

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 18, 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: May 5, 2023

RE: Closed Session of the Board to be held on May 18, 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.)

1477159 Grimmway Enterprises, Inc.

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.

1610318 Employbridge Holding Company

1600556 State of California Department of Transportation

Orders Dismissing Appeal:

1576162 Meadows in Bloom, LLC

1202966 Sungo Farms

Orders Denying Leave to File Late Appeal:

- 1616893 LAUSD Hollywood HS
- 1580072 San Francisco Police Department

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.
- 1490008 Elite MD, Inc.
Whether the ALJ's denial of leave to file a late appeal was correct.
- 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.
- 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)
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)

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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.

1575580	ABC Windows And More, LLC
1639069	AECOM Turner NBA Joint Venture
1495693	Amazon.Com Services, LLC
1623352	Aramark Services, Inc.
1605744	Arthurmade Plastics, Inc.
1554282	Atlantic Solutions Group, Inc.
1536243	Bay View Rehabilitation Hospital, LLC

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1570429	BLH Construction Company
1531369	Bore-Max Corp.
1598116	Brandon Roy's Aquaman Enterprises, Inc.
1651506	Broward Builders, Inc.
1516755	Bryan Casey Marsh
1476164	CA General Services
1638540	Castle Tire Disposal, LLC
1588627	Champion Home Builders, Inc.
1506170	City of Los Angeles Police Department
1565318	CLW Foods, LLC
1486320	Coldwater Care Center LLC
1588525	D and T Hogan Incorporated
1595292	D.A. Bentley Construction, LLC
1300008	Diamond PEO, LLC
1506541	Dycora Transitional Health - San Jose LLC
1525743	Golden State FC, LLC
1509379	Green Farms California, LLC
1599703	Habitant Classique, Inc.
1513264	Hayward Healthcare & Wellness Center LLC
1606577	Humboldt Sawmill Company, LLC
1639629	Hunter Energy Solutions, Inc.
1539181	Imperial Care Center
1639212	J.A. Sutherland, Inc.
1563882	K&M Casinos, Inc.
1576632	Kiwi II Construction, Inc.
1617631	Level 5 Builders, Inc.
1632273	Local Service Pros, Inc.
1539566	Lopez and Sons Farms, Inc.
1449741	Los Angeles Unified School District Newman
1571212	Mladen Buntich Construction Co., Inc.
1630011	Morning Star Trucking Company LLC
1531158	Navarro Roofing Corporation
1635929	Nevarez Farm Labor, Inc.
1549596	NGB Construction Inc
1476402	Northridge Care Center, Inc.
1584297	Northwest Confections California, LLC
1456741	Nueva Castilla Iron Works, Inc.
1556468	Nulife Power Electric Services, LLC
1527916	O'neil Digital Solutions, LLC
1512806	Orange Restoration San Diego
1634178	Outfront Media, LLC
1630528	Platypus Painting Inc.
1542542	Porvene Doors, Inc.
1534130	Priority Business Services, Inc.
1595812	Production Framing, Inc.
1524908	Proframe, Inc.

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1635402	Quality and Quick Auto Wreckers, Inc.
1580552	Reliance Engineering
1515208	Republic Services, Inc.
1560476	S.F.T., Inc.
1627091	Sacramento County Department of General
1331341	Sadler Roofing, Inc.
1350387	Sahara Scaffold
1491659	Studio City Rehabilitation Center
1586644	Studio City Rehabilitation Center
1633336	Sutter Basin Growers Co-Op
1472876	Sutter Valley Hospitals, A California Nonprofit
1550675	Tanimura & Antle Fresh Foods, Inc.
1516422	TE Connectivity
1616247	Tharaldson Hospitality Development, LLC
1574856	The Carpet Shoppe, Inc.
1535527	The Permanente Medical Group, Inc.
1555641	Timberworks Construction, Inc.
1405612	Toll Bros Inc.
1474267	TWE Enterprises
1421694	Valley Contractor Services, Inc.
1630386	Vega's Tree Services
1612830	Vieira Custom Chopping, Inc.
1523035	View Park Convalescent Hospital, Inc.
1576229	Vividus Venture Corporation
1606872	Walker Evans Enterprises
1376629	Walmart Inc.
1501542	WDS Construction, Inc.
1432006	Webcor Construction, LP
1491843	West Hills Health & Rehab Center
1548279	Western Convalescent Hospital
1514464	Whole Foods Market California, Inc.
1598441	Your Way Tree Service
1639732	Z And H Associates, Inc.

Personnel:

(Issues regarding staff.)

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