

State of California
California Occupational Safety and Health Appeals Board
Closed Session Agenda

Government Code § 11126 (a), (c)(3), (e) and (f)

for

Wednesday, April 10, 2024

9:30 a.m.

Sacramento, California

West Covina, California

&

Held on Zoom

To: Members of the California Occupational Safety & Health Appeal Board

From: J. Jeffrey Mojcher, Chief Counsel

Date: March 29, 2024

RE: Closed Session of the Board to be held on April 10, 2024

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.

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.)

1349559 O.C. Jones & Sons, Inc.

1486176 Tutor Perini Corporation and O & G Industries, Inc.

Petitions for Reconsideration:

(The Division of Occupational Safety & Health and the Employer each has 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.)

1399613 BMC West, LLC

1415736 Los Angeles County Probation

1671898 Dept. Ramen 7 LLC

1625466 Jensen Meat Company

Orders Dismissing Appeal:

- 1640577 H&S Energy Products, LLC
- 1313245 K-Vac Environmental Services, Inc.
- 1462382 Overhill Farms, Inc.
- 1351361 Priority Workforce, Inc.

Orders Denying Leave to File Late Appeal:

- 1690285 Purple Line LLC

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 the authority provided in Labor Code sections 6620 through 6623.18.

- 1431672 A. Teichert & Son, LLC
Whether the cited employer was in violation of lockout/tagout requirements.
- 1473644 Amazon.com Services, LLC
Whether the employer's training program was in compliance with the applicable safety order.
- 1113026 Angelus Block Co., Inc.
Whether Employer violated lock out/tag out requirements as alleged.
- 1398352 Anheuser-Busch, LLC
Whether the evidence supports the holding that employer violated lockout/tagout requirements.
- 1568252 Arana Residential and Commercial Painting, Inc.
Whether the Division violated Employer's due process rights in conducting the inspection leading to issuing citations.

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- 1466722 Bragg Investment Company, Inc.
Whether the Employer violated the crane operating safety order as alleged while repositioning a crane at a construction site.
- 1420923 Drill Tech Drilling & Shoring, Inc.
Whether the Employer failed to enforce its IIPP as required. Whether the Employer violated the lockout/tagout requirements of section 3314 as alleged.
- 1497263 Hamilton Iron Works, Inc.
Whether the evidence supports a finding that employer violated section 4999, and that the citation was properly classified. And whether the penalty for Citation 1 (§ 342(a)) be reduced.
- 1233597 Hampton Tedder Electric (DOSH)
Whether the ALJ correctly decided that the Employer violated three high voltage safety orders.
- 1436480 Interline Brands, Inc.
Whether the employer violated foot protection standards.
- 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.
- 1465354 Natural Alternatives International, Inc.
Whether the ALJ erred in dismissing the matter.
- 1465119 Sun Belt Rentals
Whether certain information accepted into evidence was inadmissible hearsay, and whether the evidence supports a finding that Employer violated sections 3203 and 3328, as alleged.
- 1475491 Sutter Bay Medical Foundation
Whether the employer failed to comply with COVID protections as alleged.
- 1609228 The Geo Group, Inc. dba Golden State Annex (3RD PTY PFR)
Whether the motion for third party status was properly denied.
- 1488312 The Indiana Finish Line, Inc.
Whether the cited employer established procedures adequate to protect employees from COVID-19.

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- 1486257 The Kroger Company
Whether the cited employer adequately trained employees regarding workplace hazards.
- 1594663 Uber Technologies, Inc.
How Proposition 22 interacts with the Board's statutes and operative regulations.

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. Ashley Furniture Industries, 34-2017-800002750 (1016514)
2. United Parcel Service, Inc. dba UPS, 34-2019-80003174 (1116529)
3. Davis Development Company, 34-2020-80003373 (1226084)
4. Hill Crane Service Inc., 34-2021-80003744 (1135350)
5. USA Waste of California, Inc., 34-2022-80003841 (1384029)
6. American Fumigation Services, LLC, 22STCP04305 (1506586)
7. General Dynamics NASSCO, 37-2023-00024521 (1300984)
8. S.C. Anderson, Inc., 24WM000039 (1405107)

Appellate Court:

1. Interline Brands, Inc., CIVDS2021813 (1251604)
2. Granite Construction Company, 34-2021-80003634 (1235643)
3. MWL Solutions, C097353, 34-2020-80003549 (1436014)
4. BMC West LLC, 34-2020-80003459 (1399613)
5. Hampton Tedder Electric, 34-2020-80003549 (1233597)
6. RND Contractors, Inc., CIVSB2119442 (1436785)

Other Items:

1. Categorizing the Board's DARs and Denials on the DIR website.
2. Superior Court cases that also involve or relate to appeals pending before the Board.

Lyft, Inc., 30-2023-01368387-CU-MC-CXC (1594664)

Uber Technologies, Inc., 30-2023-01330884-CU-JR-CXC (1594663)

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 decide if they will reconsider or remand the issued order.)

1731718	Ability Counts Inc.
1546690	Acco Engineering Systems Inc.
1717284	Advanced Eyecare, an Optometric Corporation
1712232	Advanced Integrated Pest Management
1654642	Agrima Farm Labor, Inc.
1692134	Akal BuildTech Inc.
1700314	AmPam Parks Mechanical Inc.
1555403	Amware Pallet Services, LLC
1717130	Antonio Gomez Ruiz
1689337	Ascend Construction Inc.
1684677	Astonish, Inc.
1640847	B.W. Hotel LLC
1616592	Baker Commodities, Inc.
1473213	Borrmann Metal Center
1569343	Bruce Roofing, Inc.
1683548	Builder Boy Inc.
1620825	Buttonwillow Warehouse Company, Inc.
1671423	Caliagua, Inc.
1709899	California State University San Marcos
1640779	Capital Development Services, Inc.
1671986	Carpecarma LLC
1657677	Carvalho's Pool Service, Inc.
1681349	Ceja-Reyes, Inc.
1595609	Cherniss Tire World, Inc.
1568241	Citistaff Solutions, Inc.
1514415	City And County Of San Francisco
1710825	City of Roseville Environmental Utilities

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1418460	Commercial Metals Company
1627890	Costco Wholesale Corporation
1383344	County of Los Angeles Department Of Parks
1378121	Culmin Staffing Group, Inc.
1529833	David Abreu Vineyard Management, Inc.
1592363	Eberhard
1625716	Employee Force Provider
1671442	Esa P Portfolio Operating Lessee LLC
1674461	Esparza Enterprises, Inc.
1640776	Fernando Garcia Garibay, an Individual
1574311	Ferro Trucking, LLC
1703503	Flaherty Brothers Construction, Inc.
1608675	Foster Poultry Farms, LLC
1540519	Frontier-Kemper/Tutor Perini J.V.
1504266	Garfield Beach CVS, LLC
1569758	GCX, LLC
1678825	Glenn Nelson
1651673	Golden State Staffing Service Inc.
1601007	Google, LLC
1681505	Great Lakes Services, LLC
1695503	Harman-Wall Inc.
1434239	Hau Thang Nguyen
1675282	HHJ Construction, Inc.
1675468	Highgate Hotel L.P.
1623559	HPL Contract, Inc.
1704018	J&D Custom Embroidery, LLC
1674758	J. & R. Thompson, Inc.
1680278	J3C Group LLC
1695791	JD Miller Construction Inc.
1660660	Jose A. Castro, an Individual
1689007	Joseph J. Albanese, Inc.
1482128	JTI Electrical Instrumentation, Inc.
1700320	K & M Visser Dairy
1640808	Kenyon Plastering of Southern California, Inc.
1678457	KH Becket, LLC
1543235	LA County Internal Services Department
1621384	Larry Methvin Installations, Inc.
1614325	LAUSD Civic Center Operations
1674281	Line Electric Inc.
1676569	Los Altos Golf & Country Club
1722665	Maruti Corporation

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1664348	May Trucking Company
1675018	Metal Tek Company
1631422	Metro Signs, Inc.
1637031	MF Classic Interior, Inc.
1690872	Milender White, Inc.
1702522	Mixed Nuts, Inc.
1660955	Monterey Peninsula Airport District
1633092	MTZ Steel, Inc.
1715804	Naturescape Services, Inc.
1507611	New Green Day, LLC
1509328	Nick Satter, Inc.
1640928	Nor-Cal Maintenance, Inc.
1512418	Nugget Market, Inc.
1424492	O'brien Steel Erectors, Inc.
1662210	Oak Tree Ag Mgt., Inc.
1636775	Olympic Pallets, Inc.
1721133	Paligroup Management, LLC
1658243	Paramount Logistics Inc
1661832	Partnership Staffing Solutions Inc.
1673954	Paul J Croskrey
1455798	Pentagon Surfaces, Inc.
1551402	Phil Vonk & Company, Inc.
1692140	PLM Operations, LLC
1677879	Prime Ag Labor Source, Inc.
1668538	Renn Construction, Inc.
1692775	Reno Tahoe Glass LLC
1605616	Richard Tackett, an Individual
1647854	Roofs Roofs and Remodel, Inc.
1545783	San Francisco Municipal Transportation Agency
1698228	San Joaquin Regional Transit District
1662373	Santiago General Engineering
1620956	Sanwood Fine Carpentry & Construction, Inc.
1474657	Schmidt Industries, Inc.
1649439	Sierra Pacific Industries
1687788	Sightline Hospitality, LLC
1532894	Slade Industrial Landscape, Inc.
1703212	Smooth Wall Solution Inc.
1641669	SSI Surfaces
1663832	Stericycle, Inc.
1635531	Sunrise Senior Living Management Inc.
1657463	Sunrun Installation Services, Inc.

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1699080	Swinerton Builders
1527031	Target Corporation
1616023	Team Industrial Services, Inc.
1702688	The Danco Group
1689014	The High-Way LLC
1699247	TLLR, LLC
1587231	Total Productive Staffing, Inc.
1714283	Trinity Perfect Construction, Inc.
1707258	Truck Accessories Group, LLC
1692923	TVI, Inc.
1666080	Vander-Bend Manufacturing, Inc.
1470093	Vivint Solar Inc.
1697521	We Pack It All, LLC
1606006	Webcor Construction, LP
1681934	Weiss Painting & Construction
1574383	Western Mountain Transport Inc.
1682494	Willis Construction Company, Inc.
1688767	Woodmen of The World Life Insurance Society
1712236	Zavatto Brothers Construction

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.