

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Wednesday, June 25, 2014
9:30 a.m.
Sacramento, California
&
West Covina, California

TO: Members of the California Occupational Safety and Health Appeals Board

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: June 13, 2014

RE: Closed Session of the Board to be held on June 25, 2014

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), (e) and (f) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session. 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.

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.)

DECISIONS OF ADMINISTRATIVE LAW JUDGES:

1. B & B ROOF PREPARATION, INC. 12-R3D6-2946
2. DAMON, INC., 13-R6D5-1975 AND 1976
3. READY ROAST NUT COMPANY, LLC, 13-R2D5-0452

PETITIONS FOR RECONSIDERATION:

1. MK AUTO, INC., 2012-R2D1-2893 AND 2894

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

1. ALS FASHION, INC., 14-R6D5-9046

ORDERS DISMISSING APPEAL:

ORDERS GRANTING LEAVE TO FILE LATE APPEAL:

ORDERS DENYING LEAVE TO FILE LATE APPEAL:

1. BH BUILDERS DBA PK INTERNATIONAL, INC., 14-R1D1-9073
2. JAIME ELVIRA DBA JIMENEZ AUTO BODY, 14-R6D7-9072
3. SANMINA CORPORATION, 14-R1D2-9071

AMENDED ORDER:

1. ANDRES CHAVEZ AND JORGE LOPEZ DBA OAKLAND LINEN SERVICE,
14-R1D4-0740 THROUGH 0744

MATTERS HELD OVER FROM PREVIOUS MEETINGS:

(If the Board is unable to conclude its deliberations and/or if any matter(s) is (are) put over from a previous meeting, they will be further discussed.)

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.)

1. JAMES BALDWIN DBA LYON'S MUFFLER & BRAKE, 14-R6D5-9019
2. BELLINGHAM MARINE INDUSTRIES, 12-R2D2-3144 THROUGH 3146
3. BRAD STONER PAINTING, INC., 13-R3D2-9200
4. BURBANK RECYCLING, INC., 10-R4D3-0562 AND 0563
5. CABRILLO ECONOMIC DEVELOPMENT CORP., 11-R4D3-3185 & 3186

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6. CLARK PACIFIC PRECAST, LLC, ET AL, 09-R2D1-0282
7. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387
8. DISH NETWORK CAL. SVC. CORP., 12-R4D3-0455
9. FERMA CORPORATION, 12-R2D2-1669
10. GMAC ELECTRIC, INC., 13-R6D5-9138
11. HARRIS CONSTRUCTION, 03-R2D5-3914
12. HHS CONSTRUCTION, 12-R3D2-0492-0497
13. IN THE POCKET, INC. DBA BRENTWOOD BOWL, 11-R1D3-2272
14. KELLY GLOBAL LOGISTICS, INC., 12-R3D5-0014
15. K H S & S OF CONCORD, INC., 11-R2D2-0374 and 0375
16. LABOR READY, 13-R3D2-0164
17. LA VALENCIA HOTEL, 13-R3D2-9199
18. LYON'S MUFFER & BRAKE, 14-R6D5-9019
19. M1 CONSTRUCTION, INC., 12-R4D1-0222 AND 0223
20. MARIA DE LOS ANGELES COLUNGA DBA MERCED FARM LABOR,
08-R2D1-3093 THROUGH 3098
21. MARCO RUFO DBA MARCO RUFO, 13-R6D5-9217
22. McCARTHY BUILDING CO., INC., 11-R4D2-1706 AND 2406
23. MCCARTHY BUILDING CO., INC., 12-R1D4-3458
24. MORE GUSTO CATERING DBA EL CHOLO CATERING, 10-R4D1-1298
25. MORROW MEADOWS CORP., 09-R3D3-2295
26. NATIONAL STEEL AND SHIPBUILDING COMPANY, 10-R6D2-3791
27. NEWSTAR FRESH FOODS, LLC., 12-R6D3-3183 THROUGH 3186

28. O.C. JONES AND SONS, INC. 13-R2D2-0310
29. ONESTOP INTERNET, INC., 11-R4D2-2636 AND 2637
30. JIM PARKER, 2014-R4D1-9009
31. PERSONNEL PLUS, INC., 11-R3D5-1302
32. ROEBBELEN CONTRACTING, INC., 12-R2D2-3248
33. ROLLED STEEL PRODUCTS CORP., 10-R6D2-4047 AND 4048
34. ROSENDIN ELECTRIC, INC., 12-R2D1-3028 (Board Order of Recon)
35. ROSENDIN ELECTRIC, INC., 12-R2D1-3028 (Employer)
36. SIERRA FOREST PRODUCTS, 09-R2D5-3979
37. SONIC DRIVE-IN, 12-R2D5-2734
38. STAFFCHEX, 10-R4D3-2456 THROUGH 2458
39. STARBUCKS DBA STARBUCK'S COFFEE #5867, 12-R3D2-3675
THROUGH 3678
40. TRADEMARK CONSTRUCTION CO., INC., 12-R4D1-0096 AND 0097
41. TREASURE ISLAND MEDIA, INC., 10-R6D1-1093 THROUGH 1095
42. VICTORY SCREEN PRINTING 12-R3D1-3673 & 3674

LEGISLATION:

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. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)

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2. SMUD, 34-2010-80000723 (08-R2D1-4887)
3. BAY AREA RAPID TRANSIT DISTRICT, 34-2011-8000820 (03-R1D1-5170)
4. MASCON, INC., 34-2011-80000819 (08-R2D1-4278 AND 4279)
5. CLARK PACIFIC DBA PACIFIC EMBEDDED PRODUCTS, 34-2011-80000965 (10-0188~0191)
6. CA PRISON INDUSTRY AUTHORITY, CIV 1105778 (09-R1D5-2459 THROUGH 2461)
7. FLATIRON CONSTRUCTION CORP, 34-2012-80001029 (10-R4D1-2789)
8. JENSEN PRECAST, 34-2012-80001120 (05-R2D1-2377)
9. THE HERRICK CORPORATION, 34-2012-80001118 (07-0495)
10. UNDERGROUND CONSTRUCTION, 34-2012-80001124 (09-3518)
11. DUININCK BROS., INC., 34-2012-80001129 (06-2871)
12. C.A. RASMUSSEN, INC., 34-2012-80001241-CU-WM-GDS (08-R4D5-0219 AND 0220)
13. SHIMMICK CONSTRUCTION CO., INC., 34-2012-80001248 (09-R2D3-0399)
14. A TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001258 (05-R2D4-2650 AND 2651)
15. CA DEPT OF FORESTRY, 34-2012-80001263 (10-R2D1-0728)
16. A. TEICHERT & SON, 34-2012-80001265 (05-R2D5-2650 AND 2651)
17. PRESTON PIPELINES, INC., 34-2012-80001277 (09-R6D7-3345)
18. BLUE DIAMOND GROWERS, 34-2012-80001308 (10-R2D1-1280/1281)
19. CLARK PACIFIC PRECAST LLC, et al, 34-2012-80001319 (09-R2D1-0282/0283)
20. A. TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001332 (09-R4D5-0459 & 0460)
21. HOME DEPOT USA, INC., BS141301 (10-3284)

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22. PRESTON PIPELINES, INC., 34-2013-8001381 (11-2530)
23. ORANGE COUNTY FIRE AUTHORITY, 30-2013-00628178 (10-3667)
24. THYSSENKRUPP ELEVATOR CORP., 34-2013-80001456 (11-2217 ~ 2219)
25. BIG LOTS STORES, INC., 37-2013-00045936 (11-R3D2-1929 ~ 1931)
26. GUARDSMARK, LLC, 30-2013-00651094 (12-R3D1-0056)
27. ORANGE COUNTY FIRE AUTHORITY, 30-2013-00652023 (12-0439)
28. ORANGE COUNTY FIRE AUTHORITY, 30-2013-00651875 (12-0440)
29. AC TRANSIT, RG13687314 (08-R1D4-0135)
30. DSS COMPANY DBA KNIFE RIVER CONSTRUCTION, 34-2013-80001575
(12-R5D1-337)
31. BAY AREA RAPID TRANSIT DISTRICT, RG13689346 (09-R2D2-1219 & 1221)
32. CA PRISON INDUSTRY AUTHORITY, 13 C 0327 (08-R2D5-3426 ~ 3429)
33. HILL CRANE SERVICE, INC., 34-2014-80001730 (12-R4D1-2475)
34. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 34-2014-
80001749 (2008-R2D1-3414 THROUGH 3418)
35. SHIMMICK-OBAYASHI, 34-2014-80001750 (2008-R3D3-5023 THROUGH 5025)
36. TAD VAN NGUYEN, CPF-14-513482 (13-R1D1-9163)
37. BAY AREA RAPID TRANSIT DISTRICT, RG14715710 (10-R1D1-3056
THROUGH 3058) (DOSH)
38. LAND O'LAKES PURINA FEED, LLC, RG14715717 (08-R2D4-1843 AND 1844)
(DOSH)
39. BAY AREA RAPID TRANSIT DISTRICT, RG14715720 (10-R1D1-3056
THROUGH 3058) (3rd Party)
40. BRUNTON ENTERPRISES DBA PLAS-TAL MFG CO., 34-2014-80001817 (09-
R6D2-2238 ~ 2241)
41. WEST VALLEY CONSTRUCTION, INC., 34-2014-80001832 (12-R2D5-3526)

APPELLATE COURT:

1. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP, C075477,
34- 2011-80000640 (08-R2D1-0027 THROUGH 0030)
2. XL CONSTRUCTION, C074514, 34-2009-80000300 (08-R1D2-1191
THROUGH 1193)
3. SHERWOOD MECHANICAL, INC., D065322, 37-2012-00101466 (08-R3D2-4690 ~
4693)

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.)

1. ALPINE PLASTERING, 13-R4D1-2120 AND 2121
2. ALTMAN SPECIALTY PLANTS, INC., 13-R3D2-2938
3. ANHEUSER BUSCH, INC., 11-R6D3-2288
4. ART ALGER, INC., DBA PENINSULA CRANE & RIGGING, 13-R1D3-2691
THROUGH 2963
5. BRINKS USA DBA A DIVISION OD BRINKS INCORPORATED, 12-R3D2-2911
6. BELCZAK & SONS, INC., 13-R4D4-0767 THROUGH 0769
7. BE WISE RANCH INC., 13-R3D2-1523 AND 1524
8. BIG VALLEY LABOR, 14-R2D4-0231 AND 0232
9. BLAKE ROOFING, INC., 13-R3D3-2546 AND 2547
10. CALIFORNIA CITRUS COOPERATIVE INC., 13-R6D2-3810 THROUGH 3816
11. CALPINE OPERATING SERVICES COMPANY INC., 14-R2D1-0082
12. CAL STATE CHICO, 14-R2D1-0309
13. CANUS CORPORATION, 13-R1D4-0446 AND 0447

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14. CARE-TEX INDUSTRIES, 13-R3D5-3880 AND 3881
15. CARLTON FORGE, 14-R3D5-1093
16. CEDAR FAIR DBA KNOTTS BERRY FARM, 13-R3D1-1032 AND 1033
17. CITY OF LA DWP DBA EAGLE ROCK RESERVOIR, 13-R6D4-1690
18. CITY OF SAN JOSE DEPARTMENT OF TRANSPORTATION, 14-R1D2-1515
19. COUNTY OF PLUMAS, 14-R5D1-0183 AND 0184
20. C & R FARMS, 13-R6D5-3079
21. CURTIS ELLIOT CONSTRUCTION, 14-R4D1-1619
22. DAIRY FARMERS OF AMERICA, INC., 13-R4D3-3185
23. MIKE DAWSON DBA M.L. DAWSON CONSTRUCTION CO., 14-R6D7-0884
AND 0885
24. DOVE TAIL FURNITURE AND DESIGN, 14-R3D5-0851 THROUGH 0855
25. DUNIVIN'S TOWING SERVICE, 13-R3D1-2541
26. DICK DYKSTRA DAIRY, 13-R4D4-2781
27. EAST BAY ICELAND, INCORPORATED, 13-R1D4-1207 THROUGH 1209
28. ENGEL INSULATION, INC., 13-R1D2-3770 THROUGH 3772
29. EXCELCHEM ENVIRONMENTAL LABS, INC., 14-R2D1-1344
30. EXETER-IVANHOE CITRUS ASSOCIATION, 14-R6D1-0298 AND 0299
31. EXPERT DRY WALL SYSTEMS, INC., 14-R1D3-0386
32. FOUR STAR ERECTORS, INC., 14-R6D1-1374 AND 1375
33. GALT POLICE DEPARTMENT, 14-R2D1-0021
34. GP LANDSCAPE, INC., 13-R2D4-3610
35. GUERRERO CONSTRUCTION CORP., 13-R3D3-3129 THROUGH 3131

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36. MIKE HAGANS DBA HAGANS ROOFING, 14-R2D1-1516
37. HARBOR FREIGHT TOOLS USA, INC., 14-R1D4-1645
38. HIGH FASHION INC. DBA HIGH FASHION 599 CLOTHING, 13-R4D1-1757
39. HONEYBEE FOODS CORPORATION DBA JOLLIBEE, 13-R3D2-2019 AND 2020
& 13-R3D2-3637 AND 3638
40. HYUNDAI OF ELK GROVE LLC DBA SACRAMENTO HYUNDAI,
14-R2D1-1234
41. I AND E CABINETS, 14-R6D2-0487 AND 0492
42. ICE COLD STORAGE, 13-R4D1-2555 AND 2556
43. IRVINE RANCH WATER DIS DBA PRIMARY DISINFECTANT FA,
14-R6D4-0446
44. JAE ELECTRIC INC., 13-R1D2-2703 THROUGH 2709
45. JESSIE LORD BAKERY, LLC., 14-R3D5-0293 AND 0294
46. K2 PURE SOLUTIONS NOCAL, LP, 13-R6D3-2422
47. KENYON PLASTERING OF FRESNO INC., 13-R6D7-1359
48. LA AMAPOLA, INC. DBA AMAPOLA DELI AND MARKET, 13-R3D5-2221
AND 2222
49. LLCCD LOS ANGELES TRADE TECH COLLEGE, 13-R4D1-2411
50. LMZ'S PERFECT FINISH, INC., 13-R3D1-3925 THROUGH 3927
51. MASS DEVELOPMENT, INC., 14-R6D5-0932 THROUGH 0934
52. MATLOCK ASSOCIATES, INC., 13-R4D1-1423
53. METROCELL CONSTRUCTION, INC., 13-R4D3-3406 AND 14-R4D3-0169
54. MILITARY AIRCRAFT PARTS, 13-R2D1-1809 AND 1810
55. MILLER PACIFIC, INC., 14-R6D7-0305
56. M & P AUTO REPAIR & BODY, INC., 14-R3D5-0336

57. NABORS COMPLETION & PRODUCTION SERVICES CO., 13-R4D3-3379 AND 3380
58. NUTRITIONS GROUP INC. – CALIDAD MARKET, 13-R1D1-3723
59. O.M. CONTRACTING, INC., 12-R3D3-2405
60. OMNICARE INC., 14-R2D4-0245
61. ORION ICS LLC DBA GEMINI ENERGY SERVICES, 13-R4D7-3153
62. PACIFIC GEOTECH, INC., 13-R4D1-1942
63. PACIFIC PAVING STONE, INC., 13-R4D1-0757 THROUGH 0759
64. PACIFICA PERSONNEL, INC., FORMERLY PACIFIC PERSONNEL, INC., 13-R6D5-3442 THROUGH 3444
65. PASHA AUTOMOTIVE SERVICES, 14-R3D2-0780 AND 0781
66. TONY POWELL DBA ARTISAN BUILDERS, 13-R3D1-2478 AND 2479
67. PP BIZ INC DBA PREMIER PERSONNEL, 14-R2D1-1449
68. PRECISION CRANE SERVICE, INC., DBA NAPA VALLEY CRANE SERVICE, 13-R1D5-1249 THROUGH 1251
69. PRINCESS PAPER, INC., 13-R4D1-1415 THROUGH 1418
70. RALPH COLLAZO PACKING, 13-R3D2-1158
71. RAM MECHANICAL, INC., 14-R3D4-0211
72. RICHARD BAGDASARIAN, INC., 13-R3D3-3485
73. RIVERSIDE COUNTY FLOOD CONTROL & WATER CONSERVATION DISTRICT, 13-R3D3-3336
74. PAUL SCHIRMER DBA PAUL D SCHIRMER ROOFING, 13-R2D1-2537
75. SELAH GOURMET FOOD, INC., DBA: COUNTRY HOUSE, 13-R3D1-0283 THROUGH 0286
76. SIERRA PACIFIC INDUSTRIES, 13-R2D1-1380 AND 1381

77. SIERRA PACIFIC INDUSTRIES, 13-R2D3-2697 AND 2698
78. SO CAL FRAMING INC., 13-R3D1-1034
79. SOELZER, INC. DBA FIRESTONE FABRICATORS, 14-R3D5-1342 AND 1343
AND 14-R3D5-1638
80. ALEJANDRO MENDOZA SOTO DBA ACTION LABOR FLC, 13-R2D4-3101
81. SPEEDWAY CAR WASH, 13-R4D4-1951
82. STOCKTON ARMATURE AND MOTOR WORKS, INC., 14-R2D4-0210
83. SUNOPTICS, INC., 14-R2D1-1519 THROUGH 1522
84. SUNOPTICS, INC., 14-R2D1-1498 THROUGH 1500
85. SWIFT FREIGHT, INC., 13-R3D5-1588 THROUGH 1590
86. TJ MAXX OF CA., LLC., 13-R3D1-1749
87. TREE CARE INCORPORATED, 13-R2D1-1811 AND 1812
88. T-Y NURSERY, 13-R3D2-2544
89. UC LOS ANGELES FACILITIES MANAGEMENT, 13-R4D1-2412
90. UNITED PARCEL SERVICE, INC., 14-R3D1-0517
91. UNIVERSAL MOLDING EXTRUSION CO. INC., 14-R6D2-0911
THROUGH 0920
92. UNIVERSITY OF SOUTHERN CALIFORNIA, 13-R4D1-2554
93. VICTOR VALLEY RECYCLING INC., 13-R3D3-1993 THROUGH 1995
94. WOOD BROS. INC., 13-R3D2-3419
95. WOORIE FARM COMPANY, 13-R4D7-2961 AND 2962

PERSONNEL: (Issues regarding staff.)

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.