

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

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

for

Thursday, September 21, 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: September 8, 2023**

**RE: Closed Session of the Board to be held on September 21, 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.)*

1437389      EZ Mix, 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.)*

1420923      Drill Tech Drilling & Shoring, Inc.

**Orders Dismissing Appeal:**

- 1619367     Brett Kelly, an Individual
- 1580543     Byrd Harvest, Inc.
- 1586264     R&R Roofing & Waterproofing, Inc.

**Orders Denying Leave to File Late Appeal:**

- 1548762     Stay Green, 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.*
- 1473644     Amazon.com Services, LLC  
*Whether the employer's training program was in compliance with the applicable safety order.*
- 1113026     Angelus Block Co., Inc.  
*Whether Employer violated lock out/tag out requirements as alleged.*
- 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.*

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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.*
- 1652414 See's Candies, Inc.  
*Whether Employer established good cause for the late appeal.*
- 1291481 Sierra Pacific Forest Products  
*Whether Employer has abated the cited violation of safety order section 3314 (c).*
- 1465119 Sun Belt Rentals
- 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)
3. Davis Development Company, 34-2020-80003373 (1226084)

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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.*

1554479	A. A. A. Fence Company, Inc.
1610280	Alameda County Social Services Agency
1601696	Allied West Paper Corp.
1595915	Allied West Paper Corp.
1556344	American Beef Packers, Inc.
1644613	American Incorporated
1647258	American Incorporated
1607095	Anderson Pacific Engineering Construction, Inc.
1496693	Ararat Home of Los Angeles, Inc.
1638529	Associated Plumbing, Inc.
1545500	ATI Restoration, LLC
1637503	B & V Enterprises, Inc.
1657875	Bear River Mortgage Company Incorporated
1644646	Bristol Farms
1505643	CA Prison Industrial Authority
1494002	California Department of Corrections
1576362	California Department of State Hospitals
1491393	California Department of State Hospitals
1604087	Capital Ready Mix, Inc.
1537749	Chavez Farm Labor Contractor, Inc.
1576780	City of Fowler
1596005	Closets by Design
1650965	Coachella Valley Water District
1586157	Cosco Diversified Finishes, Inc.
1620763	Crown Valley Car Wash - H&S Energy Products, LLC
1555057	Del Valle Farm Labor Services, Inc.
1588462	DHL Global Mail
1646055	Dick Vanderham

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1638753	Donsuemor, Inc.
1580204	Eagle Lath & Plaster, Inc.
1534499	Eat Don't Talk Productions Inc.
1665834	Energy Savings California
1480125	Gates Concrete Construction, Inc.
1670982	Gill Ranch Company, LLC
1561648	Gonzalez Landscaping, Inc.
1661959	Inner Gardens, Inc.
1614619	Jobbers Meat Packing Co., LLC
1480992	Joseph Crown Construction and Development Inc.
1396619	K & M Press, Inc.
1421992	Kie-Con, Inc.
1578376	King Meat Service, Inc.
1667742	Largo Concrete, Inc.
1681734	Levi Flores Gallegos
1513230	Los Angeles Superior Court
1623093	Los Angeles Unified School District
1571254	Los Angeles Unified School District-Maintenance
1565063	Maadarani's Auto Sales, Inc.
1541169	Mendota Police Department
1624626	Metropolitan Water District of Southern
1322082	N. N. Jaeschke, Inc.
1654543	NBH 99 LLC
1595099	NGC Construction, Inc.
1596201	Oak Tree Ag Management, Inc.
1666093	Ocean Group Holdings LLC
1590653	Pancoast Construction, Inc.
1619894	Park West Landscape Maintenance, Inc.
1633699	Pinnpack Capital Holdings, LLC
1586648	Prime Communications of California, LLC
1616457	Prime Converting Corporation
1474250	Ralphs Grocery Company

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1527791	Redwood Electric Group, Inc.
1594305	Rika Corporation
1610241	Roseville Glass, Inc.
1629777	Sacramento County Department of Human
1619711	Salazar Construction Co., Inc.
1615189	Sanders Candy Factory, Inc.
1339097	Shimmick / Con-Quest JV
1543608	Shoreline Construction
1625248	Solarm, Inc.
1610593	South Coast Commercial Electric, Inc.
1222098	Southland Paving, Inc.
1624645	Suburban Water Systems
1511595	Superior Court of California
1526002	The Martin-Brower Company, LLC
1664522	The Mcalendar Group, Inc.
1473356	The Regents of The University Of California, Los
1558662	Trademark Construction Co. Inc.
1554917	Vista Verde Labor, Inc.
1555062	W. M. Lyles Co.
1647758	Walmart, Inc.
1556745	Walters & Wolf Glass Company
1541360	West Coast Cranes, Inc.
1614993	West Coast Harvesting, Inc.
1630171	Wilcox Machine Company

**Personnel:**

*(Issues regarding staff.)*

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