

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

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

for

Thursday, May 4, 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: April 21, 2023

RE: Closed Session of the Board to be held on May 4, 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 Decisions scheduled for this meeting.

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.)

1488312 The Indiana Finish Line, Inc.

1601337 Three Star Demolition & Janitorial, Inc.

1580817 Cameron Sparks, an Individual

Orders Dismissing Appeal:

1600527 ACS Staffing, Inc.

1447933 E.R.R.A. Brothers

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- 1578370 Horizon Personnel Services
- 1557466 Solarm, Inc.
- 1564173 Tal Construction, Inc.

Orders Denying Leave to File Late Appeal:

- 1610350 Baron HR

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.
- 1431672 A. Teichert & Son, LLC
Whether the cited employer was in violation of lockout/tagout requirements.
- 1538332 Albeco, Inc.
Whether denial of motion for late appeal was correct.
- 1473644 Amazon.com Services, LLC
Whether the employer's training program was in compliance with the applicable safety order.
- 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.

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- 1490008 Elite MD, Inc.
Whether the ALJ's denial of leave to file a late appeal was correct.
- 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.
- 1004280 Key Energy Services, LLC
Matter remanded to the Board from the Court.
- 1486257 The Kroger Company
- 1340591 Lennar Corporation
Whether Employer committed the violations alleged.
- 1465354 Natural Alternatives International, Inc.
Whether the ALJ erred in dismissing the matter.
- 1405107 S.C. Anderson, Inc.
Whether employer committed the alleged violations.
- 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.

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)

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

Appellate Court:

1. Interline Brands, Inc., CIVDS2021813 (1251604)
2. L & S Framing, Inc. S-CV-0046603 (1173183)
3. Granite Construction Company, 34-2021-80003634 (1235643)
4. MWL Solutions, C097353, 34-2020-80003549 (1436014)
5. BMC West LLC, 34-2020-80003459 (1399613)
6. Hampton Tedder Electric, 34-2020-80003549 (1233597)
7. 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.

1567702	1st Choice Fumigation, Inc.
1629056	4949 Venice, LLC
1494241	Ability Home Care, Inc.
1560255	Acorn Arboricultural Services, Inc.
1619953	Adame Communications, Inc.
1589456	Aerovironment, Inc.
1473107	Alameda Care Center
1488766	Alden Terrace
1622731	Ashley Callu, an Individual
1513812	Aulakh Farms
1335883	Balboa Trucking, Inc.
1517045	Brandenburg Industrial Service Company
1638002	Brappa Security Systems, Inc.
1490555	Brookdale Senior Living Communities, Inc.
1617610	Builder Brothers Carpentry, Inc.
1570609	Builder Services Group, Inc.
1520358	Burbank Healthcare, Inc.
1513231	Ca Corrections & Rehabilitation - Mule Creek State
1632885	Caito Fisheries Inc
1548275	California Department Of Corrections And
1491827	California Healthcare And Rehabilitation Center
1561426	Carlsbad Air Service, Inc.
1295103	Citistaff Solutions, Inc.
1577136	Citistaff Solutions, Inc. @ RWP Transfer, Inc.
1481964	City of Clovis
1160373	City of Oceanside
1557152	CONFLO Services, Inc.
1485881	Cosmetix West, Inc.
1633090	Crane Rental Service, Inc.
1539999	Cream of The Crop Ag Service, Inc.
1562807	Delta Groups Engineering, Inc.
1570230	Demler Brothers, LLC.
1580076	Dexion Industries, Inc.
1571629	Drill Tech Drilling & Shoring, Inc.

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1530460	Eat Sweet Farms, LLC
1640801	Ecco Bay Services, Inc.
1438276	El Pollo Loco, Inc.
1517719	Fieldsource Food Systems, Inc.
1596333	G. E. A. Framing Corporation
1616037	Gaddis Nursery, Inc
1634383	Grain Craft
1579551	Graziano Roofing, Inc.
1521036	Gregory Littman
1582042	Guy Yocom Construction
1377483	Irvine Management Company
1635425	JBC General Construction, Inc.
1618103	John Mourier Construction, Inc.
1627017	Juan Orozco, An Individual
1531564	K&J Ag Services
1493462	K.W. Curtis Enterprises, Inc.
1583957	Kevin Duffy Landscaping
1595682	Kia Contractors, Inc.
1549482	Kincaid Industries, Inc.
1508079	Longwood Manor
1472265	Los Angeles County Department Of Health Services,
1521032	Los Angeles County Sheriff's Department
1590729	Lowe's Home Centers, LLC
1476125	Magnolia Gardens Convalescent Hospital, Inc.
1600188	Mask EDC, Inc.
1639754	Modern Building, Inc.
1569304	Moraga Library
1479056	Morlet Estate Hilltop, LLC.
1602309	Mr. Paint, Inc.
1625545	Myers & Sons Construction LLC
1528477	North Shore Greenhouses, Inc.
1611768	Northgate Gonzalez, LLC
1501889	Pacific Gas & Electric Company
1637706	Pacific Hotel Management, LLC
1505922	Palm Springs Operating Company, LP
1491341	Pico Rivera Healthcare, Inc.
1624851	Premium Health OC Inc.
1605242	Quikserve Restaurants, Inc.
1639473	Quinn Company

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1572644	Republic Services
1541120	RJ's Demolition & Disposal
1614006	Robertson's Transport, LTD
1580347	Rock'n JK Farms, LLC
1518317	San Dimas Retirement Center, Inc.
1599998	San Leandro Color, Inc.
1550519	Seafood City Supermarket
1578020	Solano County Juvenile Detention Facility
1633789	Solid Rock Construction & Fine Carpentry, Inc.
1554553	Sun Shippers Distribution LLC
1495505	Super Center Concepts, Inc.
1603634	Trader Joe's Company
1612386	Trader Joe's Company
1612477	Trader Joe's Company
1635032	Trader Joe's Company
1635412	Trader Joe's Company
1640730	Trader Joe's Company
1564407	Tyrrell Resources, Inc.
1578338	UCLA-Health - Outreach Clinical Laboratory
1575650	Val-Pro, Inc.
1408249	Wag Hotels, Inc.
1416143	Webcor Builders, Inc.
1625256	Yosef Peretz

Personnel:

(Issues regarding staff.)

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