

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

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

for

Thursday, December 20, 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: December 8, 2023

RE: Closed Session of the Board to be held on December 20, 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.)

There are no Decisions scheduled for review.

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.)

There are no Petitions for Reconsideration for review.

Orders Dismissing Appeal:

- | | |
|---------|---------------------------------------|
| 1598411 | Horizon Personnel Services |
| 1629779 | Priorityworkforce, Inc. |
| 1616914 | Sci California Funeral Services, Inc. |
| 1608412 | Turner's Outdoors, Inc. |

Orders Denying Leave to File Late Appeal:

There are no Orders Denying Leave to File Late Appeal scheduled for review.

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.

- | | |
|---------|--|
| 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> |
| 1398352 | Anheuser-Busch, LLC
<i>Whether the evidence supports the holding that employer violated lockout/tagout requirements.</i> |
| 1568252 | Arana Residential and Commercial Painting, Inc.
<i>Whether the Division violated Employer's due process rights in conducting the inspection leading to issuing citations.</i> |

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- 1490008 Elite MD, Inc.
Whether the ALJ's denial of leave to file a late appeal was correct.
- 1674336 Finishing Touch Moulding, Inc.
Whether employer established good cause for its late appeal.
- 1497263 Hamilton Iron Works, Inc.
Whether the evidence supports a finding that employer violated section 4999, and that the citation was properly classified. And whether the penalty for Citation 1 (§ 342(a)) be reduced.
- 1233597 Hampton Tedder Electric (DOSH)
Whether the ALJ correctly decided that the Employer violated three high voltage safety orders.
- 1436480 Interline Brands, Inc.
Whether the employer violated foot protection standards.
- 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).
- 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.
- 1475491 Sutter Bay Medical Foundation
Whether the employer failed to comply with COVID protections as alleged.
- 1609228 The Geo Group, Inc. dba Golden State Annex (3RD PTY PFR)
Whether the motion for third party status was properly denied.
- 1488312 The Indiana Finish Line, Inc.
Whether the cited employer established procedures adequate to protect employees from COVID-19.

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- 1486257 The Kroger Company
Whether the cited employer adequately trained employees regarding workplace hazards.
- 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)
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. American Fumigation Services, LLC, 22STCP04305 (1506586)
8. General Dynamics NASSCO, 37-2023-00024521 (1300984)

Appellate Court:

1. Interline Brands, Inc., CIVDS2021813 (1251604)
2. Granite Construction Company, 34-2021-80003634 (1235643)
3. MWL Solutions, C097353, 34-2020-80003549 (1436014)
4. BMC West LLC, 34-2020-80003459 (1399613)
5. Hampton Tedder Electric, 34-2020-80003549 (1233597)
6. 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.

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.

1603786	A Plus Roofing and Construction
1562193	Anheuser-Busch, LLC
1622722	Anillo Industries, Inc.
1580016	Asurion Delivery and Installation Services, Inc.
1642903	Atlas Building and Roofing Inc. Dba Atlas Roofing
1564186	Betts Company
1643995	Briles Aerospace, LLC
1533501	Brown
1597834	Calavo Growers, Inc.
1607872	City of Ontario - Police Department
1632138	CLK Development, Inc.
1597858	ClubCorp Braemar Country Club, Inc.
1625338	D&D Equipment Rental, LLC
1591616	Desert Valley Date LLC
1670961	Don Lawley Company, Inc.
1618375	Dragados USA, Inc.
1483206	Elkhorn Packing Co. LLC
1637308	Fahy Tree Service
1628039	Flowers Electric & Service Co., Inc.
1606681	Force Framing, Inc.
1632637	Freedom Forever, LLC
1490240	Gimbal Brothers LLC
1467390	Hunt Buildingworks, Inc.
1692214	Jamar Electric San Diego Inc
1640780	Jose Luis Esqueda, An Individual
1655210	LB Harvesting Inc
1655553	Los Angeles Department of Water And Power
1622984	Madera Concrete Company, Inc.
1636759	Martinez Wood Pallets Inc.

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1583188	McLane Food Service, Inc.
1593053	Mercury Plastics
1540329	Metal Container Corp.
1668697	Meza Environmental, Inc.
1594685	N Leasing Company, LLC
1660573	O'reilly Auto Enterprises LLC
1626047	Onni Contracting (California) Inc.
1618607	Pacific Farms Management, Inc.
1531392	Peet's Coffee, Inc.
1682873	Polvera Drywall Corporation
1697232	Ramada Limited Redding
1448260	Randstad USA, LLC
1592184	Raymond Handling Solutions, Inc.
1691648	Revamp Solar Energy LLC
1641665	RHP, Inc.
1625980	SA Recycling
1598032	SFPUC - CDD
1416232	Southern California Gas Company
1653335	Specialty Engineering & Manufacturing Company
1604105	Starpoint Property Management, LLC
1508686	The Vons Companies, Inc.
1627564	Titley Holdings, Inc.
1581581	Tutor Perini Corporation and O & G Industries, Inc.
1655062	US Custom Fabrication, Inc.
1675545	US Wood And Service, Inc.
1635252	VanLaw Food Products, Inc.
1666164	Vista Hill Foundation
1578257	Vopak Terminal Los Angeles, Inc.
1686922	Wespak Inc.
1566998	West Builders, Inc.
1661981	West Coast Hot Mop Inc.
1659413	West Coast Turf

Personnel:

(Issues regarding staff.)

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