

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

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

for

Thursday, June 1, 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 19, 2023

RE: Closed Session of the Board to be held on June 1, 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.)

1113026 Angelus Block Co., Inc.

1361815 Thompson Pipe Group

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.)

1237935 D'Ybanag Construction Company

1626305 J.P. Carroll Coatings, Inc.

Orders Dismissing Appeal:

- 1587491 GM Business Services, Inc.
- 1457427 Jon Pereira
- 1571270 Partnership Staffing Solutions, LLC
- 1270089 Southland Commercial Interiors, Inc.

Orders Denying Leave to File Late Appeal:

- 1610348 Neptune Fire Protection, Inc.

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.

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- 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.
- 1488312 The Indiana Finish Line, Inc.
Whether the cited employer established procedures adequate to protect employees from COVID-19.
- 1436480 Interline Brands, Inc.
Whether the employer violated foot protection standards.
- 1004280 Key Energy Services, LLC
This matter was remanded to the Board from the Court.
- 1486257 The Kroger Company
Whether the cited employer adequately trained employees regarding workplace hazards.
- 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.)

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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)
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.

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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.)

1629907	2804 Garvey, LLC
1658759	Above Board Construction & Roofing Inc.
1514745	Aerotek, Inc.
1286477	Air Engineering Service
1576167	Arboristas Inc
1567177	Balfour Beatty Infrastructure
1496892	Baronhr, LLC
1491129	Biagi Bros., Inc.
1504240	Burlington Convalescent Hospital, Inc.
1541269	C M C Steel Fabricators, Inc.
1509331	CA Corrections and Rehabilitation, Wasco State
1486079	California Prison Industry Authority
1534907	California Wide Electric Services, Inc.
1559152	Calistoga Joint Unified School District
1566199	Champion Construction Consultants, Inc.
1620274	Civil Clothing, Inc.
1581946	Clarkwestern Dietrich Building Systems, LLC
1651124	Collier Hardware
1522637	Conam Management Corporation
1576234	Construction Equipment Co.
1578950	Corona Millworks Company
1340705	Cosco Fire Protection, Inc.
1619409	Cosway Company, Inc.
1333083	Creative Stone Mfg., Inc.
1614414	D.W. Johnston Construction, Inc.
1418370	Dashiell Corporation
1613413	Desert Framing Contractors, Inc.
1598374	Diego Buendia Concrete
1571629	Drill Tech Drilling & Shoring, Inc.
1575371	Environmental Service Partners, Inc.
1481026	Fabritec Structures, LLC
1611747	Falcon Farms, Inc.
1598150	Fisherman's Wharf Sourdough French Bread
1485223	Forrest Machining, Inc.

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1485435	Healthcare Services - Encino Hospital, LLC
1631102	Henson's Cabinets
1620802	Jewell Investments, LLC
1611480	Kern Valleyidence Opco, LLC
1600814	King Taco Restaurant, Inc.
1592058	La Campana Market
1556425	La Furniture Warehouse, LLC Dba Global United
1578319	Maverick Abrasives Corporation
1480606	Mclane Suneast, Inc.
1625628	Menifee Metals Manufacturing, LLC
1487715	Mericle Mechanical, Inc.
1617234	Merz Construction
1606687	Midstate Sheetmetal, Inc.
1637396	Mountain Roofing, Inc.
1533274	National Technical Systems, Inc.
1529243	Opera Patisserie
1555832	Pacific Contracting Group
1417696	Par Electrical Contractors, Inc.
1585982	Park Avenue Customs
1447196	Planet Stone, Inc.
1617459	Pridestaff, Inc.
1632299	Prime Source Floral Distributors, Inc.
1483165	Promise Energy Inc.
1630009	Quality Carriers, Inc.
1635740	Rafael Antonio Cordova Gonzalez
1415513	Realco Creations, Inc.
1641568	Ricardo Lopez Sr.
1588273	Robertson's Ready Mix, Ltd., A California Limited
1628950	RTI Management, LLC
1573861	S E Pipe Line Construction Co.
1617647	Sajahtera, Inc.
1648192	Sam, Inc.
1507804	SGV Healthcare, Inc.
1625547	Shasta Services, Inc.
1638683	Sierra Pacific Industries
1592349	Sri Tile & Marble, Inc.
1588972	Steeltech Reinforcing, Inc.
1560514	Summerset Assisted Living LLC
1559119	Superior Tree Service, Inc.
1546945	Symbia Logistics
1627224	Tesla, Inc.
1561605	Torres Farms, Inc.
1604297	Trader Joe's Company
1565632	UCLA Health Santa Clarita Women's Imaging Center
1508384	Utility Tree Service, LLC
1496682	Vallarta Supermarket #8

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1626050	Vinyl Technology, Inc.
1575572	Walmart, Inc.
1451157	Wash Depot Holdings, Inc.
1652471	Wilson Utility Construction Co.
1257581	Wright Tree Service of The West, Inc.
1631576	Wyndham Vacation Ownership Inc.
1611770	Yamasa Enterprises

Personnel:

(Issues regarding staff.)

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