

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

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

for

Wednesday, February 21, 2024

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: February 9, 2024

RE: Closed Session of the Board to be held on February 21, 2024

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.)

1415736 Los Angeles County Probation Department

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.)

1466722 Bragg Investment Company, Inc.

1686944 Busters Express Car Wash

1683182 Dinucci Corporation

Orders Dismissing Appeal:

There are no Orders Dismissing Appeal.

Orders Denying Leave to File Late Appeal:

1685699 Slam A Door LLC

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.

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|---------|---|
| 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> |
| 1420923 | Drill Tech Drilling & Shoring, Inc. |
| 1490008 | Elite MD, Inc.
<i>Whether the ALJ's denial of leave to file a late appeal was correct.</i> |
| 1497263 | Hamilton Iron Works, Inc.
<i>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.</i> |

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- 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.
- 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.
- 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)

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3. Davis Development Company, 34-2020-80003373 (1226084)
4. Hill Crane Service Inc., 34-2021-80003744 (1135350)
5. USA Waste of California, Inc., 34-2022-80003841 (1384029)
6. American Fumigation Services, LLC, 22STCP04305 (1506586)
7. 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.
3. Superior Court cases that also involve or relate to appeals pending before the Board.

Lyft, Inc., 30-2023-01368387-CU-MC-CXC (1594664)

Uber Technologies, Inc., 30-2023-01330884-CU-JR-CXC (1594663)

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.)

1588826 ACS Staffing, Inc.

1573865 AHMC San Gabriel Valley Medical Center LP

1578124 Amazon.Com Services, LLC

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1475167	Angelus Block Co., Inc.
1678744	Antonio Delacruz
1572161	Atlantic Solutions Group, Inc.
1648621	Banister Ironworks, Inc.
1636743	BC Fashions, Inc.
1694391	Bella Collina San Clemente LLC
1679517	Bemus Landscape Inc.
1639287	Bob French Construction Inc
1545048	Cadinha Logistix LLC
1644519	California State University Fresno
1696654	Central California Conference of Seventh-Day
1489677	City of Clovis
1634920	City of Foster City
1643621	Cogir Management USA, Inc.
1626311	Del Amo Construction, Inc.
1693165	Dolgen California, LLC
1621629	DSM Masonry, Inc.
1501566	Express Services, Inc.
1277530	FedEx Ground Package System, Inc.
1617223	Fisherman's Pride Processor, Inc.
1682390	Foundation Pile, Inc.
1477427	General Dynamic Nassco
1557311	Gotworx Staffing Inc.
1611850	Grand Martco, Inc.
1707111	Hanson Drywall Inc.
1594870	Harbor Distributing, LLC
1679751	Haxton Masonry, Inc.
1676485	Ideal Cabinetry, Inc.
1633710	Industrial Field Services, Inc.
1620036	Jalisco's Apparel, Inc.
1684424	Jason Thomas Patrick

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1626874	JPB Designs Inc
1670183	Kaju Bros., Inc.
1285640	Lehigh Southwest Cement Company
1568349	Magnolia Foods
1659879	Maruhana U.S.A. Corporation
1639487	Marysville Joint Unified School District - Kynoch
1615511	Mauritson Farms, Inc.
1664112	Mehdi Mohammad Afrasiabi, An Individual
1622300	Michael C. Stead, Inc.
1694871	Nationwide Guard Services, Inc. At Gilbert USA
1490106	Nuline Technologies, LLC
1690283	Pacific States Petroleum Inc
1605259	Pacific Uniform Service, LLC
1639725	Patrick Warren Construction, Inc.
1630899	QG Printing II, LLC DbA: Quad
1698817	Rakar, Inc.
1682519	Rancho Bernardo Car Wash LLC
1627101	Robert P. Kimball
1683459	Ruppert, Inc.
1664556	S&D Carwash Management, LLC
1639282	SBIT Group LLC
1630512	See's Candies, Inc.
1630503	Silicon Valley Technical Staffing
1578374	South Bay Safety, Inc.
1507922	Stater Bros. Market #146
1507733	Stater Bros. Market Store #144
1367609	Structural Shotcrete Systems, Inc.
1679884	Sunrise Dryers, LLC
1624849	Tutor Perini Corporation and O & G Industries, Inc.
1615953	TWR Enterprises, Inc.
1603765	United Pumping Service, Inc.

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1648185	Veolia Es Technical Solutions, LLC
1636719	Vision Construction, Inc.
1671780	VSS Countertops, Inc.
1658208	Walmart Inc.
1599642	X Wash, Inc.
1545210	Zanker Road Resource Management LTD

Personnel:

(Issues regarding staff.)

1. Lean Six Sigma Process Improvement Course and Project presented by Marlene Harris.

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