward view.</i> |
| 1488312 | Indiana Finish Line, Inc.
<i>Whether the cited employer established procedures adequate to protect employees from COVID-19.</i> |
| 1371294 | KPRS Construction Services, Inc.
<i>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.</i> |
| 1692964 | L & S Framing, Inc.
<i>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].</i> |

Action: The Board voted to issue a Decision After Reconsideration as amended.

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It was moved by Marvin Kropke.
It was seconded by Judith Freyman.
The vote was 3-0

- 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.
- 1458699 Primula Mozzarella LLC.
Whether the Employer's petition for reconsideration was timely.
- 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.
- 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:

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(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)
8. Drill Tech Drilling & Shoring, Inc. N25-1793 (1420923)
9. Metropolitan News Company, 25STCP04455 (1689021)

Action: The Board discussed this matter.

Appellate Court:

1. General Dynamics NASSCO (1300984)
2. Waterproofing and Roofing Solutions, Inc. 24STCP03693 (1690885)

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.)

1745029	Air Control Systems, Inc.
1789495	Air Products and Chemicals, Inc.
1745737	Anderson Charnesky Structural Steel
1799153	Apelinc Landscape Services, Inc.

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1799303	Arlon Graphics, LLC
1782225	Armnar Marble, Inc.
1759311	Barreto's Painting
1780553	Beaumont Juice, Inc.
1831710	Bend-Tek, Inc
1826560	Brand Energy Services of California, Inc.
1854683	Breezio AC & Heating Inc
1838564	Broward Builders Inc
1828437	Bunch of Bull, Inc.
1825951	Business Park Construction Corp.
1819873	Byltup Inc
1610051	Caliber Collision Centers, Inc.
1545283	California Box II
1810018	California Timberline
1564732	Calvary Chapel of San Jose
1777993	Case Pacific Company
1748790	Central Valley AG Management, LLC.
1694000	Coca Cola North America
1680682	Code Precast Products, Inc.
1765060	Condon- Johnson & Associates
1638742	Contra Costa Electric, Inc.
1530188	Corecivic, Inc.
1518273	Damco Distribution Services, Inc.
1783505	DC Integrate, Inc.
1843785	DI Stefano Cheese Co
1774109	Diverscape Inc
1818763	Don C. George, Inc.
1774087	Ellen's Silkscreening Inc.
1724579	FedEx Freight Inc.
1815956	Felix's Landscaping & Tree Service, LLC.
1813602	Gillibrand Industrial Sands, LLC
1784419	Gold Ridge Organic Farms, LLC
1688368	Inland Counter Tops Inc.
1845966	Innovative Roofing, Inc.
1773800	J. Rodriguez Farm Labor Contractor Inc.
1824244	Jada Windows
1778014	JR Demolition Inc
1737711	Klassen Corporation
1680238	Living Spaces Furniture, LLC
1753604	Lunday- Thagard Company
1748424	Maxim Crane Works, L.P.
1802665	Mc Kay Roofing & Home Services LLC
1809418	Mercury Plastics, Inc.
1652441	Milender White Residential Socal Corp
1823658	Milicic Farming LLC
1815980	MISTRAS Group, Inc.

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1827742	Modesto City Schools
1743527	Northern Sonoma County Fire Protection District
1827552	O'Neill Logistics CA LLC
1486550	Overhill Farms, Inc.
1816698	Penhall Company
1794849	Penske Toyota
1797943	Perfect 85 Degrees C, Inc.
1412221	Plumb Rite Plumbing LLC
1646822	Poway RHF Housing Inc
1772787	Quality Environmental Inc
1822804	Quevedo & Sons Contracting
1802730	Raandom Corp.
1810163	Radja Brothers Trucking, LLC.
1365423	Resource Environmental Inc.
1748229	Rossi Painting & Construction Inc.
1775412	Roy L. Cox, Inc.
1821465	S & S Tool & Supply, Inc.
1684058	Safeway San Leandro Milk Plant
1704391	San Bernardino City Unified School District
1547511	San Bernardino County of Public Health
1829747	San Juan Unified School District
1621619	Seaworld Parks and Entertainment, Inc.
1784677	Staffing Network Holdings, LLC
1747696	Standridge Granite Corporation
1108897	Steel City Scaffolding
1767671	Sutter Medical Center Sacramento
1564042	Sutter Tracy Community Hospital
1718846	Swinger Pruning Services, LLC
1784991	Tahiti Cabinets, Inc,
1771640	Target Corporation
1820576	Taylor Made Homes Inc
1609730	Tesla, Inc.
1560342	The Martin-Brower Company, LLC
1804203	Three Way Logistics Inc.
1739229	Titan Construction Inc.
1788682	Title Vision
1827827	Top-Shelf Fixtures, LLC
1778412	Unibright Foods Inc
1661907	United Parcel Service, Inc.
1813164	United Pavement Maintenance, Inc.
1822379	Willis Construction Company, Inc.
1820059	Wing Inflatables, Inc

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

Personnel:

(Issues regarding staff)

The Closed Session adjourned at 10:33 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 10:34 a.m.