

State of California
California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting & Closed Session
Held on September 16, 2026
Sacramento, California
Zoom Platform

Present:

Ed Lowry, Public Member, Chair
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
Kathryn Woods, Administrative Law Judge
Aaron Jackson, Chief Counsel
Jeffrey Mojcher, Chief Counsel Emeritus
Karen Halbo, Staff Counsel
Brian Nichols, Staff Counsel
Camille Dixon, Staff Counsel
Amy N. Lara, Operations Manager
Maria Rios, Legal Analyst
Beth Reiken, Executive Secretary
Ina Fitzgibbon, Office of Director, DIR
Edgar Gonzalez, District Manager, DOSH
Melissa Viramontes, Staff Counsel, DOSH
David Wiseman, Staff Counsel, Cal Fire
Kevin D. Bland, Ogletree Deakins
Jordan Uter, Worksafe
Matt Smylie, Ford Construction Company, 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

Member Marvin Kropke made a motion requesting to attend the October 7th and October 21st Board meetings remotely pursuant to Government Code section 11123.2, subdivision (j)(2)(A).
This motion was seconded by Judith Freyman.
The Board voted to approve the remote attendance request 3-0.

Minutes of September 2, 2026, Meeting:

(Approve or amend minutes of previous Board meeting.)

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Action: The Board voted to approve the minutes of the September 2, 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.)

1. Discussion of precedential index.
 - a) RJS Electric, Cal/OSHA App. 1760736, Decision After Reconsideration (April 23, 2025)
 - b) Calvary Chapel I, Cal/OSHA App. 1564732, Decision After Reconsideration (Nov. 2, 2023)
 - c) Calvary Chapel II, Cal/OSHA App. 1564732, Decision After Reconsideration (July 24, 2024)
 - d) L& S Framing, Inc., Cal/OSHA App. 1173183, Decision After Reconsideration (April 2, 2021)
 - e) Interline Brands, Inc., Cal/OSHA App. 1436480, Decision After Reconsideration (June 19, 2025)
 - f) Blue Diamond Growers, Cal/OSHA App. 1040471, Decision After Reconsideration (April 24, 2026)
 - g) Target Corporation, Cal/OSHA App. 1251879, Decision After Reconsideration (July 22, 2021)
 - h) Adept Process Service, Cal/OSHA App. 1570353, Decision After Reconsideration (April 24, 2023)
 - i) Geo Group, Cal/OSHA App. 1609228, Decision After Reconsideration (June 10, 2025)—in part: limited to the burden on motion for party status.

Action: The Board voted to add the above-listed cases to the precedential index.

It was moved by Marvin Kropke.

It was seconded by Judith Freyman.

The vote was 3-0.

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: No report.

Legislation:

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

Action: Karen Halbo provided updates on the following legislation: SB-1046 and AB-2321. There was no other movement on any other bills that are of interest to the Board.

Chairperson's Report:

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

Action: Ed Lowry recognized Chief Counsel Emeritus, Jeff Mojcher, who is retiring after almost 21 years of service for the Board. Since the last meeting, Ed and the Executive Officer, Scott Pease, met with the new DIR Chief Deputy Director, Grecia Staton. His meeting with Fed OSHA has been rescheduled.

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 also thanked Chief Counsel Emeritus, Jeff Mojcher, for his years of service and provided the following HR update for the Board: interviews for the Analyst I position will be completed this week, followed by interviews for the Analyst II position. He plans to have his top candidates selected and sent to HR for approval in a few weeks.

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: Karen Halbo shared that the legal team is currently drafting regulatory text and circulating amongst the legal team. The Pre-hearing and Hearing rulemaking public comment period has been extended and will close on October 26, 2026. The

public hearing on the rulemaking has been rescheduled to the November 4, 2026, Board meeting.

2. Ligation Update

Action: Aaron Jackson shared his appreciation for Chief Counsel Emeritus Jeff Mojcher before Jeff's retirement. Aaron provided the following litigation update: In the Drill Tech Drilling & Shoring, Inc. matter (1420923), the legal unit has submitted a proposed judgement to the court for approval. In the Fontenoy Engineering, Inc. matter (1847651), the writ petition has been dismissed. The Board received a new writ of mandate in the matter of Tesla, Inc. (1454931). There is going to be a hearing on the L & S Framing, Inc. (1692964) writ petition on October 9, 2026.

3. Presiding Judge report

Action: Presiding Judges Sam E. Lucas & Kerry Lewis will be hosting another presentation to educate the public on the appeals process "What to expect when appearing before an ALJ?" on October 7th at 2 p.m. Ligation Update

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 the public on topics including the following: positive feedback on the PALJ's ongoing stakeholder classes, the usage of the online precedential index by stakeholders, and the passing of former OSHA Board member, Kate Crawford. Attendees also congratulated Chief Counsel Emeritus Jeff Mojcher on his retirement.

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 may, in their discretion, decide to reconsider the ALJ Decision on their own motion.)

1633708 Mountain F. Enterprises, Inc.

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Action: The Board discussed this matter.

1722031 Sconza Candy Company
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.)

1842156 3Sixty Innovation Inc
Action: The Board voted to issue a Denial of Petition for Reconsideration.
It was moved by Marvin Kropke.
It was seconded by Judith Freyman.
The vote was 3-0.

1860139 Cardinal Glass Industries Inc.
Action: The Board voted to issue an Order of Remand.
It was moved by Judith Freyman.
It was seconded by Marvin Kropke.
The vote was 3-0.

1854500 Lyon Magnus, LLC
Action: The Board discussed this matter.

1866346 Mesa Foods, Inc. dba Tropicana Supermarket
Action: The Board voted to issue a Denial of Petition for Reconsideration.
It was moved by Marvin Kropke.
It was seconded by Judith Freyman.
The vote was 3-0.

1531603 San Francisco Bay Area Rapid Transit District
Action: The Board voted to issue a Denial of Petition for Reconsideration.
It was moved by Judith Freyman.
It was seconded by Marvin Kropke.
The vote was 3-0.

Orders Dismissing Appeal:

1731351 Commercial Coating Company, Inc.
Action: The Board discussed this matter.

1669798 Frontier Management, LLC

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Action: The Board discussed this matter.

1791212 Medical Caregivers Company
Action: The Board discussed this matter.

1850799 South Coast Global Medical Center
Action: The Board discussed this matter.

1832872 Stone Crest Inc.
Action: The Board discussed this matter.

1847101 Sun Country Builders Inc.
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 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.

1625267 Boulay Construction

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 Forestry and Fire Protection

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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?

- 1731627 City of Los Angeles Department of General Services
- 1701872 Costco Wholesale
Action: The Board voted to issue an Order Dismissing Interlocutory Petition for Reconsideration.
It was moved by Marvin Kropke.
It was seconded by Judith Freyman.
The vote was 3-0.
- 1446266 Creative Packaging
Whether the employer violated hazard energy control regulations as alleged.
- 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?
- 1314977 Empire Equipment Service, Inc.
- 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?
- 1644980 Herman Weissker Power, Inc.
Was the ALJ correct in granting employer's appeal of an alleged violation of electrical safety order section 2943, subdivision (e)?
- 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?

Action: The Board voted to Issue an Order for Oral Argument.
It was moved by Marvin Kropke.
It was seconded by Judith Freyman
The vote was 3-0.
- 1371294 KPRS Construction Services, Inc.

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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.

- 1692164 L & S Framing, Inc.
- 1642084 Los Angeles County Probation Department
- 1652861 Los Angeles County Probation Department
Did the evidence support the finding that it was appropriate for Employer not to report an incident causing a serious injury where a guard received facial cuts that left him with visible scarring? Did the evidence support the finding that Employer implemented its established IIPP procedures?
- 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?
- 1401587 Los Angeles Department of Water and Power
- 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.
- 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 (15)(B) [safe use of ladders], and whether Employer established its affirmative defense.
- 1460783 Otis Elevator (ER)
- 1460783 Otis Elevator (ER)
- 1547223 Perry C. Thomas Construction, Inc.
Did employer commit a serious violation of section 1541, subdivision (j)(2) [trenching], as alleged?
- 1458699 Primula Mozzarella LLC.
Whether the Employer's petition for reconsideration was timely.
- 1475491 Sutter Bay Hospitals dba Mills-Peninsula Medical Center

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Was the ALJ correct in granting Employer's appeals of the citations alleging violations of section 342, subdivision (a) and section 5199, subdivision (i)

1552002	Tesla, Inc.
1626309	Universal Dust Collector MFG. & Supply Corp.
1660543	West Coast Drywall & Paint
1563307	XL Concrete Masonry, LLC

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. Below is a list of active court cases filed against the Board in the Superior Court and Court of Appeal. Pursuant to Government Code section 11126, subdivision (e), the Appeals Board may confer with its Legal Unit for the purposes of receiving legal advice regarding the pending litigation and confer on litigation strategy.)

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. Employbridge Holding Company, 25CHCP00143 (1499137)
5. Sun Belt Rentals, 25CU041526C (1465119)
6. Drill Tech Drilling & Shoring, Inc. N25-1793 (1420923)
7. L & S Framing, Inc. S-CV-0057345 (1692964)
8. L & S Framing, Inc. 26CV011326 (1720076)
9. M.C.M Construction, Inc. 26WM000146 (166693)
10. Fontenoy Engineering, Inc. (1847651)
11. Republic Electric Court West, Inc. (1355061)

Appellate Court:

1. Metropolitan News Company, 25STCP04455 (1689021)

Other Items:

There are no Other Items.

Orders Of Administrative Law Judges:

(Written orders 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 may, in their discretion, decide if they will reconsider or remand the issued order.)

1676740	2H Farms, LLC
1834961	AA Quality Construction Inc.
1846448	ABC Signature, LLC
1879085	AFC Trading & Wholesale Inc.
1615168	Air Products & Chemicals, Inc.
1790971	Alvarado Restaurant Group, LLC
1878739	Anderson Construction
1775052	Atlas Vineyard Management LLC
1825787	Beacon Building Products
1881952	Beador Construction Company, Inc.
1837034	Bell- Carter Packaging, LLC
1795192	Best Care Fumigations Norcal, Inc
1738517	BFS Group of California, LLC
1843315	Booth & Little Roofing
1858757	Brett Johnson Roofing Company
1623380	Brinderson Constructors, Inc.
1855810	Builders First Source
1851290	C&J Well Services, LLC
1870246	Casa Mayoral Restaurant Inc.
1696640	Cintas Corporation
1854121	City of Moreno Valley
1733369	Commercial Scaffolding of California, Inc
1685672	Concorde Battery Corporation
1807392	CRST Expedited, Inc.
1831180	Cutting Edge Forestry, Inc
1874603	Detherage Roofing Inc
1861258	Dragon Material Transport Inc
1851795	El Chivito Birrieria
1896220	Eli Industries, Inc.
1810570	Excelsior Dairy Service, Inc.
1645482	Fitness Superstore Inc.
1879160	Fresh Innovations California, LLC

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1867599	Garcia's Landscaping Maintenance, Inc.
1783365	Gauthier Construction, Inc.
1869409	Geovan Auto Body
1820568	GF Industries, LLC
1730832	Global Steel Fabricators, Inc.
1393468	Gluck Development Company, Inc.
1821081	Greenforce Windowpro
1810798	Gussie Steel Inc.
1858715	Harbert Roofing Inc.
1869733	Harvest Technical Services, Inc.
1866967	Hicken Air, LLC
1885871	Hilarides Dairy
1817164	Hilbers, Inc.
1761896	Howard Contracting Inc.
1844154	Ikea Planning Studio
1863404	J&D Construction Inc.
1872480	Janet P. Gross Inc.
1823282	Jetro Holdings, LLC
1859250	Joya Construction
1815974	Kwok Tung Kong
1892414	Lexmar Distribution Inc. (Sister Company LDI)
1716971	Los Angeles Police Department
1638532	Lowe's Home Centers, LLC
1841331	Martin Bros/Marcowall, Inc
1787799	Mercer Foods, LLC
1857855	Metlsaw Systems Inc
1890728	MMC Electic, Inc.
1637207	MMI Services, Inc.
1869395	Moises Auto Body & Paint Inc.
1793024	MS Industrial Sheet Metal Inc
1863801	National Petroleum Construction and Maintenance Inc.
1655198	Pacific West Engineering
1859485	Paris Valley Vineyard Services Company
1857960	Performing Roofing Inc.
1898539	PKD Enterprises Inc
1869464	Premier Plumbing Company
1865154	R&S Erection, Tri-County, Inc.
1892882	Reed Painting Inc.
1874218	Rolling Hills Country Club
1836047	Sacramento Valley Walnut Growers, LLC
1783876	San Ramon Valley Unified School District
1847856	Sanchez Auto Repair & Towing, Inc.
1826047	Schell & Kampeter, Inc.
1871308	Simi Valley Hospital and Health Care Services
1863692	Sowa Development, Inc.
1858167	Stanford Blood Center, LLC

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1804488	Sugar Foods Corporation
1693622	Sun Pacific Farms
1863230	Swift Recovery Group
1852327	Sysco Los Angeles- Food Distributor & Restaurant
1874937	T and P Farms
1715570	Tesla, Inc
1708793	TForce Freight, Inc.
1641429	Toro Enterprises Inc.
1808646	Torrance Refining Company LLC
1767353	Vasona Management, Inc.

Action: The Board has reviewed the Settlement Orders issued by the ALJs.

Personnel:

(Issues regarding staff)

The Closed Session adjourned at 10:50 a.m. and the Board returned to the Public Meeting. The Appeals Board incorporated, by reference, its actions taken in the Closed Session as indicated above. The Board meeting was adjourned at 10:51 a.m.