

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

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

for

Thursday, August 24, 2023

9:30 a.m.

Sacramento, California

West Covina, California

&

Held on Zoom

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

From: J. Jeffrey Mojcher, Chief Counsel

Date: August 11, 2023

RE: Closed Session of the Board to be held on August 24, 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.)

1491229 Davis Development Company, Inc.

1462230 Intelligent Technologies and Services, 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.)

1467390 Hunt Buildingworks, Inc.

1571270 Partnership Staffing Solutions, LLC

Orders Dismissing Appeal:

- | | |
|---------|--------------------------------------|
| 1623373 | Haliburton International Foods, Inc. |
| 1570729 | Pinnacle Staffing Solutions, Inc. |

Orders Denying Leave to File Late Appeal:

- | | |
|---------|---------------------------|
| 1573866 | Bodega Latina Corporation |
| 1608158 | Tesla, 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
<i>Whether the employer committed a foot protection violation as alleged.</i> |
| 1431672 | A. Teichert & Son, LLC
<i>Whether the cited employer was in violation of lockout/tagout requirements.</i> |
| 1473644 | Amazon.com Services, LLC
<i>Whether the employer's training program was in compliance with the applicable safety order.</i> |
| 1113026 | Angelus Block Co., Inc.
<i>Whether Employer violated lock out/tag out requirements as alleged.</i> |
| 1564732 | Calvary Chapel of San Jose dba Calvary Chapel Academy
<i>Whether the ALJ correctly excluded evidence from the inspection.</i> |
| 1490008 | Elite MD, Inc.
<i>Whether the ALJ's denial of leave to file a late appeal was correct.</i> |

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- 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.
- 1486257 The Kroger Company
Whether the cited employer adequately trained employees regarding workplace hazards.
- 1340591 Lennar Corporation
Whether Employer committed the floor opening 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 roof opening violations.
- 1291481 Sierra Pacific Forest Products
Whether Employer has abated the cited violation of safety order section 3314 (c).
- 1652414 See's Candies, Inc.
Whether Employer established good cause for the late appeal.
- 1303461 SSA Terminals (Oakland), LLC dba SSA Marine Terminals
Whether Employer violated section 3212(a)(2)(A) as alleged.
- 1594663 Uber Technologies, Inc.
How Proposition 22 interacts with the Board's statutes and operative regulations

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. Ashley Furniture Industries, 34-2017-800002750 (1016514)
2. United Parcel Service, Inc. dba UPS, 34-2019-80003174 (1116529)

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3. Davis Development Company, 34-2020-80003373 (1226084)
4. Southern California Edison, 34-2021-80003580 (1320327)
5. Hill Crane Service Inc., 34-2021-80003744 (1135350)
6. USA Waste of California, Inc., 34-2022-80003841 (1384029)
7. Guy F. Atkinson Construction, LLC, 22STCP03019 (1332867)
8. 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. Stakeholders' comments from June 27, 2023 Roundtable Discussion.
2. Discuss Cal/OSHA Reporter's requests for access to OASIS.
3. New and/or interlocutory petitions for reconsideration not filed in time to be agendized.
4. Categorizing the Board's DARs and Denials on the DIR website.
5. Staff attorneys to provide legal analysis, advice and counsel regarding COVID-19 cases.
6. Discussion of DOSH Proposal to have their eAttorney system interface with OASIS.
7. Discussion regarding Board communications with stakeholders.

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.

1633718	A + Demo, Inc.
1597841	Ashby Lumber Company
1495759	Austin Commercial, L.P.
1670193	Bellisi Design Inc.
1528657	Bill Morris Contracting, Inc.
1652804	BJ's Restaurants, Inc.
1597862	Bumble Bee Foods, LLC
1480867	CA Dept of State Hospitals/Patton State Hospital
1510928	CA State Hospitals (DSH) Atascadero
1629883	California Department of State Hospitals
1580917	Caloy Company LP
1657934	Centimark Corporation
1460643	City of San Diego Engineering & Capital Projects
1625109	Clebae Infinique Tooling and Molding, LLC
1642631	Desert Truck Service Inc.
1642939	Diamond Horses, Inc.
1628716	Giuliano's Delicatessen, Inc.
1633360	Good Eggs, Inc.
1677688	Haven-Electric Inc.
1474075	J Ginger Masonry
1661228	Jimmy's Mowing & Tractor Services
1599477	La Deau Manufacturing Company
1628161	Loewy Enterprises
1672339	Mast Roofing, Inc.
1540513	Memo's Farm Labor Services, Inc.
1617765	Neil's Controlled Blasting, L.P.
1635760	One Source Plumbing & Rooter, Inc.
1593347	Partners Personnel - Management Services, LLC
1577522	Productions Plus, Inc.
1671765	Regional Roofing Inc.
1624649	Robert Whitaker Drywall
1674866	Scott English Plumbing Inc.
1489489	Southern California Discount Tire Co., Inc.
1599815	Stater Bros. Market

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1634176	Steve Wills Trucking and Logging, LLC
1604054	Stone Tree, Inc.
1507367	Suburban Motors, Inc.
1624392	Sweetwater Authority
1626982	T.D. Angels, Inc.
1640511	Tesla, Inc.
1664522	The Mcalear Group, Inc.
1660554	Thrifty Payless, Inc.
1593656	Tony Cox and Family Dairy
1549562	Tri-County Drilling, Inc.
1657279	Unger Renovations, Inc.
1573733	United Markets
1458353	United Parcel Service, Inc
1613411	United Pharma, LLC
1649984	United States Cold Storage of California
1664858	Voorwood Company
1616921	Wes-Tec, Inc.
1616934	Western Scrap, Inc.

Personnel:

(Issues regarding staff.)

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