

State of California
California Occupational Safety and Health Appeals Board
Closed Session Agenda

Government Code § 11126 (a), (c)(3), (e) and (f)

for

Thursday, February 2, 2023

9:30 a.m.

Held on Zoom

To: Members of the California Occupational Safety & Health Appeal Board

From: J. Jeffrey Mojcher, Chief Counsel

Date: January 20, 2023

RE: Closed Session of the Board to be held on February 2, 2023

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.)

There are no ALJ Decisions for review.

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.)

1431672 A. Teichert & Son, LLC

1572962 Total Terminals International, LLC

1555357 Quest Diagnostics Nichols Institute

Orders Dismissing Appeal:

- 1575874 Associated Ready Mixed Concrete, Inc.
- 1559858 Century 26 Construction, Inc.
- 1505339 Howood Company
- 1565898 Nationwide Builders, LLC

Orders Denying Leave To File Late Appeal:

- 1576231 Pacifica Union City, LLC

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 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.

- 1314092 99 Cents Only Store, LLC
Whether the employer committed a foot protection violation as alleged.
- 1380273 Bigge Crane & Rigging, Co.
Whether the employer committed the alleged violation.
- 1360156 CA Forestry and Fire Protection
Whether it was an error to assign a particular ALJ to the matter.
- 1564732 Calvary Chapel of San Jose dba Calvary Chapel Academy
Whether the ALJ correctly excluded evidence from the inspection.
- 1490008 Elite MD, Inc.
- 1262720 General Dynamics NASSCO
Whether the employer followed proper procedures in rigging a load.
- 1436480 Interline Brands, Inc.
Whether the employer violated foot protection standards.

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- 1004280 Key Energy Services, LLC
Matter remanded to the Board from the Court.
- 1340591 Lennar Corporation
Whether Employer committed the violations alleged.
- 1465354 Natural Alternatives International, Inc.
Whether the ALJ erred in dismissing the matter.
- 1336276 Rios Farming Company, LLC
Whether the ALJ's decision was correct.
- 1291481 Sierra Pacific Forest Products
Whether Employer was in compliance with the cited safety order.
- 1303461 SSA Terminals (Oakland), LLC dba SSA Marine Terminals
Whether Employer violated section 3212(a)(2)(A) as alleged.
- 1565022 Victorio Mufflers, Inc.

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. Hill Crane Service Inc., 34-2021-80003744 (1135350)
8. USA Waste of California, Inc., 34-2022-80003841 (1384029)
9. Ranch of the Golden Hawk, 22STCP02302 (1224802)

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10. Guy F. Atkinson Construction, LLC, 22STCP03019 (1332867)
11. American Fumigation Services, LLC, 22STCP04305 (1506586)

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)
5. MWL Solutions, C097353, 34-2020-80003549 (1436014)
6. BMC West LLC, 34-2020-80003459 (1399613)
7. Hampton Tedder Electric, 34-2020-80003549 (1233597)
8. Sierra Forest Products, VCU290996 (1291481)
9. RND Contractors, Inc., CIVSB2119442 (1436785)

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.
4. Discussion of DOSH Proposal to have their eAttorney system interface with OASIS.

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.

1489471	7-Eleven
1537070	Alden John Cusick
1582906	American Metal Filter Co.
1563677	Antelope Valley Hospital Foundation

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1559772	Apec International, Inc.
1568440	Bella + Canvas, LLC
1592348	BFS Group, LLC
1473488	Brent-Wood Products Inc.
1602822	Cal Trans
1476248	Cantaloupe Holdings, LLC
1520256	Clayco, Inc.
1506972	Clearwater Landscape Services
1596745	Climate Pros, LLC
1472340	Coca-Cola North America Group
1485062	Core-Mark International, Inc.
1630490	County of Colusa
1336380	Crew, Inc.
1536791	Domries Enterprises, Inc.
1374156	Eco.Logic Brands, Inc.
1492117	Farm Labor Service of Central Cal, Inc.
1599342	Five Star Woodland, Inc.
1580011	Flatiron West, Inc.
1602398	Freedom Forever, LLC
1563164	Harbor Distributing LLC
1554963	JCF Farm Labor Contractor, Inc
1577540	Jetton Construction, Inc.
1566907	K.L.K. Young Meat Market, Inc.
1518316	Kaiser Foundation Health Plan, Inc.
1329229	KC Paving, Inc.
1332489	L & S Framing, Inc.
1606657	La Superior Super Mercados
1567626	Larry F. Kandarian
1457824	Larry Homen
1557012	Lascari's and Sons, Inc.
1578127	Los Angeles County Fire Department, Fire Station

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1590018	Marie Grabill, an Individual
1539122	Marlene Ivceovich
1554694	Midway Construction
1546203	Milk Specialties Global
1434352	Mozzini Ranch
1551759	P & R Dagorret, Inc.
1598398	Pacific Spawn Company
1473875	Panorama Meadows Nursing Center, LP
1515466	PCC Aerostructures ADI
1630443	People Ready Skill Trades, Inc.
1601180	Premium California Foods, Inc.
1586301	Quest Diagnostics Incorporated
1556956	Rancho Toyota Recycling, Inc.
1431357	Ray Tech Professional Painting, Inc.
1568170	Reliance Inspection, Inc.
1540929	Rose & Shore, Inc.
1600274	Ruppert, Inc.
1519369	Safeway, Inc.
1543363	SG Construction & Framing Inc.
1542678	Shaw & Sons, Inc.
1488602	Sierra View Homes
1558362	South Coast Inflatable, LLC
1385931	St. Francis Electric, LLC
1615271	Takhar Farm
1579509	Torrance Refining Company, LLC
1594124	Torrance Refining Company, LLC
1556751	Trader Joe's #49
1535789	Tree Sculpture Group, a California Corporation
1621327	Trinity International Industries, LLC
1301407	Tutor Perini/Zachry/Parsons, a Joint Venture
1598027	Valroy Construction, Inc.

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1517051	Walmart Associates, Inc.
1608665	Walmart, Inc.
1545050	Washington Ornamental Iron Works, Inc.
1520776	Wonderful Pistachios & Almonds, LLC

Personnel:

(Issues regarding staff.)

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