

**State Of California**  
**California Occupational Safety and Health Appeals Board**  
**Minutes of the Public Meeting & Closed Session**  
**Held on October 6, 2022**  
**Sacramento, California**  
**West Covina, California**  
**Zoom Platform**

**Present:**

Ed Lowry, Chair, Public Member  
Judith Freyman, Management Member  
Marvin Kropke, Labor Member  
Patricia Hapgood, Acting Executive Officer  
Jeff Mojcher, Chief Counsel  
Kevin Reedy, Supervising Judge  
Sam Lucas, Supervising Judge  
Aaron Jackson, Industrial Relations Counsel  
Elizabeth Clarke, Staff Attorney  
Vincent Mersich, Staff Attorney  
Janis Jonas, Executive Secretary  
Matthew Lugo, DIR Analyst, Office of the Director  
Denise Cardoso, Staff Counsel, DOSH  
Bruce Wick, Risk Management Director, Housing Contractors of California

**Minutes of September 15, 2022 Meeting:**

(Approve or amend minutes of previous board meeting.)

Action: The Board approved the minutes of the September 15, 2022 Board meeting.  
Moved: Marvin Kropke  
Seconded: Judith Freyman  
The vote was 3-0

**New Business:**

*(The appeals Board hears and discusses new reports presented by staff.)*

Action: No report.

**Old Business:**

*(The appeals Board hears and/or discusses matters on a follow-up basis.)*

1. Discussion of hearing schedules and ALJ availability for the pilot program.

Action: Judge Sam Lucas updated the Board on the progress regarding the pilot program involving scheduling judges for hearings.

2. Update of DOSH eAttorney system interfacing with OASIS.

Action: No report

3. Discussion and update concerning regulatory amendments to the Board's rules of practice and procedure to govern, address and permit Board hearings via telephone or videoconference, including consideration of proposed amendments to Board regulation 376, and consideration of public comments received.

Action: Aaron Jackson discussed current recommended changes to the regulation 376 in response to the latest comments received from the public.

**Legislation:**

*(Review and discuss current legislation which may affect the appeals Board.)*

Action: Elizabeth Clarke updated the Board on current Legislation.

**Chairperson's Report:**

*(Hear report from the Chairperson on activities and issues affecting the Appeals Board.)*

Action: Ed Lowry updated the Board about a staff meeting held for the Sacramento office, and a meeting to be held for the West Covina office.

**Board Members Reports:**

*(Hear reports from Board members on activities and issues affecting the Appeals Board.)*

Action: No report.

**Executive Officer's Report:**

*(Report regarding administrative matters.)*

Action: Patty Hapgood reported that a new telework agreement package will be implemented.

Ms. Hapgood also updated the Board on the interviews that were held for the Office Technician position. A candidate application was submitted to the Human Resource office for approval.

**Staff Reports:**

*(Reports from the Supervising ALJ and the Chief Counsel regarding matters from the Hearing Operations and Legal Units.)*

1. Discuss whether there are any proposals for new regulations or proposals for modifications to current regulations. In addition, discuss whether any concerns exist regarding regulations.

Action: No report.

2. Discuss status of Video Hearings.

Action: No report.

3. Discuss recent appeals filed related to the current COVID-19 pandemic.

Action: Judge Kevin Reedy updated the Board on cases involving COVID related citations.

4. Litigation update:

Action: Jeff Mojcher updated the Board on current court cases.

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.

**Public Comment:**

*(Public comment will be entertained during discussion of each agenda item of the open meeting.)*

Action: The Board received comments from the public.

The board recessed to its 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.)*

1412595 Angelus Block Co., Inc.  
Action: The Board reviewed this Decision.

1462745 Wonderful Citrus Packing LLC  
Action: The Board reviewed this Decision.

**Petitions for Reconsideration:**

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

1513834 FMG, Inc. dba Hadley Tow  
Action: The Board voted to extend time to consider the petition.  
Moved: Ed Lowry  
Seconded: Marvin Kropke  
Vote: 3-0

313381584 Modern Pro Builders  
Action: The Board voted to grant this petition.  
Moved: Ed Lowry  
Seconded: Marvin Kropke  
Vote: 3-0

**Orders Dismissing Appeal:**

1426375 Aplus Constructors, Inc.  
Action: The Board reviewed this Order.

1447957 Forrest Scott, an Individual  
Action: The Board reviewed this Order.

1324361 GJ Gentry General Engineering, Inc.  
Action: The Board reviewed this Order.

1434239 Hau Thang Nguyen  
Action: The Board reviewed this Order.

1553719 Oldcastle Infrastructure, Inc.  
Action: The Board reviewed this Order.

**Orders Denying Leave To File Late Appeal:**

1496541 California Department of Corrections  
Action: The Board reviewed this Order.

1577072 City of Elk Grove Police Department  
Action: The Board reviewed this Order.

**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.*

- |         |   |
|---------|---|
| 1360156 | CA Forestry and Fire Protection   |
| 1300984 | General Dynamics NASSCO<br><i>Whether Employer committed the violations alleged.</i>  |
| 1340591 | Lennar Corporation<br><i>Whether Employer committed the violations alleged.</i>   |
| 1291481 | Sierra Pacific Forest Products<br><i>Whether Employer was in compliance with the cited safety order.</i>                    |
| 1303461 | SSA Terminals (Oakland), LLC DBA SSA Marine Terminals<br><i>Whether Employer violated section 3212(a)(2)(A) as alleged.</i> |

**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. Barnard Impregilo Healy, JV, CPF 17-515575 (317134021)
2. Ashley Furniture Industries, 34-2017-800002750 (1016514)
3. United Parcel Service, Inc. DBA UPS, 34-2019-80003174 (1116529)
4. Shimmick Construction Company, Inc., 34-2019-80003191 (1059365)
5. Davis Development Company, 34-2020-80003373 (1226084)
6. Southern California Edison, 34-2021-80003580 (1320327)
7. Pacific Utility Installation, Inc., 30-2021-01201020 (1321161)
8. Grimmway Enterprises, Inc., BCV-21-101503 (1477159)

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9. Grimmway Enterprises, Inc., BCV-21-101554 (1238985)
10. RND Contractors, Inc., CIV SB 2119442 (1436785)
11. Sunview Vineyards of California, Inc. RG21111733 (1153101)
12. Hill Crane Service Inc., 34-2021-80003744 (1135350)
13. Amazon.com Services, LLC dba Amazon Warehouse LGB3, 22STCP00403 (1473644)
14. Sierra Forest Products, VCU290996 (1291481)
15. USA Waste of California, Inc., 34-2022-80003841 (1384029)
16. Ranch of the Golden Hawk, 22STCP02302 (1224802)
17. Guy F. Atkinson Construction, LLC. 22STCP03019 (1332867)

**Appellate Court:**

1. Interline Brands, Inc., CIVDS2021813 (1251604)
2. Golden State FC, LLC, STK-CV-UWM-2021-004380 (1310525)
3. L & S Framing, Inc. S-CV-0046603 (1173183)
4. Granite Construction Company, 34-2021-80003634 (1235643)

**Other Items:**

1. New and/or interlocutory petitions for reconsideration not filed in time to be agendized.  
Action: No report.
2. Categorizing the Board's DARs and Denials on the DIR website.  
Action: No report.
3. Staff attorneys to provide legal analysis, advice and counsel regarding COVID-19 cases.  
Action: No report.
4. Discussion of DOSH Proposal to have their eAttorney system interface with OASIS.  
Action: No report.

**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.)*

1340628	9W Halo Western OPCO, L.P.
1354363	ABF Freight System, Inc.
1405667	ACCO Engineered Systems, Inc.
1415547	ACS Staffing, Inc.
1517723	Albeco, Inc.
1435900	ALCAL Specialty Contracting, Inc.
1486537	All Right Electric, Inc.
1546542	Anthem United Homes Construction, LP
1536564	Associated Developers Concrete, Inc.
1476063	Atlas Vineyard Management
1468481	Baltor3, Inc.
1524047	Barron Construction, Inc.
1432015	Brunette Productions, LLC
1559549	Burnett & Son Meat Co., Inc.
1585816	Cal-Tex Construction
1347235	California Department Of Transportation
1411954	Caspian Commercial Plumbing, Inc.
1576599	Celebrity Cleaners, LLC
1528960	Central Coast Agriculture
1604298	Central Wire, Inc.
1558443	Champion Home Builders, Inc.
1285460	Chevron USA, Inc.
1516810	City Of Los Angeles Department Of General Services
1567157	Claremont Graduate University
1567214	Classic Beverage Of Southern California LLC
1528444	Costco Wholesale Corporation
1565680	Crowne Cold Storage LLC
1497485	CVS Pharmacy
1489676	D L Construction
1514447	Doc Burnstein's Creamery
1560502	F.E.C. Electric, Inc.
1590001	FedEx Freight, Inc.
1534162	Fieldsource Food Systems, Inc.
1538849	Five Keys Schools And Programs
1554619	Foster Poultry Farms Inc.

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1474356	G/M Business Interiors
1554807	Galasso's Bakery
1527071	Ganahl Lumber Company
1540054	Garcia Professional Tree Service, Inc.
1525927	Grizzly Construction, Inc.
1483170	H&B Hospitality LLC
1562267	Hannam Chain U.S.A., Inc.
1571939	Harry Brar
1507803	Hebrew Home For The Age Disabled
1467095	Herman Weissker Power, Inc.
1559778	Hope Builders, Inc.
1499873	Huerta's Tree Service & Development, Inc.
1572887	If CoPack, LLC
1557130	Incentive Promotions, Inc.
1539184	Innovative Dimmers, LLC
1531140	Intricate Building And Restoration, Inc.
1507782	JNH International, Inc.
1490095	JP Haitian Relief Organization
1507363	JS Sacramento, Inc.
1478357	JSL Foods, Inc.
1494286	Kaiser Foundation Hospitals
1549595	L T Building Corp.
1551423	Leonardo's Roofing Inc.
1541113	Life Is Life, LLC
1453861	Lind Marine Incorporated
1541343	LMC Enterprises
1496133	LVR Subtenant LLC
1543731	Major League Pest
1531604	MCM Roofing Company, Inc.
1513567	Mechanical Service & Systems, Inc.
1568454	Miabella Expert Tree Service, Inc.
1491221	New Caney, Inc.
1528461	Northwest Pallet Services, LLC
1586040	Nowhere Commissary, LLC
1582029	Pacific Bell Telephone Company
1542755	Pacific International Cold Storage LLC
1581736	Paradise Group Holdings PTE, LTD
1520754	Partners Alliance Cold Storage, Inc.
1196967	Precision Metal Products, Inc.
1497297	Prime Conduit, Inc.



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1525787	Prime Healthcare Services - Shasta LLC
1430958	Priority Work Force, Inc.
1565344	Processes by Martin, Inc.
1502242	Providing Exterminating Solutions Today
1507138	Ralph's Grocery Company
1521542	Rose Hills Memorial Park & Mortuary
1508901	RRT Enterprises, LP
1553038	San Diego County Sheriff's Department
1545274	San Diego Vista Steel Service Corporation
1524947	SBE Electrical Contracting, Inc.
1573535	Sea Crest Nursery, Inc.
1526260	Security Paving Company, Inc.
1534223	Security Paving Company, Inc.
1531937	Seltzer-Doren Management Company, Inc.
1437397	Shaver Log Works, Inc.
1529450	SOS Entertainment, LLC
1594189	South Coast Piering Inc.
1545010	Southern California Discount Tire Co., Inc.
1511418	Specialized Elevator Services, LLC
1569060	STR Fusco, Inc.
1570161	Sunline Energy Inc.
1559795	Sunny Grocery Store, LLC
1491565	Super GP Foods and Associates
1552382	Tennyson Electric, Inc.
1495190	The Adlen Family Limited Partnership
1461138	Two Rivers Demolition, Inc.
1522731	Umina Brothers, Inc.
1507556	Valley Chrome Plating, Inc.
1373841	Ventura Foods LLC
1579544	Ventura Harbor Boatyard, Inc.
1534715	Watson Ag. Chemicals, Inc.
1579784	We Care Pest Solutions
1375273	Western Harvesting LLC
1562792	Westmoreland Cattle Co Inc.
1484960	Windsor Bakersfield Healthcare, LLC
1579669	Young's Market Company, LLC

Action: The Board reviewed the Settlement Orders issued by the Administrative Law Judges.

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**Personnel:**

*(Issues regarding staff)*

Action:           No report.

The Closed Session adjourned at 11:18 a.m. and the Board returned to the Public Meeting. The Appeals Board incorporated by reference its actions in the Closed Session, as indicated above. The meeting adjourned at 11:19 a.m.