State of California
California Occupational Safety and Health Appeals Board
Closed Session Agenda
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Thursday, January 20, 2022
9:30 a.m.
Held on Zoom

To: Members of the California Occupational Safety & Health Appeals Board
From: J. Jeffrey Mojcher, Chief Counsel
Date: January 7, 2021
RE: Closed Session of the Board to be held on January 20, 2021

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.)

None

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.)

None

Petitions For Reconsideration (Second Review):

None

Orders Dismissing Appeal:

1502988 La Vie Wellness Inc.

Orders Denying Leave To File Late Appeal:

None
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 so as 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 authority of Labor Code sections 6620 through 6623.

1141604 Boy Racer Inc. DBA Burning Angel (Employer’s Petition) Whether adult film performers are employees or independent contractors.

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1246527 Cemex Whether the settlement in this matter was procured by fraud.

1494822 Ciasom, LLC dba Advoque Safeguard Whether Employer operated an industrial truck within appropriate limits.

1332867 Guy F. Atkinson Construction, LLC Whether the Division proved the alleged violation.

1410726 Hathaway Dinwiddie Construction Co. Whether the Division proved the alleged violation.

1290766 Millenium Reinforcing Whether the Employer proved that wearing foot protection would not have prevented the injury. Whether futility is a defense to a personal protective equipment requirement.

1334740 Olam West Coast, Inc. dba Olam Spices and Vegetable Ingredients Whether the Employer committed the alleged violations.
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1327187 Ontario Refrigeration Service, Inc.
Whether the Division proved the “serious” classification.

1155042 Signal Energy LLC
Whether Employer appropriately oversaw the actions of the subcontractors.

1192534 Shimmick Construction Company Inc.
Whether the employer committed the violation alleged.

1303461 SSA Terminals (Oakland), LLC DBA SSA Marine Terminals
Whether Employer violated section 3212(a)(2)(A) as alleged.

1509967 United Pumping Service, Inc.
Whether the citations were issued timely.

1384029 USA Waste of California, Inc. dba Blue Barrel Disposal Services
Whether the Employer committed the alleged violations.

1461476 Walmart, Inc.
Whether Walmart was an employer citable for the alleged violation.

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. Key Energy Service, LLC (12004280)

2. Barnard Impregilo Healy, JV, (317134021), CPF 17-515575

3. Ashley Furniture Industries, 34-2017-800002750, (1016514)


7. Prestige Painting, 37-2019-00066143 (1367265)

8. Davis Development Company, 34-2020-80003373 (1226084)
9. MWL Solutions, 34-2020-80003549 (1436014)
11. BMW West, LLC, 34-2021-80003574 (1399613)
12. Southern California Edison, 34-2021-80003580 (1320327)
13. L&S Framing, Inc., SCV-0046603 (1173183)
14. Granite Construction, 34-2021-80003634 (1235643)
15. Pacific Utility Installation, Inc., 30-2021-01201020 (1321161)
16. Golden State FC, LLC dba Amazon Fulfillment, STK-CV-UWM-2021-0004380 (1310525)
17. USA Waste of California, Inc. dba Blue Barrel Disposal Services, 21STCP01729 (1384029)
18. Grimmway Enterprises, Inc., BCV-21-101503 (1477159)
19. Grimmway Enterprises, Inc., BCV-21-101554 (1238985)
20. RND Contractors, Inc., CIV SB 2119442 (1436785)
21. Sunview Vineyards of California, Inc. RG21111733 (1153101)
22. Hill Crane Service Inc., 34-2021-80003744 (1135350)

Appellate Court:

1. Atkinson Construction, LP, 34-2017-80002611, C091705 (317386084)
2. Interline Brands, Inc., CIVDS2021813 (1251604)

Other Items:

1. New and/or interlocutory petitions for reconsideration not filed in time to be agendized.
2. Categorizing the Board's DARs and Denials on the DIR website.
3. Staff attorneys to provide legal analysis, advice and counsel regarding COVID-19 cases.
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.)

1195416  Alon Kaspi
1385353  APM Terminals Pacific LTD
1563337  Beeler Industries, Inc.
1508370  Bold Quail Holdings, Inc.
1523318  Boreal Ridge, Inc.
1495767  Bragg Crane And Rigging Company
1533521  Chinchiolo Stemilt California, LLC
1335193  City Of San Diego Fire Rescue Dept.
1342184  CMEBUILD, Inc.
1293907  Crown Energy Services, Inc.
1515070  CVS Pharmacy, Inc.
1474531  EE Hall Inc.
1496758  Foley Family Wines
1532355  General Production Service of California, Inc.
1500448  Hall Management Corp.
1510943  HBA Incorporated
1526623  L/C/F LYT Auttun, LLC
1514639  Medstar, LLC
1491142  Mental Health Management, Inc.
1523915  NFI, L.P.
1545203  Personnel Staffing Solutions Group, Inc.
1333964  Platinum Pipeline, Inc.
1499293  Richwood Meat Company, Inc.
1490265  Rubicon Bakers LLC
14378128  Salsbury Industries, Inc.
1480869  Setzer Forest Products, Inc.
1492581  UC Davis
1474385  Wayfair, LLC
1410265  Yonts Construction

Personnel:
(Issues regarding staff.)

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