

**State of California**  
**CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD**  
**CLOSED SESSION AGENDA**  
**Government Code § 11126 (a), (c)(3), and (e)**  
**for**  
**Thursday, January 03, 2008**  
**10:00 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: December 21, 2007**

**RE: Closed Session of the Board on January 03, 2008**

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

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**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.)*

1. ARNIE'S SUPPLY SERVICE, LTD., 06-R4D2-964
2. J.F. SHEA CONSTRUCTION, INC., 06-R3D1-3137
3. NATIONAL READY MIXED CONCRETE CO., 06-R3D1-2221
4. NORAMOR INDUSTRIES INC., 05-R6D2-4596 THROUGH 4604
5. RANCHO ROOFING, 05-R3D2-3302 AND 3303
6. SMART SYSTEMS TECHNOLOGIES INC., 07-R3D2-0399 AND 0400

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**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. AGRO-JAL FARMS, INC., 05-R4D3-3776
2. ALEMAD, INC., 07-R2D1-1137 THROUGH 1140
3. AMERICAN TIRE DEPOT, 06-R4D3-5199
4. API KIRK CONTAINERS, 05-R4D2-2705 THROUGH 2707
5. ARAMARK UNIFORM SERVICES, 07-R4D2-1584 AND 1585
6. ARCWOOD, INC., 06-R4D3-625 AND 626
7. ARROWHEAD BRASS PRODUCTS INC., 06-R4D2-4827 AND 4828
8. DIDAR SINGH BAINS, 07-R2D3-1146 AND 1147
9. BEST CONSTRUCTION & MAINTENANCE INC., 07-R2D1-0375
10. BRATCHER BACKHOE, INC., 05-R4D3-4452
11. BRUSH RESEARCH MFG. CO., 07-R4D4-0542
12. C.A. RASMUSSEN, INC., 04-R4D3-4244
13. C D CONTAINER, INC., 06-R4D4-0289 THROUGH 0299
14. CALIFORNIA CAR WASH LUBE & DETAIL, 07-R4D2-1733 THROUGH 1735
15. CALIFORNIA DAIRIES, 06-R2D7-3395 THROUGH 3402
16. CALIFORNIA PUMPING & SANITATION, 07-R3D3-1424 THROUGH 1426
17. CALIFORNIA STATE UNIVERSITY LONG BEACH, 07-R3D5-0308
18. CALMET SERVICES, INC., 07-R6D2-4156 THROUGH 4158

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19. CARMELITA PROVISIONS CO. INC., 07-R6D2-2270 THROUGH 2272 AND 3171
20. CEDAR VALLEY CONCRETE CORPORATION dba CVC CONSTRUCTION CORP., 07R2D1-1142 AND 1143
21. CHARLESTONE INTL' INC., 07-R3D5-3062 AND 3063
22. CHEVRON PRODUCTS COMPANY RICHMOND REFINERY, 07-R6D3-2082
23. CHUNG WING SEWING CO., 07-R1D4-0363 AND 0364
24. CLASSY TOUCH CAR WASH, 06-R4D2-166
25. COLICH CONSTRUCTION, L.P., 06-R5D2-1336 AND 1337
26. CRABB CONSTRUCTION, 06-R4D3-1883 AND 1884
27. D AND R HARVESTING, 06-R3D2-4258 AND 4259
28. DAIRY FARMERS OF AMERICA INC., 07-R6D2-2858 AND 2859
29. DELAFIELD FLUID TECHNOLOGIES, 06-R4D4-977 THROUGH 979
30. EIDE INDUSTRIES, INC., 05-R3D1-4409
31. ELITE LINE SERVICES, INC., 06R1D3-2112 AND 2113
32. ELLISON FRAMING INC., 05-R2D2-1767 AND 1768
33. EMPIRE DEMOLITION INC., 07-R1D5-0367
34. ESPARZA ENTERPRISES, INC., 07-R3D3-1429
35. GUY EVANS, INC., 06-R3D3-4764
36. EVANS & SON, INC., 06-R4D3-1642
37. F & A DAIRY OF CALIFORNIA, 07-R2D4-1534
38. FICO CONSTRUCTION, 07-R4D2-0321 THROUGH 0323
39. GE MODULAR SPACE, 07-R6D2-3286
40. FRED GARZA dba FRUIT HARVEST, INC., 07-R2D5-1396

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41. FRED GARZA dba FRUIT HARVEST, INC., 07-R2-D5-1397
42. GAUTHIER CONSTRUCTION, 06-R3D2-3564 THROUGH 3566
43. GEORGE CHIALA FARM, INC., 07-R1D2-0257 AND 0258
44. GHIRINGHELLI SPECIALTY FOODS, 06-R2D2-788
45. GREGG ELECTRIC, INC., 07-R3D3-0359 THROUGH 3061
46. HASA, 07-R2D5-1160
47. HIS LIFE WOODWORKS, INC., 05-R6D2-1056 THROUGH 1058
48. RICHARD HOJOHN, 07-R1D5-4205
49. IMPERIAL SHADE & VENETIAN BLIND, 07-R4D2-1647 THROUGH 1650
50. INFINITE [INFINITY] STRUCTURES, INC., 07-R3D3-1298 AND 1299
51. INSUL-FLOW, 06-R4D2-269 THROUGH 272
52. INTERNATIONAL LINE BUILDERS, 06-R2D1-2465 AND 2466
53. INTERSTATE PLASTICS, 07-R1D4-3296
54. ITO, INC., DBA: KIKKA, 07-R4D1-1646
55. IVEX PACKAGING, 07-R2D5-1919
56. JON WAYNE CONSTRUCTION AND CONSULTING INC., 07-R3D2-2522
57. KELLY SERVICES, 06-R1D4-1177
58. LA EJOB, INC., 06-R3D1-3407
59. L.A. FABRIC IMPORTS, INC., 06-R4D2-0601 AND 0602
60. LEGACY ROOFING & WATERPROOFING INC., 07-R1D2-0259
61. LINDAUER RIVER RANCH, INC., 07-R2D3-1532 AND 1533
62. LOS ANGELES LIGHTING MFG CO., 05R4D4-3202 THROUGH 3026

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63. LOS ANGELES UNIFIED SCHOOL DISTRICT EAST LOS ANGELES  
OCCUPATIONAL CENTER, 06-R4D2-0162 AND 0163
64. MAINSTAY BUSINESS SOLUTIONS, INC., 05-R4D3-1104 THROUGH 1107
65. JOSE LUIS MARQUEZ & MAGDALENA MARQUEZ dba KOUNTRY KAFE,  
07-R3D2-1411 THROUGH 1413
66. EFREN MARTINEZ, DOCKETS 07-R3D1-2519 AND 2520
67. MASTERCRAFT KITCHENS INC., 07-R3D3-2952 THROUGH 2955
68. MCCONNELL CABINETS, INC., 05-R6D2-4324 THROUGH 4330
69. RICHARD THOMAS MUIR, dba RM MECHANICAL, 07-R3D3-2938 THROUGH  
2940
70. NEW DESIGN CONSTRUCTION INC., 07-R3D5-1566 THROUGH 1568
71. OASIS AIR CONDITIONING, INC., 06-R4D3-1885 AND 1886
72. PACIFIC BORING, INC., 05-R5D2-4164
73. PADILLA CONSTRUCTION CO. DBA GARRIS PLASTERING, 07-R1D2-0260  
THROUGH 0262
74. PAINTING UNLIMITED, INC., 07-R3D1-1286
75. PERFORMANCE ENGINEERED PRODUCTS, INC., 07-R4D4-1314
76. PETERSEN-DEAN, INC., 07-R1D2-0263
77. PIZZA HUT, INC., dba PAC PIZZA, 07-R4D2-1307 AND 1308
78. PLATH & COMPANY INC., 07-R1D1-1602
79. RFC WIRE FORMS, INC., 05-R6D2-3566 THROUGH 3579
80. RESTORATION HARDWARE, 07-R1D4-3424
81. RICH PRODUCTS, 07-R2D5-1398 AND 1399
82. ROEBBELEN CONTRACTING, INC., 07-R2D3-1526
83. ROMAK IRON WORKS, 06-R1D3-2121

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84. ST. GEORGE WAREHOUSE, 05-R4D2-4150
85. ST. GEORGE WAREHOUSE, 06-R4D2-959
86. SANFORD-LUSSIER, INC., 06-R4D2-1454 AND 1455
87. SCHAFFER GRINDING, 06-R4D4-980
88. SELECT PERSONNEL SERVICES, 07-R6D2-2991
89. SIERRA CEDAR PRODUCTS, LLC., 07-R2D3-2576
90. SILAO TORTILLERIA, 06-R4D4-649 THROUGH 657
91. STONECREST GAS AND WASH, 06-R3D2-1417 THROUGH 1420
92. SUNPOL RESINS & POLYMERS, 07-R6D3-4062
93. SUNQUEST DEVELOPMENT, INC., 07-R4D1-1064 THROUGH 1066
94. TAN HOANG HUONG BAKERI & DELI, 05-R3D1-3605 THROUGH 3608 AND  
05-R3D1-3667 THROUGH 3669
95. TEAM PACKING INC., 07-R3D2-1295
96. THARCO, 07-R1D4-0358 THROUGH 0362
97. THE NEIL JONES FOOD COMPANY, 07-R2D5-0911
98. TORRES CONSTRUCTION, 06-R4D2-164 AND 165
99. TRACY JOINT UNIFIED SCHOOL DISTRICT, 07-R2D4-0287 THROUGH 0289
100. TRAYLOR FRONTIER KEMPER JV, 07-R5D2-1595
101. TUBE TECHNOLOGIES INC., 07-R6D2-0342 THROUGH 0351
102. TULARE JOINT UNION HIGH SCHOOL, 07-R2D5-1394 AND 1395
103. UNION PACIFIC RAILROAD, 07-R2D4-1380 AND 1381
104. US POLYMERS, INC., 06-R4D2-0265 THROUGH 0268
105. VALLEY TEMPS, INC., DBA VTI STAFFING PROFESSIONALS, 06-R4D3-  
4983

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106. VESSEY & COMPANY, 06-R3D2-4038 THROUGH 4041

107. WAL MART, 06-R3D2-3151 AND 3152

108. WALL SYSTEMS, INC., 06-R4D3-4164 THROUGH 4167

109. WESTAFF, INC., 06-R3D3-0131

**ORDERS DISMISSING APPEALS:**

1. MUSTAPHA EL BASRI AND NIC NAZARIAN, 06-R3D1-2471 AND 2472

2. COASTAL EMPLOYERS, 05-R3D3-4427

3. RODIN & CO., INC., 05-R4D3-1198 AND 1199

**ORDERS DENYING LEAVE TO FILE LATE APPEALS:**

1. ALLEN PAINTING, 07-R2D3-9470

2. ANDREW SISOUNTHONE FARMING, 07-R2D5-9471

3. METALSET INC., 07-R1D5-9469

4. MAX MINH NGUYEN dba MMN PLUMBING, 07-R1D1-9467

5. RENAISSANCE ESMERALDA RESORT SPA, 07-R3D3-9473

6. SUPERIOR READY MIX CONCRETE, L.P., 07-R5D3-9474

7. THE BOMBAY COMPANY, INC., 07-R1D5-9468

**ORDERS GRANTING APPEALS:**

1. SUBWAY SANDWICHES & SALADS #620, 07-R3D1-5148

2. TARGET, 07-R3D2-5146 AND 5147

3. TUBED PRODUCTS, 07-R4D3-5145

**PETITIONS FOR RECONSIDERATION:**

*(The Division of Occupational Safety & Health and the Employer each has the right to*

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*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.)*

1. BBC TRAVEL, 07-R3D2-9325
2. DANNY CAMPOS, 07-R3D6-9384
3. GAUTHIER CONSTRUCTION, 06-R3D2-3564 THROUGH 3566
4. GRAND BUILDERS, 07-R4D3-9344

**DENIAL OF PETITION FOR RECONSIDERATION (DRAFTS):**

1. 3-D DELIVERY, 07-R4D1-9385

**DECISIONS AFTER RECONSIDERATION (DRAFTS):**

*(If the Appeals Board grants a petition for reconsideration it reviews the facts of the appeal and then issues a decision after reconsideration upholding, reversing or modifying the underlying ALJ decision.)*

1. AC FRAMERS INC., 03-R2D3-3475
2. A & C LANDSCAPING, INC., aka A & C CONSTRUCTION, INC., 03-R4D4-4791
3. AGC COMMUNICATIONS, INC., 03-R1D4-3121
4. ASC PROFILES, INC., 06-R2D1-1181
5. AMERIPRIDE UNIFORM 04-R4D2-106 AND 107
6. A. TEICHERT & SON, INC., A CORPORATION dba TEICHERT AGGREGATES, 04-R5D2-850 AND 851
7. BART, 03-R1D1-5170
8. BAY AREA SYSTEMS & SOLUTIONS, dba BASS ELECTRIC, 01-R1D3-106
9. BIMBO BAKERIES USA, 03-R1D3-5215 THROUGH 5217
10. BLF, INC., dba LARRUBURE FRAMING, 02-R4D1-4675 THROUGH 4680
11. BLF, INC., dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
12. BLUE DIAMOND MATERIALS, 02-R5D2-1268

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13. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
14. CALIFORNIA FAMILY FITNESS, 03-R2D1-095 & 096
15. CALIFORNIA FRESH FARMS LLC., 06-R2D4-4127 AND 4224
16. CENTRAL CHEVROLET, 05-R1D4-2615 THROUGH 2618
17. CENTRAL VALLEY CONTRACTING, 05-R4D3-2351
18. COX COMMUNICATIONS, 03-R3D2-1942
19. DADE BEHRING, 05-R2D1-2203
20. DAVIS BROTHERS FRAMING, INC., 03-R3D1-0114
21. DAVIS BROTHERS FRAMING, INC., 05-R3D3-634 THROUGH 636
22. DAVIS ROOFING, INC., 05-R3D3-4127
23. DYNALECTRIC, 03-R1D1-4101
24. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
25. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
26. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
27. GLASS PAK, 03-R2D2-0750 AND 0751
28. HARRY L. MURPHY, INC., 06-R1D2-218 AND 219
29. HEARN CONSTRUCTION, INC., 02-R6D1-3533 THROUGH 3536
30. HELPMATES STAFFING SERVICES, 05-R3D3-2239
31. HEMMINGSEN CONSTRUCTION CO., INC., 07-R2D3-9277
32. HUSSMAN CORPORATION, 03-R3D1-2939
33. ILH CONSTRUCTION, 02-R1D1-4172
34. JOHN LAING HOMES, 04-R3D1-194 AND-195
35. JOHNNY'S AUTOMOTIVE REPAIR, 05-R2D1-4076

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36. KELLY SERVICES, INC., 06-R1D2-1024
37. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-0323
38. KIMES-MORRIS CONSTRUCTION, 02-R1D4-1204 THROUGH 1209 & 02-1273
39. LONG BEACH CITY COLLEGE, 03-R3D5-2747
40. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
41. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA),05-R4D2-2541
42. MCI WORLDCOM INC., 00-R1D1-440 THROUGH 442
43. O& M INDUSTRIES, 04-R1D5-1597
44. PMR RACE CARS, 03-R3D3-1825
45. POUK & STEINLE, INC., 03-R4D2-1495 & 1496
46. RII PLASTERING INC., 02-R3D1-2679
47. R & L BROSAMER, INC., 03-R1D5-4832
48. SACRAMENTO MUNICIPAL UTILITY DISTRICT, 02-R2D1-1654 THROUGH  
1656
49. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
50. STACY & WITBECK INC., 05-R1D1-1142
51. STATE CENTER COMMUNITY COLLEGE DISTRICT, 05-R2D5-1688  
THROUGH 1692
52. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
53. SUN VALLEY SKYLIGHTS, INC., 03-R4D1-2613 & 2614
54. TEICHERT AGGREGATES, 04-R5D1-2982
55. TRIO METAL, 03-R4D4-0317
56. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2556 AND 2557
57. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802

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58. WESTERN DOOR, 01-R3D1-2827

59. WEST VALLEY CONSTRUCTION COMPANY, INC., 01-R1D2-3017 & 3018

**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. HFS INVESTMENTS, INC., 01CS00981 (96-3079)
2. UNITED ASSOCIATION LOCAL UNION 246, AFL-CIO; IDEPSCA INSTITUTO DE EDUCACION POPULAR DEL SUR DE CALIFORNIA AND CENTRO LEGAL DE LA RAZA, (HARRIS CONSTRUCTION COMPANY, INC.), 07CS00518 (02-3914)
3. INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, LOCAL LODGE 1781; JULIA SMITH, (UNITED AIRLINES dba UNITED AIRLINES SFO SYC), 07CS00331 (00- 2844)
4. WESTERN MILLING, LLC, 06 CE CG 04007 (06- 9039/9040)
5. IRBY CONSTRUCTION COMPANY, ECU03759 (03-2728)
6. JERLANE v DIVISION OF OCCUPATIONAL SAFETY & HEALTH, 37-2007-0005631-CU-WM-NC, (01-4344-4345)
7. DIVISION OF OCCUPATIONAL SAFETY AND HEALTH v. OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD (J.F. SHEA CONSTRUCTION, INC) 34-2007-00882187-CU-WM-GDS, (01-801)
8. DIVISION OF OCCUPATIONAL SAFETY AND HEALTH v. OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD (E. L. YEAGER CONSTRUCTION COMPANY, INC.), 34-2007-00882192-CU-WM-GDS, (01-3261)

**APPELLATE COURT:**

NONE.

**PERSONNEL** *(Issues regarding staff.)*

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**HIRING OF EXECUTIVE OFFICER**

Any matter not completed at this Closed Session may be continued to subsequent meetings.