

**State of California**  
**CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD**  
**CLOSED SESSION AGENDA**  
**Government Code § 11126 (a), (c)(3), and (e)**  
**for**  
**Wednesday, September 2, 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 20, 2009**

**RE: Closed Session of the Board to be held on September 2, 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.

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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. INNOVATIVE CONSTRUCTION AND DEVELOPMENT, 09-R4D2-0660 THROUGH 0667
2. PASO ROBLES TANK, INC., 08-R4D5-4711

**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. ABACHERLI DAIRY, 08-R3D3-5028
2. ABERCROMBIE & FITCH, 08-R3D5-3352
3. ABORICULTURAL SPECIALTIES INC. DBA PROFESSIONAL TREE CARE CO., 08-R1D4-0799
4. ACA FINANCIAL, LLC DBA ALLIED CASH ADVANCE, 08-R2D2-1204
5. ADVANTAGE PRODUCTS, INC., 08-R1D2-5171 AND 5172
6. AGWOOD MILL & LUMBER, INC., 08-R1D5-5175
7. ALFARO FARM LABOR CONTRACTOR, INC., 08-R6D5-3380
8. ATHAN MAGGANAS, 08-R1D4-0136 THROUGH 0138
9. AVESON EDUCATIONAL COOPERATIVE, 09-R4D2-0337
10. CENTRON INDUSTRIES, INC., 08-R3D5-3523
11. CEO CONSTRUCTION, INC., 08-R1D3-3857 AND 3858
12. CHIPOTLE MEXICAN GRILL, 08-R3D5-3901 AND 3902
13. CLINE CELLARS, INC., 08-R1D5-2946
14. COOLING TOWER RESOURCES, INC., 08-R6D1-2116 THROUGH 2122
15. CORTEC PRECISION SHEET METAL, 08-R1D2-2820 THROUGH 2822
16. CVS PHARMACY, INC., 08-R3D5-2863 AND 2864
17. D'QUALITY SERVICE, INC., 08-R4D4-3454
18. MIKHAIL DARAFEEV, INC., 08-R4D4-2422 AND 2423
19. DEVCON CONSTRUCTION INCORPORATED, 08-R1D1-3025 AND 3026
20. DIAMOND TOUCH BODY SHOP, 09-R6D5-0867 AND 0868

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21. JOAQUIN DUARTE DBA PROFESSIONAL TREE SERVICE, 09-R3D3-1111
22. ECKLES AUTO BODY, INC., 09-R3D6-1240
23. E C U, INC., 09-R3D5-1094 AND 1095
24. GOLDEN FIELD GREENHOUSES, INC., 09-R6D7-1215 THROUGH 1217
25. GROVE GLASS COMPANY, 08-R3D1-1973 THROUGH 1977
26. H.D. SUPPLY DBA WHITE CAP, 08-R3D3-4211
27. H. WAYNE LEWIS, INC. DBA AMBER STEEL CO., 09-R3D3-2016 AND 2017
28. HARBOR ORNAMENTAL, INC., 09-R3D5-2086
29. HELM & SONS, INC. DBA HELM & SONS AMUSEMENTS, 08-R3D3-3513
30. HERITAGE OPERATING, LP DBA PRO-FLAME, 09-R3D3-1067
31. HILLTOWN PACKING, 08-R1D2-3855
32. INGRAM MICRO, INC. DBA INGRAM MICRO LOGISTICS, 09-R3D3-0631 THROUGH 0634
33. IMS RECYCLING SERVICES, INC., 08-R3D2-4798 THROUGH 4771
34. J B OLSEN CONSTRUCTION, INC., 08-R2D1-2502 THROUGH 2507
35. JC PAPER, 08-R1D4-1823 AND 1824
36. JOHNSON WESTERN GUNITE COMPANY, 07-R1D2-1607 AND 1608
37. LAMINATED SHIM COMPANY, 08-R3D3-5112 THROUGH 5114
38. LARSON STEEL, INC., 08-R1D4-4334 AND 4335
39. LIVE NATION WORLDWIDE, INC. DBA SAN MANUEL AMPHITHEATRE, 09-R3D3-2202
40. LUX APPAREL, INC., 09-R6D5-0205 AND 0206
41. PETER MCKENZIE DBA MAVERICK CONSTRUCTION, 08-R1D5-4992 THROUGH 4996

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42. MENDOCINO SOLID WASTE MANAGEMENT AUTHORITY, 08-R1D5-5090 AND 5091
43. MIKE CIMS, INC., 08-R3D5-4958 THROUGH 4960
44. NUTRAMED, INC., 08-R3D3-4546 AND 4547
45. ORCHARD SUPPLY HARDWARE, 08-R1D4-3268
46. PECK & HILLER CO., 09-R1D2-0550
47. QUARESMA CONSTRUCTION CO., 08-R1D2-0369 THROUGH 0372
48. REVCO INTERNATIONAL, 08-R3D5-3524 AND 3525
49. RAINBOW DISPOSAL COMPANY, INC., 09-R3D1-0773
50. ROOFMASTERS/BIRD CONTROL SERVICES, 08-R2D2-2479
51. RR DONNELLEY, INC., 09-R3D3-2201
52. S. E. G. TRUCKING, 08-R6D1-5062 THROUGH 5065
53. SAN MATEO-FOSTER CITY SCHOOL DISTRICT – HIGHLANDS ELEMENTARY SCHOOL, 08-R1D3-2170 AND 2171
54. SANTA CLARA COUNTY FACILITIES AND FLEET DEPARTMENT, 08-R1D2-2545
55. SCANDIA FAMILY FUN CENTER, 09-R3D3-1113 AND 1114
56. SELECT UNLIMITED, INC. DBA SELECT IMAGING, 08-R1D4-3033 AND 3034
57. SELLERS PAINTING, INC., 08-R2D2-3131 AND 3132
58. SOUTHERN CALIFORNIA PIPELINE, 06-R3D3-826 AND 827
59. TELEFLORO & AMY PACHECO DBA PACHECO FARM SERVICES, 08-R3D3-4520
60. THYSSENDRUPP SAFWAY INC., 08-R1D2-1122 AND 1123
61. TIME WARNER CABLE, 09-R4D1-1222 AND 1223
62. UNITED AIRLINES, 08-R1D3-2225 AND 2226

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63. UNITED MEDICAL IMAGING, 09-R4D4-0501
64. UNITED NATURAL FOODS, 09-R3D3-1404
65. ADELA PATRICA VARGAZ DBA JULIET'S AUTO BODY, 09-R6D5-0436 THROUGH 0438
66. W.A. MURPHY, INC., 08-R5D3-4305
67. WINDSOR QUALITY FOOD COMPANY, LTD., 08-R3D3-3516 THROUGH 3518
68. ANTONIO FUENTES ZAFRA, 09-R3D3-2408 THROUGH 2409
69. JOSE LUIS ZERMENO-TOPETE, 07-R1D2-4300 THROUGH 4302

**ORDERS DISMISSING APPEALS:**

1. BEAR VALLEY FRAMING, INC., 08-R3D3-3386 THROUGH 3388
2. BRIAN SPENCER DRYWALL, 08-R2D1-3800
3. E R CONSTRUCTION, 08-R2D1-0966
4. DORA E. FLOREZ DBA FLORES LABOR CONTRACTING, 08-R2D5-4087
5. JOHN LEWIS LOPEZ, 08-R2D3-0694
6. EURIPIDES QUILES DBA QUILES RANCH, 08-R2D3-0695

**STIPULATIONS:**

1. G D PLASTERING, INC., 08-R2D5-0051 THROUGH 0054
2. K.J. WOODS CONSTRUCTION, INC., 08-R1D3-0670 THROUGH 0673

**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.)*

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1. CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION, 07-R2D1-4631 THROUGH 4634
2. MARINE TERMINALS CORP. DBA EVERGREEN TERMINALS, 08-R6D5-1920

**DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS):**

1. SREE CONSTRUCTION, INC., 06-R1D2-1526 THROUGH 1530
2. ALL COUNTRY COMMERCIAL INDUSTRIAL [ACCI ROOFING SERVICE], 08-R3D2-0305

**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
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. BURTON L. SILVA FARMS, 09-R1D2-1498

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15. C & M FINE PACK, INC. 07-R6D2-4149 THROUGH 4155
16. CA RASMUSSEN, INC., 08-R4D5-219 AND 220
17. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
18. CALIFORNIA FRESH FARMS, 06-R2D4-4127
19. CELTIC SCAFFOLDING, INC., 08-R1D1-1469 THROUGH 1471
20. CENTRAL VALLEY CONCRETE, INC., 07-R2D4-1375 THROUGH 1378
21. CJI PROCESS SYSTEMS, 09-R6D2-1333 THROUGH 1336
22. CNL ROOFING COMPANY, 08-R1D2-1692 AND 1693
23. COLES CARBIDE CORPORATION, 08-R4D3-2012 THROUGH 2014
24. CORE GENERAL CONTRACTOR DBA CORE BUILDERS, 08-R1D2-1379
25. CVS PHARMACY GARFIELD BEACH LLC, 08-R3D1-9368
26. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
27. DAVIS BROTHERS FRAMING, INC., 03-R3D1-114
28. DAVIS BROTHERS FRAMING, INC., 05-R3D3-634 THROUGH 636
29. DESIGN BUILDERS, INC., 08-R4D4-1901
30. DUKE PACIFIC, INC., 06-R3D3-5175 THROUGH 5177
31. DUKE PACIFIC, INC., 08-R3D3-574
32. DYNALECTRIC, 03-R1D1-4101
33. ESTENSON LOGISTICS LLC 05-R1D4-1755 AND 1756
34. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
35. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
36. FORTUNA IRON WORKS 06-R2D3-4222
37. FREAS PLASTERING CO., INC., 08-R1D1-1188 AND 09-R1D1-2568
38. G.T. ALDERMAN, INC., 05-R4D3-3513

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39. GENERAL TRUSS CO. INC., 06-R2D1-783 AND 784
40. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
41. GLASS PAK, 03-R2D2-750 AND 751
42. GOLDEN WEST INDUSTRIES, INC., 08-R3D2-3930
43. GRISWOLD INDUSTRIES, 09-R6D2-0981 THROUGH 0984
44. HB PARKCO, 07-R4D2-1730 AND 1731
45. HELPMATES STAFFING SERVICES, 05-R3D3-2239
46. THE HERRICK CORP., 07-R3D1-495
47. HUSSMAN CORPORATION, 03-R3D1-2939
48. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
49. INTERNATIONAL ALUMINUM CORPORATION, 09-R6D2-1185
50. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456
51. JENSEN PRECAST, 05-R2D1-2377
52. JOHN LAING HOMES, 04-R3D1-194 AND 195
53. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968
54. JT WINDOWS, INC., 09-R6D2-0693 THROUGH 0698
55. KELLY SERVICES, INC., 06-R1D2-1024
56. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-323
57. KINDER MORGAN ENERGY PARTNERS, LP., 05-R5D1-2013 AND 2014
58. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
59. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
60. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
61. MICHELS CORP. DBA MICHELS PIPELINE CONSTRUCTION, 07-R5D1-4274

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62. MILLENIUM GENERATION, INC., 08-R4D3-5047
63. MITCHELL ENVIRONMENTAL CONCRETE, 09-R4D5-0147
64. HARRY L. MURPHY, INC., 06-R1D2-218 AND 219
65. BILL NELSON GENERAL ENGINEERING & CONSTRUCTION, 06-R2D5-1552 THROUGH 1554
66. O & M INDUSTRIES, 04-R1D5-1597
67. PMR RACE CARS, 03-R3D3-1825
68. POUK & STEINLE, INC., 03-R4D2-1495 AND 1496
69. R.A. CAMPBELL, INC., 09-R6D2-1209 THROUGH 1211
70. R & L BROSAMER, INC., 03-R1D5-4832
71. REAL EQUITY DEVELOPMENT, INC., 07-R2D4-4129 AND 4130
72. SAMTECH AUTOMOTIVE USA, INC. DBA SAMTECH INT'L, INC., 09-R6D2-0688 THROUGH 0692
73. SAN FRANCISCO FIRE DEPARTMENT, 09-R1D1-0655
74. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
75. SHANKARA IND. DBA RUSS'S AUTO BODY & REPAIR, 09-R6D5-2135
76. STACY & WITBECK, INC., 05-R1D1-1142
77. STATE CENTER COMMUNITY COLLEGE DISTRICT, 05-R2D5-1688 THROUGH 1692
78. STENDERUP AG PARTNERS, 09-R6D2-2111 AND 2112
79. DAVID STOUPAKAS DBA DEVORE TRUCKING & AUTO WRECKING, 07-R3D3-5185 AND 5186
80. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
81. TEICHERT & SON, INC., A CORPORATION DBA TEICHERT AGGREGATES, 04-R5D2-850 AND 851
82. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 05-R2D4-2650

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83. TEICHERT AGGREGATES, 04-R5D1-2982
  84. TRADER DAN'S DBA ROOMS N. COVERS, ETC., 08-R6D2-4978 THROUGH 4980
  85. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2256 AND 2557
  86. UNITED PARCEL SERVICE, 07-R3D3-3322
  87. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
  88. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802
  89. WINCHESTER CONSTRUCTION, 08-R4D3-4709 AND 4710

**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)

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9. SOUTHERN CALIFORNIA EDISON COMPANY, BS 119297, LOS ANGELES SUPERIOR COURT (08-9062)
10. UNITED AIRLINES (SFO), 07CS00331
11. UNITED AIRLINES (SFO), 34-2009-80000256

**APPELLATE COURT:**

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.