

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

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

for

Thursday, October 5, 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 22, 2023

RE: Closed Session of the Board to be held on October 5, 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.)

1409863 A-C Electric Company

1497263 Hamilton Iron Works, Inc.

1330829 Randstad North America, 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.)

1573866 Bodega Latina Corporation

1654666 S.J. Distributors, LLC

Orders Dismissing Appeal:

- | | |
|---------|-----------------------------|
| 1625069 | ADP Totalsource Group, Inc. |
| 1636475 | Luke Apparel Inc. |
| 1639330 | Shamyat Restaurant, Inc. |

Orders Denying Leave to File Late Appeal:

There are no Orders Denying Leave to File Late Appeal.

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.
- 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
Whether certain information accepted into evidence was inadmissible hearsay, and whether the evidence supports a finding that Employer violated sections 3203 and 3328, 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)
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.

1499631	2949 Laurel Canyon Blvd
1655900	A & K Auto Repair & Towing Inc.
1587703	A&F Sheep Company, Inc.
1565342	A.P.A. Industries, Inc.
1605140	Air Vol Block, Inc.
1670690	Ajinomoto Foods North America, Inc.
1631191	Aliso Electric, Inc.
1624614	Allied Waste Systems, Inc.
1572631	Andonian Enterprises Inc.
1454590	Apollo Sheet Metal, Inc.
1629325	Apple Tree Broadway, Inc.
1629946	Arcadia Care Center, LLC
1689655	B & M Tear Off, Inc.
1535083	Bay Area Concrete Recycling
1586174	Bear Republic Brewing Company, Inc.
1505091	Borrmann Metal Center
1623112	Cedarlane Natural Foods, Inc.
1651053	Central Network Retail Group LLC
1625561	Clark Pest Control of Stockton, Inc.
1530024	Clean Earth Environmental Solutions, Inc.
1611264	Compass Senior Living LLC
1600956	Conrad Wood Co., Inc.
1602680	Contra Costa County Public Works Department
1611159	D.R.S. Stairs, Inc.
1605305	DCR Construction Services, Inc.
1613450	Dilmaya Laxme, LLC

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1682778	Emerald Cascade Restaurant Systems, Inc.
1615666	Fairway Staffing Services
1614899	Fresno Concrete Construction, Inc.
1584481	Fumesmart
1651313	Guess? Retail, Inc.
1635695	Harbor Distributing Co.
1674016	Javier Echeverria, Ricardo Echeverria
1663535	Jesse J Hernandez
1584849	Kell Mechanical Heating and Air Conditioning, Inc.
1494208	La Veta Healthcare, Inc.
1640721	Labor Force Management Inc.
1633275	Largo Concrete Inc.
1640938	Louis Mello Ranch, LP
1633083	Medlin Ramps
1614956	MGM Labor Contracting, Inc.
1626314	Molen Services, Inc.
1486716	Oakhurst Industries, Inc.
1625119	Outsource Utility Contractor Corp.
1577873	Pacific Labor Supply, Inc.
1670755	Patriot Framing LLC
1576210	Pearl Crop, Inc.
1602458	Penney Intermediate Holdings, LLC
1550336	Portola Construction, Inc.
1628969	Pro Wall Lath & Plaster, Inc.
1607209	Ransom Concrete Construction, Inc.
1516400	Razavi Corporation
1617215	Relativity Space, Inc.
1670727	RGGC Inc.
1563810	Robert Sowers Construction
1653092	Ryan Matthew Labastida

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1660890	Shinsuke Clifford Yamamoto Inc.
1427368	Silverado Materials Ripon, Inc.
1610041	Stanford Cold Storage, Inc.
1676252	STG Logistics, Inc.
1633654	Straub Distributing Company, LTD.
1637211	Talley Oil Inc.
1517048	The Permanente Medical Group, Inc.
1575304	Touchstone Pistachio Company, LLC
1669418	Treesap Farms, LLC
1568618	Trinidad Benham Corporation
1672814	Valley AG Enterprise, Inc.
1532884	Verdugo Vista Operating Company, LP
1491480	Walmart, Inc.
1580074	Wheeler Zamaroni
1654540	Xclusive Wireless Resources, LLC

Personnel:

(Issues regarding staff.)

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