

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, August 19, 2009
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: August 6, 2009

RE: Closed Session of the Board to be held on August 19, 2009

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.

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. DICK WILSON PAINTING, 07-R2D5-1788
2. JODAN FARMS NURSERY, 08-R3D3-2717 THROUGH 2719
3. WINCHESTER CONSTRUCTION, 08-R4D3-4709 AND 4710

ORDERS OF ADMINISTRATIVE LAW JUDGES:

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(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. AB/T1, INC., 09-R3D3-0173
2. AMERICAN WIRE, INC., 09-R6D2-0821 THROUGH 0826
3. AT&T MOBILITY, DIVISION OF AT&T, INC., 09-R3D5-0415
4. BRYDEN ELECTRICAL, INC., 09-R4D1-2410 AND 2411
5. BURTON L. SILVA FARMS, 09-R1D2-1498
6. LUNA MARIANA CADENA DBA LAS CAZUELAS, 08-R6D5-5134 AND 5135
7. CAR WASH 1101 MOUNTAIN VIEW, LLC DBA HARV'S CAR WASH, 08-R6D5-4930
8. CARPET PAD RECYCLING, 09-R4D4-0221 AND 0222
9. CELTIC SCAFFOLDING, INC., 08-R1D1-1469 THROUGH 1471
10. CJ BAKERY, INC., 09-R4D2-0722 AND 0723
11. CJI PROCESS SYSTEMS, 09-R6D2-1333 THROUGH 1336
12. CMC STEEL FABRICATORS, INC. DBA CMC REGIONAL STEEL, 08-R2D3-4744
13. CNL ROOFING COMPANY, 08-R1D2-1692 AND 1693
14. CORE GENERAL CONTRACTOR DBA CORE BUILDERS, 08-R1D2-1379
15. COUNTRY TIRE & WHEEL, 09-R4D3-0495 AND 09-R4D3-0891
16. CRAWFORD ASSOCIATES, 09-R5D3-0301
17. DESERT FLOWER APARTMENT HOMES, 09-R3D3-1440
18. DHINDSA GROUP OF CO., INC. DBA DBT & DTS, 09-R3D3-0978 AND 0979
19. ELLISON FRAMING, INC., 08-R2D2-2938 AND 2939
20. EMPIRE FOOD SERVICE DBA CAFÉ AMBROSIA, 09-R3D5-0145

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21. ENSIGN UNITED STATES DRILLING (CALIFORNIA), INC., 08-R4D3-4560 AND 4561
22. EOT CORPORATION, 09-R4D3-0542 AND 0543
23. FABER ENTERPRISES, 08-R4D3-4811 AND 4812
24. FONTANA LOGISTICS CENTER, INC., 09-R3D3-1520
25. FORD E.C., INC., 09-R4D1-2281
26. FREAS PLASTERING CO., INC., 08-R1D1-1188 AND 09-R1D1-2568
27. GRANITEX CONSTRUCTION COMPANY, 09-R4D3-1126
28. GRISWOLD INDUSTRIES, 09-R6D2-0981 THROUGH 0984
29. GUINN CONST. CO., INC., 08-R4D3-5154
30. HDP ENTERPRISES, INC., DBA MIKE HUDSON DISTRIBUTING, 08-R1D5-3035
31. HILDEBRANDT MACHINE, 09-R3D6-0946 AND 0947
32. CHIN HUYNH DBA PHO VINAM RESTAURANT, 09-R3D3-0356
33. INTERNATIONAL ALUMINUM CORPORATION, 09-R6D2-1185
34. JOHNNY AUTO BODY & REPAIR, 08-R6D5-4444 THROUGH 4446
35. JT WINDOWS, INC., 09-R6D2-0693 THROUGH 0698
36. LORTZ MANUFACTURING COMPANY, 09-R6D2-1877 THROUGH 1883
37. MARMON GROUP LLC DBA MARMON KEYSTONE, 09-R6D2-0544 THROUGH 0548
38. MILLENIUM GENERATION, INC., 08-R4D3-5047
39. MITCHELL ENVIRONMENTAL CONCRETE, 09-R4D5-0147
40. NUNNO CORP., 09-R6D2-1330 THROUGH 1332
41. PACIFIC EXTERIORS, INC., 08-R6D5-3818
42. JORGE PIMENTEL DBA J & B PIMENTEL, 09-R6D2-2113 THROUGH 2115

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43. PUSD ALEXANDER HAMILTON ELEMENTARY SCHOOL, 09-R4D2-0784
44. R.A. CAMPBELL, INC., 09-R6D2-1209 THROUGH 1211
45. RICHWELL STEEL CO., INC., 09-R6D2-1152 THROUGH 1157
46. SAFEWAY, INC., 08-R1D2-1560 AND 1561
47. SAMTECH AUTOMOTIVE USA, INC. DBA SAMTECH INT'L, INC., 09-R6D2-0688 THROUGH 0692
48. SANTA PAULA HARVESTING, 09-R4D3-0510 THROUGH 0514
49. SCHAPER CONSTRUCTION, INC., 09-R4D4-0388
50. STENDERUP AG PARTNERS, 09-R6D2-2111 AND 2112
51. TEAMWORK HUMAN RESOURCES, INC., 08-R2D3-4746 AND 4747
52. THE LEE GROUP, INC., 09-R4D1-2432
53. THE WAY AUTO CARE, 08- R6D5-4503 THROUGH 4506
54. TL FABRICATION, 09-R3D5-0203
55. TRAFALGAR, INC., 09-R1D2-2933
56. WM BOLTHOUSE FARMS, 09-R4D3-0725

ORDERS DISMISSING LATE APPEALS:

1. SIERRA AUTO CAR, 09-R2D1-9146
2. THE PEP BOYS, 09-R1D2-9145

ORDERS DENYING LATE APPEALS:

1. GUITAR CENTER STORES, INC., 09-R3D2-9185
2. TERRA LINDA FARMS, 09-R2D5-9181

ORDERS DENYING LEAVE TO FILE LATE APPEALS:

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1. CALIFORNIA DEPARTMENT OF PARKS AND RECREATION, 09-R1D5-9186
2. MORNING GLORY GOLD MINES, 09-R5D1-9197
3. US TEMP SERVICES, 09-R2D4-9187

STIPULATION:

1. CINTAS CORPORATION, 08-R3D3-2601

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.)

1. ALL COUNTRY COMMERCIAL INDUSTRIAL [ACCI ROOFING SERVICE], 08-R3D2-0305
2. OTTO PALMER DBA O.P. CONSTRUCTION CO., 04-R4D1-4734 AND 4735
3. RISING DOUGH BAKERY, 09-R2D1-9176
4. SREE CONSTRUCTION, INC., 06-R1D2-1526 THROUGH 1530

ORDER GRANTING RECONSIDERATION:

1. SUBWAY SANDWICHES #1561, 08-R2D3-0288

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. A & C LANDSCAPING, INC. aka A & C CONSTRUCTION, INC., 03-R4D4-4791
2. AARON METALS COMPANY, INC., 09-R1D4-2137 AND 2138
3. AC FRAMERS INC., 03-R2D3-3475
4. AC TRANSIT, 08-R1D4-0135
5. AMERICAN REMEDIAL TECHNOLOGIES, 08-R4D2-3154 THROUGH 3156
6. VERNON MELVIN ANTONSEN & COLLEEN K. ANTONSEN, INDIVIDUALLY DBA ANTONSEN CONSTRUCTION, 06-R2D3-1272

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7. ASC PROFILES, INC., 06-R2D1-1181
8. ANNING-JOHNSON COMPANY, 06-R1D3-1976
9. BART, 03-R1D1-5170
10. BIMBO BAKERIES USA, 03-R1D3-5215 THROUGH 5217
11. BIMBO BAKERIES USA, 05-R6D2-0856 AND 0857
12. BLF, INC. dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
13. BLF, INC. dba LARRABURE FRAMING, 02-R4D1-4675 THROUGH 4680
14. C & M FINE PACK, INC. 07-R6D2-4149 THROUGH 4155
15. CA RASMUSSEN, INC., 08-R4D5-219 AND 220
16. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
17. CALIFORNIA FRESH FARMS, 06-R2D4-4127
18. CENTRAL VALLEY CONCRETE, INC., 07-R2D4-1375 THROUGH 1378
19. COLES CARBIDE CORPORATION, 08-R4D3-2012 THROUGH 2014
20. CVS PHARMACY GARFIELD BEACH LLC, 08-R3D1-9368
21. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
22. DAVIS BROTHERS FRAMING, INC., 03-R3D1-114
23. DAVIS BROTHERS FRAMING, INC., 05-R3D3-634 THROUGH 636
24. DESIGN BUILDERS, INC., 08-R4D4-1901
25. DUKE PACIFIC, INC., 06-R3D3-5175 THROUGH 5177
26. DUKE PACIFIC, INC., 08-R3D3-574
27. DYNALECTRIC, 03-R1D1-4101
28. ESTENSON LOGISTICS LLC 05-R1D4-1755 AND 1756
29. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131

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30. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
31. FORTUNA IRON WORKS 06-R2D3-4222
32. G.T. ALDERMAN, INC., 05-R4D3-3513
33. GENERAL TRUSS CO. INC., 06-R2D1-783 AND 784
34. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
35. GLASS PAK, 03-R2D2-750 AND 751
36. GOLDEN WEST INDUSTRIES, INC., 08-R3D2-3930
37. HB PARKCO, 07-R4D2-1730 AND 1731
38. HELPMATES STAFFING SERVICES, 05-R3D3-2239
39. THE HERRICK CORP., 07-R3D1-495
40. HUSSMAN CORPORATION, 03-R3D1-2939
41. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
42. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456
43. JENSEN PRECAST, 05-R2D1-2377
44. JOHN LAING HOMES, 04-R3D1-194 AND 195
45. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968
46. KELLY SERVICES, INC., 06-R1D2-1024
47. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-323
48. KINDER MORGAN ENERGY PARTNERS, LP., 05-R5D1-2013 AND 2014
49. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
50. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
51. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
52. MICHELS CORP. DBA MICHELS PIPELINE CONSTRUCTION, 07-R5D1-4274

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53. HARRY L. MURPHY, INC., 06-R1D2-218 AND 219
54. BILL NELSON GENERAL ENGINEERING & CONSTRUCTION, 06-R2D5-1552 THROUGH 1554
55. O & M INDUSTRIES, 04-R1D5-1597
56. PMR RACE CARS, 03-R3D3-1825
57. POUK & STEINLE, INC., 03-R4D2-1495 AND 1496
58. R & L BROSAMER, INC., 03-R1D5-4832
59. REAL EQUITY DEVELOPMENT, INC., 07-R2D4-4129 AND 4130
60. SAMTECH AUTOMOTIVE USA, INC. DBA SAMTECH INT'L, INC., 09-R6D2-0688 THROUGH 0692
61. SAN FRANCISCO FIRE DEPARTMENT, 09-R1D1-0655
62. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
63. SHANKARA IND. DBA RUSS'S AUTO BODY & REPAIR, 09-R6D5-2135
64. STACY & WITBECK, INC., 05-R1D1-1142
65. STATE CENTER COMMUNITY COLLEGE DISTRICT, 05-R2D5-1688 THROUGH 1692
66. DAVID STOUPAKAS DBA DEVORE TRUCKING & AUTO WRECKING, 07-R3D3-5185 AND 5186
67. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
68. TEICHERT & SON, INC., A CORPORATION DBA TEICHERT AGGREGATES, 04-R5D2-850 AND 851
69. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 05-R2D4-2650 AND 2651
70. TEICHERT AGGREGATES, 04-R5D1-2982
71. TRADER DAN'S DBA ROOMS N. COVERS, ETC., 08-R6D2-4978 THROUGH 4980
72. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2256 AND 2557

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73. UNITED PARCEL SERVICE, 07-R3D3-3322

74. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095

75. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802

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. HARRIS CONSTRUCTION COMPANY, INC., 07CS00518 (02-3914)
2. JERLANE v DIVISION OF OCCUPATIONAL SAFETY & HEALTH, 37-2007-0005631-CU-WM-NC, (01-4344/4345)
3. J.F. SHEA CONSTRUCTION, INC. (DOSH V OSHAB), 34-2007-00882187-CU-WM-GDS, (02-801)
4. E.L. YEAGER CONSTRUCTION COMPANY, INC. (DOSH v OSHAB), 34-2007-00882192-CU-WM-GDS, (01-3261)
5. BRUTOCO ENGINEERING & CONSTRUCTION, INC., 30-2007 00100159 (07-9223)
6. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (00-440)
7. KHS & S CONTRACTORS, 32-2008-00107284-CU-WM-GDS CJC (06-2759)
8. SHIMMICK CONSTRUCTION CO., 34-2008-80000121-CU-WM-GDS (06-1136)
9. INTERNATIONAL TRANSPORTATION SERVICE (07-3824)
10. SOUTHERN CALIFORNIA EDISON COMPANY, BS 119297, LOS ANGELES SUPERIOR COURT (08-9062)
11. UNITED AIRLINES (SFO), 07CS00331
12. UNITED AIRLINES (SFO), 34-2009-80000256

APPELLATE COURT:

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1. MURRAY COMPANY, BS112469
2. HARRIS CONSTRUCTION COMPANY, INC. 07CS00518 (02-3914)
3. ARTHUR J. BREWSTER CORP. dba PRESTIGE KITCHENS, INC., G042132

PERSONNEL:

(Issues regarding staff.)

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