

State of California
California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting & Closed Session
Held on April 8, 2026
Sacramento, California
Zoom Platform

Present:

Ed Lowry, Public Member, Chairperson
Judith Freyman, Management Member
Marvin Kropke, Labor Member
Scott Pease, Executive Officer
Kerry Lewis, Presiding Administrative Law Judge
Sam E. Lucas, Presiding Administrative Law Judge
Jennie Culjat, Administrative Law Judge
Aaron Jackson, Chief Counsel
Jeffrey Mojcher, Chief Counsel Emeritus
Karen Halbo, Staff Counsel
Brian Nichols, Staff Counsel
Maria Rios, Legal Analyst
Beth Reiken, Executive Secretary
Kathryn Woods, Staff Counsel, DOSH
Michelle Henson, Ogletree Deakins
Mona Francois, Staffing Company
David Cremins, California Rural Legal Assistant, Inc.

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 March 25, 2026, Meeting:

(Approve or amend minutes of previous Board meeting.)

Action: The Board voted to approve the minutes for the March 25, 2026, meeting.
 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.)

1. Discussion of comments received at the Stakeholder's Roundtable.

Action: Scott Pease shared that the revised transcripts from the Stakeholders' Roundtable have been distributed. Any changes or errors can be sent to OSHAB. The Board is also reviewing the transcripts for discussion.

Legislation:

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

Action: At the Board members request, Karen Halbo will look into AB 2321 proposed to BOI & DA changes and will report back.

Chairperson's Report:

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

Action: Ed Lowry and Scott Pease met with the Chief Deputy of DIR regarding OSHAB's current hiring and vacant positions.

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 there is a top candidate selected for the Attorney I position and he is awaiting approval from HR. Interviews for the Supervisor I position will take place in April. The Analyst I position is open until April 15th. The Administrative Law Judge (ALJ) position is open until April 24th. The Wednesday, May 6th, Board meeting will be moved to Thursday, May 7th.

Staff Reports:

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

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
April 8, 2026

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 provided an update to the Board on the Appeal Initiation Regulation and the Prehearing and Hearing Regulation packages, which are under review by Agency.

2. Ligation Update

Action: Aaron Jackson provided the following updates:
In Metropolitan News Company (1689021), there will be a hearing on the Board's Demurrer and employer's Motion for Sanctions on 4/9/2026. The hearing on the Board's Demurrer in Uber (1594663) is on 4/20/2026. In Drill Tech Drilling & Shoring, Inc. (1420923), there is a hearing on 5/29/2026. In Baldi/Arana (1568252), the Board is working on their response to the employer's 4th amended petition. The Board was made aware that a new Federal lawsuit has been filed naming Ed Lowry and Scott Pease in their professional capacities as defendants. The Board has still not been served with the complaint.

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: Kathryn Woods mentioned that the appellate court recently upheld the Superior Court judgment and ultimately, the Board's DAR in the General Dynamics NASSCO (1300984) case.

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.)

1547223 Perry C. Thomas Construction, Inc.
Action: The Board discussed this matter.

Petitions for Reconsideration:

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
April 8, 2026

(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.)

- 1644980 Herman Weissker Power, Inc.
Action: The Board voted to issue an Order taking Petition for Reconsideration under submission.
It was moved by Ed Lowry.
It was seconded by Marvin Kropke.
The vote was 3-0.
- 1819474 Hormel Foods Operations, LLC
Action: The Board discussed this matter.
- 1642084 Los Angeles County Probation Department
Action: The Board voted to issue an Order taking Petition for Reconsideration under submission.
It was moved by Marvin Kropke.
It was seconded by Judith Freyman.
The vote was 3-0.
- 1666933 M.C.M. Construction, Inc.
The Board discussed this matter.

Orders Dismissing Appeal:

- 1827487 Employer Partners, LLC
Action: The Board discussed this matter.
- 1803767 Kevin Lockhart
Action: The Board discussed this matter.
- 1756730 Webcor Craft LP
Action: The Board discussed this matter.

Orders Denying Leave to File Late Appeal:

There are no Orders Denying Leave to File Late Appeal.

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

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
April 8, 2026

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.

- 1296297 Alliance Diversified Enterprises, Inc.
Whether Employer committed the violations alleged in the citations, including alleged violations of section 1509, subdivision (b) [failure to adopt code of safe practices]; section 1511, subdivision (b) [failure to survey the worksite]; and (3) section 1541.1 [failure to provide adequate protective system in excavation], and whether the Division established the repeat classification for one of the citations.
- 1824578 Allied Express Logistics, Inc.
- 1040471 Blue Diamond Growers
Whether or not the Unforeseeable Extreme Departure Defense applies to vacate the citations.
- 1573582 CA Department of Corrections & Rehab
Whether several of the ALJ's findings of fact are supported by the record, and whether those findings support the decision.
- 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.
- 1446266 Creative Packaging
Whether the employer violated hazard energy control regulations as alleged.
- 1545777 Entact, LLC
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.
- 1488312 Indiana Finish Line, Inc.
Whether the cited employer established procedures adequate to protect employees from COVID-19.
- 1518442 JT2, Inc.
How should the term "issue" or "issued" as used in Labor Code section 6317, subdivision (e)(1) be interpreted. How should the notice requirements of Labor Code 6319 be interpreted.

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
April 8, 2026

- 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.
- 1469097 Lowe's Home Centers, LLC
Whether there was exposure to foot injuries from falling objects, crushing, or penetrating actions. If so, whether the employer required appropriate foot protection.
- 1529748 Los Angeles Department of Water & Power
Did the Division cite the correct regulation section when it cited Employer for violating 8 CCR 2940.14, and was it established that under the stipulated facts that Employer violated that section.
- 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.
- Action: The Board discussed this matter.
- 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).

1660543 West Coast Drywall & Paint

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)
8. Drill Tech Drilling & Shoring, Inc. N25-1793 (1420923)
9. Metropolitan News Company, 25STCP04455 (1689021)
10. Los Angeles Police Department 25STCP05034 (1599318)
11. L & S Framing, Inc. (1692964)

Appellate Court:

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

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
April 8, 2026

Other Items:

1. Yuba City Sheriff's Office (1820991)
2. Tad Van Nguyen (1628750)
Action: The Board voted to issue the Errata.
This was moved by Marvin Kropke.
This was seconded by Judith Freyman.
The vote was 3-0.

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.)

1793378	A&A Ready Mixed Concrete, Inc.
1832158	America's Labor Supply, Inc.
1865541	Ave Maria Construction, LLC.
1846118	Beacon Sales Acquisition, Inc.
1837090	BGM Installation Inc.
1848250	Brush Research MFG
1591535	Building Zone Industries, LLC
1800081	BVAW Family Home LLC
1724164	California Industrial Rubber Co, Inc.
1841383	Capitol City Stucco Inc.
1824245	Cemco, LLC
1640222	Costco Wholesale Corp #781
1667181	Crescent Canal Company
1855138	CSS Employment Group, Inc.
1796405	Cupertino Electric, Inc
1617563	Davey Tree Surgery Company
1856549	Davis Wire Corporation
1719125	Deyoung Power Systems Inc
1808703	Embzone Group Inc
1843037	Family Memorial Mortuary & Crematory
1848671	Farmers International, Inc.
1803275	Foster Poultry Farms, LLC
1742631	Full Steam Staffing LLC
1861764	Geo's Painting Inc.
1325065	Golden Springs Development, LLC
1834991	GPA Logistics Group, Inc.
1841601	Guadalupe Cooling Company Inc
1799344	Helfrich Truck and Trailer
1862063	Highway Specialty Company Inc.
1809561	Humane Society of Ventura County

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
April 8, 2026

1782113	Hydrogen Distribution Services, LLC
1789471	Jeld-Wen Inc
1847528	Jerry's Garage
1788434	Jifco, Inc
1811874	Joyous Management Inc
1866171	JV The New Carpentry
1844195	Land X Construction, Inc.
1854471	Lena Construction, Inc.
1779681	Live Nation Entertainment Inc
1784538	Live Nation Entertainment Inc
1656621	MCI Sales and Service, Inc.
1854706	Memo's Scaffolding Norwalk, Inc.
1838308	Minar Hospitality Inc
1749741	Mission Foods
1758647	Modern Building, Inc.
1839785	Najmna
1858179	Namaskar, Inc.
1812788	Nongshim America, Inc.
1872470	OHM Solar Solutions
1829637	Pacific Galvanizing
1857325	Pecoraro, Inc.
1857935	Placer Propane Inc
1745437	R & M Builders General Contractors, Inc.
1856925	Ready Pac Foods Inc.
1854311	Red Sky Inc
1822666	Reliable Wholesale Lumber, Inc.
1762068	Roussos Construction, Inc.
1832319	Rymac General Contracting, Inc.
1835179	S & H Construction Builders Corporation
1840573	See's Candy Shops, Incorporated
1826328	Shine Dumplings, Inc. AKA Sweetly Novelty, Inc.
1831367	Sierra National Construction Inc.
1839836	The Fix Inc
1829391	The Fruit Guys, LLC
1857107	The G.B. Group, Inc.
1730092	The Procter & Gamble Manufacturing Company
1811150	Tom of the Line Demolition Contractors Inc
1844507	U.S. Borax Inc.
1826586	United Staffing Associates, LLC
1661124	Vanderlande Industries, Inc
1849196	Vanmel, Inc.
1785681	Vinfillment LLC
1741559	Wallace and Smith Contractors
1716350	Weber General Engineering Inc
1783189	Williams Sonoma, Inc.
1497587	Willoughby Brothers, LLC

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
April 8, 2026

1795680 Zen Construction Inc

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

Personnel:

(Issues regarding staff)

The Closed Session adjourned at 10:51 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 10:52 a.m.